

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 11th MAY 2010

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS	9
1. The Bailiff:	9
1.1 Connétable J. Gallichan of St. Mary (Chairman, Privileges and Procedures Committee):	9
1.2 Deputy M.R. Higgins of St. Helier:	9
PERSONAL STATEMENTS	9
2. Personal Statement by Deputy Le Claire on his resignation from the Environment Scrutiny Panel	9
2.1 Deputy P.V.F. Le Claire of St. Helier:	9
2.1.1 Deputy P.J. Rondel of St. John:	10
QUESTIONS.....	10
3. Written Questions	10
3.1. THE DEPUTY OF ST. JOHN OF THE CHIEF MINISTER REGARDING THE EMPLOYMENT OF ORCHID COMMUNICATIONS:	10
3.2 SENATOR J.L. PERCHARD OF THE CHIEF MINISTER REGARDING THE MANAGING DIRECTOR OF THE WATERFRONT ENTERPRISE BOARD'S EMPLOYMENT CONTRACT:	11
3.3 SENATOR J.L. PERCHARD OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING SHARING A MEDICAL OFFICER OF HEALTH WITH GUERNSEY:	12
3.4 SENATOR B.E. SHENTON OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE DESIGNATION OF BUILDINGS AS BEING OF 'LOCAL INTEREST':	12
3.5 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR HOME AFFAIRS REGARDING THE DIVERSITY OF THE STATES OF JERSEY POLICE:	15
3.6 THE CONNÉTABLE OF ST. LAWRENCE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE NUMBER OF PROSECUTIONS SINCE THE INTRODUCTION OF SMOKING RESTRICTIONS:	15
3.7 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE ENERGY CONSUMPTION IN THE ISLAND'S SCHOOLS AND COLLEGES:	16
3.8 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE INTEGRATION OF SCHOOL BUSES INTO THE SCHEDULED NETWORK:	17
3.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE FIRST STAGE OF THE CORPORATE SPENDING REVIEW:	17

3.10	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE COSTS AND EFFECTIVENESS OF THE 'LIVELINK' SYSTEM:	18
3.11	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING TRANSFER PRICING (OR MISPRICING) OF GOODS:	19
3.12	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE TERMS OF THE NEW VOLUNTARY REDUNDANCY PACKAGE TO BE APPLIED TO PUBLIC SECTOR WORKERS:	20
3.13	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE CONSULTATION TIMESCALE FOR THE GRANTING OF CLASS 1 POSTAL LICENCES TO 2 COMPETITORS TO JERSEY POST:	21
3.14	DEPUTY D.J. DE SOUSA OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE ELIMINATION OF PRICE WARS OVER LAND ACQUISITION WITH HOUSING TRUSTS:	25
3.15	DEPUTY D.J. DE SOUSA OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE REGULATION OF HOUSING TRUSTS:	25
3.16	DEPUTY D.J. DE SOUSA OF ST. HELIER OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING A SINGLE DATE FOR THE 2011 ELECTIONS:	26
3.17	DEPUTY D.J. DE SOUSA OF ST. HELIER OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE TOTAL NUMBER OF VEHICLES RENTED ANNUALLY BY STATES DEPARTMENTS FROM MOTOR MALL:	27
3.18	DEPUTY D.J. DE SOUSA OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING REDUNDANCIES AT THE JERSEY NEW WATERWORKS COMPANY LIMITED:	27
3.19	THE CONNÉTABLE OF ST MARY OF THE CHIEF MINISTER REGARDING THE IMPLEMENTATION OF PARAGRAPH 2.1.1(a) OF THE CODE OF PRACTICE ON PUBLIC ACCESS TO OFFICIAL INFORMATION:	28
3.20	THE DEPUTY OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING FEES CHARGED TO AIRPORT TAXI CAB DRIVERS:	29
3.21	DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING SCAFFOLDING AT A BUILDING IN LA MOTTE STREET:	29
3.22	DEPUTY T.M. PITMAN OF ST. HELIER OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING MONITORING THE COMMITMENT OF MEMBERS TO THEIR PUBLIC DUTIES:	30
3.23	DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE TOWN PARK:	31
3.24	DEPUTY M. TADIER OF ST. BRELADE OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING THE INTRODUCTION OF A 4-YEAR TERM FOR ALL STATES MEMBERS:	31
3.25	DEPUTY M. TADIER OF ST. BRELADE OF THE CHAIRMAN OF PRIVILEGES AND PROCEDURES COMMITTEE REGARDING THE CURRENT QUALIFICATIONS TO STAND FOR ELECTION AS A MEMBER OF THE STATES ASSEMBLY:	32
3.26	THE DEPUTY OF ST. MARY OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING ACCIDENTS INVOLVING CYCLISTS OR	

	PEDESTRIANS IN THE VICINITY OF THE ONGOING ROADWORKS ALONG THE PROMENADE BETWEEN ST. AUBIN AND ST. HELIER:	33
3.27	THE DEPUTY OF ST. MARY OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE NUMBER OF REDUNDANCIES AT THE JERSEY HERITAGE TRUST:	34
3.28	THE DEPUTY OF ST. MARY OF THE CHIEF MINISTER REGARDING THE GROWTH IN GDP:	34
3.29	THE DEPUTY OF ST. MARY OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING LEGAL ADVICE IN RELATION TO CONTAMINATION OF NEIGHBOURING PROPERTIES ON THE TALMAN SITE:	

35

4.	Oral Questions.....	36
4.1	Deputy T.M. Pitman of St. Helier of the Minister for Home Affairs regarding the number of alleged abuse cases relating to the cellars at Haut de la Garenne:	36
	Senator B.I. Le Marquand (The Minister for Home Affairs):	36
4.1.1	Deputy T.M. Pitman:	36
4.1.2	Deputy T.M. Pitman:	36
4.1.3	Deputy M.R. Higgins:.....	36
4.1.4	Deputy F.J. Hill of St. Martin:	37
4.1.5	Deputy T.M. Pitman:	37
4.2	Deputy J.M. Maçon of St. Saviour of the Minister for Health and Social Services Health and Social Services regarding staff suspensions:	37
	Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):.....	37
4.2.1	Deputy J.M. Maçon:	37
4.2.2	The Deputy of St. Martin:	38
4.2.3	The Deputy of St. Martin:	38
4.2.4	Senator J.L. Perchard:.....	38
4.2.5	Senator J.L. Perchard:.....	38
4.2.6	Senator S.C. Ferguson:	38
4.2.7	Senator S.C. Ferguson:	38
4.2.8	Deputy R.G. Le Hérisssier of St. Saviour:	39
4.2.9	Deputy R.G. Le Hérisssier:	39
4.2.10	Deputy M. Tadier:.....	39
4.2.11	Deputy P.V.F. Le Claire:.....	39
4.2.12	Deputy P.V.F. Le Claire:.....	39
4.2.13	Deputy T.M. Pitman:.....	40
4.2.14	Senator B.I. Le Marquand:	40
4.2.15	The Deputy of St. Martin:	40
4.3	Deputy R.G. Le Hérisssier of the Minister for Treasury and Resources regarding Fiscal Stimulus Funding for Fort Regent:.....	40
	Senator P.F.C. Ozouf (The Minister for Treasury and Resources):	40
4.3.1	Deputy R.G. Le Hérisssier:	41
4.3.2	Deputy G.P. Southern of St. Helier:	41
4.3.3	Deputy G.P. Southern:	41
4.3.4	Deputy D.J. De Sousa of St. Helier:.....	41
4.3.5	Deputy A.K.F. Green of St. Helier:.....	41
4.3.6	Deputy M. Tadier:	42
4.3.7	Deputy M. Tadier:	42
4.4	Deputy S. Pitman of St. Helier of the Minister for Treasury and Resources regarding the profitability of the Market Sub-Post Office:	43
	Senator P.F.C. Ozouf (The Minister for Treasury and Resources):	43

4.4.1 Deputy S. Pitman:.....	43
4.4.2 Deputy S. Pitman:.....	43
4.4.3 Senator S.C. Ferguson:	44
4.4.4 Deputy D.J. De Sousa:.....	44
4.4.5 Deputy P.V.F. Le Claire:	44
4.4.6 Deputy G.P. Southern:.....	45
4.4.7 Deputy M. Tadier:	45
4.4.8 Deputy M. Tadier:	45
4.4.9 The Deputy of St. John:	46
4.4.10 The Deputy of St. John:.....	46
4.4.11 Deputy S. Pitman:	47
4.5 Deputy M. Tadier of the Minister for Health and Social Services regarding the grading of the newly appointed Interim Managing Director at Health and Social Services:	47
The Deputy of Trinity (The Minister for Health and Social Services):.....	47
4.5.1 Deputy M. Tadier:	47
4.5.2 Deputy M. Tadier:	48
4.5.3 Deputy T.A. Vallois of St. Saviour:	48
4.5.4 Deputy T.A. Vallois:	48
4.5.5 The Deputy of St. John:	48
4.5.6 Deputy R.G. Le Hérisier:	48
4.5.7 Deputy M. Tadier:	49
4.5.8 Deputy M. Tadier:	49
4.5.9 The Very Reverend R.F. Key, B.A., The Dean of Jersey:.....	49
4.6 Deputy K.C. Lewis of St. Saviour of the Minister for Economic Development regarding tourism figures and the Tourism Strategy:.....	49
Senator A.J.H. Maclean (The Minister for Economic Development):.....	50
4.6.1 Deputy K.C. Lewis:	50
4.6.2 Deputy J.A. Martin of St. Helier:	50
4.6.3 Deputy J.A. Martin:	50
4.6.4 Deputy T.M. Pitman:	51
4.6.5 The Deputy of St. John:	51
4.6.6 Deputy D.J.A. Wimberley of St. Mary:.....	51
4.7 Deputy P.V.F. Le Claire of the Chief Minister regarding representation at the World Trade Organisation:	52
Senator T.A. Le Sueur (The Chief Minister):	52
4.7.1 Deputy P.V.F. Le Claire:	52
4.7.2 Deputy P.V.F. Le Claire:	53
4.8 The Deputy of St. Martin of the Minister for Home Affairs regarding allegations made in relation to abuse in the stone bath or immediate area of Haut de la Garenne:.....	53
Senator B.I. Le Marquand (The Minister for Home Affairs):	53
4.8.1 The Deputy of St. Martin:	53
4.8.2 The Deputy of St. Martin:	53
4.9 The Deputy of St. Mary of the Minister for Education, Sport and Culture regarding cuts at the Jersey Heritage Trust:.....	54
Deputy J.G. Reed of St. Ouen (The Minister for Education, Sport and Culture):	54
4.9.1 The Deputy of St. Mary:	54
4.9.2 Deputy R.G. Le Hérisier:	55
4.9.3 Deputy R.G. Le Hérisier:	55
4.9.4 Deputy R.G. Le Hérisier:	55
4.9.5 The Deputy of St. John:	55
4.9.6 The Deputy of St. John:	55
4.9.7 Deputy M. Tadier:	56

4.9.8 Deputy M. Tadier:	56
4.9.9 The Deputy of St. Mary:	56
4.10 Deputy M. Tadier of the Minister for Health and Social Services regarding the introduction of Community Care Orders:	57
The Deputy of Trinity (The Minister for Health and Social Services):	57
4.10.1 The Deputy of St. John:	57
4.10.2 The Deputy of St. John:	57
4.11 Deputy K.C. Lewis of the Minister for Economic Development regarding help for farmers currently facing the worst potato crop for 50 years:	58
Senator A.J.H. Maclean (The Minister for Economic Development):	58
Connétable L. Norman of St. Clement (Assistant Minister for Economic Development - rapporteur):	58
4.11.1 Deputy K.C. Lewis:	58
4.11.2 The Deputy of St. John:	59
4.11.3 Senator J.L. Perchard:	59
4.11.4 Deputy M. Tadier:	59
4.11.5 The Deputy of St. Mary:	60
4.12 The Deputy of St. Mary of the Minister for Planning and Environment regarding the protection of wildlife on the Ecréhous:	60
Deputy R.C. Duhamel (Assistant Minister for Planning and Environment - rapporteur):	60
4.12.1 The Deputy of St. Mary:	61
4.12.2 The Deputy of St. Mary:	61
4.12.3 The Deputy of St. John:	61
4.13 The Deputy of St. Martin of the Minister for Home Affairs regarding the funding of the historic child abuse investigations:	62
Senator B.I. Le Marquand (The Minister for Home Affairs):	62
4.13.1 The Deputy of St. Martin:	62
4.13.2 The Deputy of St. Martin:	62
4.13.3 Senator A. Breckon:	62
4.13.4 Deputy R.G. Le Hérisier:	62
4.13.5 Deputy R.G. Le Hérisier:	63
4.13.6 The Deputy of St. Mary:	63
4.13.7 The Deputy of St. Mary:	63
4.13.8 Deputy M. Tadier:	64
4.13.9 Deputy M. Tadier:	64
4.13.10 Deputy T.A. Vallois:	64
4.13.11 Deputy T.M. Pitman:	64
4.13.12 The Deputy of St. Martin:	65
4.14 Deputy T.M. Pitman of the Chairman of the Privileges and Procedures Committee regarding States Members with second jobs:	65
The Connétable of St. Mary (Chairman of the Privileges and Procedures Committee):	65
4.14.1 Deputy T.M. Pitman:	65
4.14.2 The Deputy of St. John:	66
4.14.3 Senator J.L. Perchard:	66
4.14.4 Senator A. Breckon:	66
4.14.5 Senator A. Breckon:	67
4.14.6 Deputy M. Tadier:	67
4.14.7 Deputy M. Tadier:	67
4.14.8 The Connétable of Grouville:	67
4.14.9 Deputy T.M. Pitman:	68
4.15 Deputy R.G. Le Hérisier of the Minister for Economic Development regarding the impact of changes to postal rates on small traders or local societies:	68

Senator A.J.H. Maclean (The Minister for Economic Development):	68
4.15.1 Deputy R.G. Le Hérissier:	68
4.15.2 Deputy R.G. Le Hérissier:	69
4.15.3 Deputy G.P. Southern:	69
5. Questions to Ministers Without Notice - The Minister for Social Security	69
5.1 Deputy G.P. Southern:	69
Deputy I.J. Gorst of St. Clement (The Minister for Social Security):	69
5.1.1 Deputy G.P. Southern:	69
5.2 Deputy J.A. Hilton of St. Helier:	70
5.2.1 Deputy J.A. Hilton:	70
5.3 Senator S.C. Ferguson:	70
5.3.1 Senator S.C. Ferguson:	70
5.4 Deputy S. Pitman:	70
5.4.1 Deputy S. Pitman:	71
5.5 Deputy M. Tadier:	71
5.5.1 Deputy M. Tadier:	72
5.6 Senator J.L. Perchard:	72
5.6.1 Senator J.L. Perchard:	72
5.7 The Deputy of St. Martin:	73
6. Questions to Ministers Without Notice - The Minister for Planning and Environment	73
6.1 The Deputy of St. John:	73
Senator F.E. Cohen (The Minister for Planning and Environment):	73
6.1.1 The Deputy of St. John:	73
6.2 Deputy J.A. Hilton:	73
6.2.1 Deputy J.A. Hilton:	74
6.3 The Connétable of St. Clement:	74
6.3.1 The Connétable of St. Clement:	74
6.4 Senator J.L. Perchard:	74
6.5 Deputy T.M. Pitman:	75
6.6 Connétable D.W. Mezbourian of St. Lawrence:	75
6.6.1 The Connétable of St. Lawrence:	75
6.7 Deputy J.A. Martin:	76
6.7.1 Deputy J.A. Martin:	76
6.8 Deputy A.K.F. Green:	76
6.8.1 Deputy A.K.F. Green:	76
6.9 The Deputy of St. Mary:	77
6.9.1 The Deputy of St. Mary:	77
PERSONAL STATEMENTS	77
7. Personal Statement by Deputy Tadier regarding his resignation from the Privileges and Procedures Committee	77
7.1 Deputy M. Tadier:	77
7.1.1 The Connétable of St. Mary:	78
PUBLIC BUSINESS	78
8. Draft Employment of States of Jersey Employees (Amendment No. 5) (Jersey) Regulations 201- (P.22/2010)	78
8.1 Senator T.A. Le Sueur (The Chief Minister):	79

8.1.1 The Deputy of St. Martin:.....	80
8.1.2 Senator T.A. Le Sueur:.....	81
Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):.....	82
8.2 Senator T.A. Le Sueur:.....	82
8.2.1 The Deputy of St. Martin:.....	82
LUNCHEON ADJOURNMENT PROPOSED.....	83
LUNCHEON ADJOURNMENT.....	84
Deputy P.V.F. Le Claire:.....	84
PUBLIC BUSINESS - resumption.....	84
8.3 Senator T.A. Le Sueur:.....	84
8.4 Draft Employment of States of Jersey Employees (Amendment No. 5) (Jersey)	
Regulations 201- (P.22/2010): Regulation 3 amendment (P.22/2010 Amd.).....	84
8.4.1 The Deputy of St. Martin:.....	84
8.4.2 Senator T.A. Le Sueur:.....	87
8.4.3 Senator A. Breckon:.....	88
8.4.4 Deputy G.P. Southern:.....	88
8.4.5 The Deputy of St. John:.....	89
8.4.6 Deputy P.V.F. Le Claire:.....	89
8.4.7 Deputy C.H. Egré of St. Peter:.....	90
8.4.8 The Deputy of St. Mary:.....	90
8.4.9 Senator T.A. Le Sueur:.....	91
8.4.10 Connétable M.K. Jackson of St. Brelade:.....	91
8.4.11 Deputy M. Tadier:.....	91
8.4.12 Senator P.F.C. Ozouf:.....	92
8.4.13 The Deputy of St. Martin:.....	92
8.5 Senator T.A. Le Sueur (The Chief Minister):.....	93
8.6 Draft Employment of States of Jersey Employees (Amendment No. 5) (Jersey)	
Regulations 201- (P.22/2010): Regulation 4 amendment (P.22/2010 Amd.).....	94
8.6.1 The Deputy of St. Martin:.....	94
8.6.2 The Deputy of St. John:.....	95
8.6.3 Deputy P.V.F. Le Claire:.....	95
8.6.4 Deputy G.P. Southern:.....	95
8.6.5 Deputy J.A. Martin:.....	95
8.6.6 Deputy M. Tadier:.....	96
8.6.7 Senator P.F.C. Ozouf:.....	97
8.6.8 Deputy T.M. Pitman:.....	98
8.6.9 Senator S.C. Ferguson:.....	98
8.6.10 Senator J.L. Perchard:.....	98
8.6.11 The Deputy of St. Mary:.....	99
8.6.12 Senator T.A. Le Sueur:.....	99
8.6.13 The Deputy of St. Martin:.....	99
8.7 Senator T.A. Le Sueur:.....	101
8.7.1 Deputy M. Tadier:.....	102
8.7.2 Deputy G.P. Southern:.....	102
8.7.3 The Deputy of St. Martin:.....	103
8.7.4 Deputy T.M. Pitman:.....	104
8.7.5 Senator P.F. Routier:.....	104

8.7.6 Senator T.A. Le Sueur:.....	105
9. States Net Revenue Expenditure 2011 and 2012: Reduction (P.29/2010)	106
9.1 Senator B.E. Shenton (Chairman, Public Accounts Committee):.....	106
9.1.1 Senator P.F.C. Ozouf:.....	109
9.1.2 Deputy S. Pitman:.....	113
9.1.3 Deputy R.G. Le Hérisier:	113
9.1.4 Deputy P.V.F. Le Claire:	114
9.1.5 Deputy G.P. Southern:.....	116
9.1.6 Senator S.C. Ferguson:	119
9.1.7 Deputy E.J. Noel of St. Lawrence:.....	121
9.1.8 The Deputy of St. Ouen:.....	121

The Roll was called and the Deputy Greffier led the Assembly in Prayer.

[9:30]

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

1. The Bailiff:

Under F there is the question of a nomination for a member of the Privileges and Procedures Committee.

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

Sir, I would like to thank those Members that have expressed an interest in joining the P.P.C. (Privileges and Procedures Committee). As Chairman it is my responsibility to nominate a candidate to fill the vacancy, in so doing I am mindful of the extensive and, indeed, the growing work programme of the committee, its existing membership and the projects currently nearing completion. I would like to nominate, Sir, the Constable of St. Saviour. Thank you.

The Bailiff:

The Constable of St. Saviour is nominated. Are there any other nominations?

1.2 Deputy M.R. Higgins of St. Helier:

I would like to nominate Deputy Trevor Pitman for the position on P.P.C. P.P.C. at the moment or has until recently reflected the balance in the House and I believe that because of that it adds strength to the committee. It may not always give the opinion that particular groups in the House want on occasion but at least does reflect, as I say, the composition and the views of this House. I think it is important that that continues. I nominate Deputy Trevor Pitman.

The Bailiff:

Very well, any other nominations? **[Aside]** Very well, if there are no other nominations there are 2 then, the Connétable of St. Saviour and Deputy Trevor Pitman. Therefore we will move to a ballot and I will ask that ballot papers be distributed. So Members should simply write down on the ballot paper the name of the candidate they prefer. Have all Members had a ballot paper. Very well, I ask that the ballot papers be collected. Have all Members placed their ballot papers in the box? Very well, I will ask the Attorney General and the Assistant Greffier to act as scrutineers. **[Votes counted]** I have received the result of the ballot for the vacancy on the Privileges and Procedures Committee and the votes were cast as follows: The Constable of St. Saviour 29 votes, Deputy Trevor Pitman 18 votes. I therefore declare that the Constable of St. Saviour has been elected to P.P.C.

PERSONAL STATEMENTS

2. Personal Statement by Deputy Le Claire on his resignation from the Environment Scrutiny Panel

The Bailiff:

Then under F the next matter is to note the resignation of Deputy Le Claire from the Environment Scrutiny Panel. Deputy, I think later on I have given leave for you to make a personal statement. Would it be convenient for you to do it now?

[9:45]

2.1 Deputy P.V.F. Le Claire of St. Helier:

I think it would be prudent perhaps, Sir, thank you. It is with regret that I inform you that I am tendering my resignation to the Environment Scrutiny Panel. Having recently been hospitalised in Majorca and unavoidably delayed by the volcanic ash, I returned to the panel to find that the Chairman had adopted different ways of running the panel than before I left and I am regrettably uncomfortable with this change. I have been conflicted since joining the panel in a number of key political areas also, such as the Planning Applications Panel and other subgroups I have been invited on to where progress and change can be affected by me if I engage myself in these areas. These issues combined have made me decide my time with this panel is unfortunately at an end. I have enjoyed working with the panel up until most recently and will return now to the other political activities in which I have been conflicted while being a member of the panel. I thank the Chairman and the other members for their friendship and support and relay that they can contribute to draw upon mine in the future.

2.1.1 Deputy P.J. Rondel of St. John:

May I thank Deputy Le Claire for the time he has spent on the panel since last October and he brought a sense of purpose and humour to the panel. I would like to thank him and hopefully at some time in the future we can work together either on a panel or committee and/or in a Ministry in time to come. Thank you.

The Bailiff:

Very well, that completes matters under F. There is no matter under G or H, so we come then to Questions and first of all written questions.

Deputy M. Tadier of St. Brelade:

Sorry to interrupt but seeing as we are still waiting for the result would it be prudent for me to also make my statement now rather than after. I am easy either way.

The Bailiff:

No, I think we will take yours at the correct time because yours is not a resignation taking effect on this occasion.

QUESTIONS

3. Written Questions

3.1. THE DEPUTY OF ST. JOHN OF THE CHIEF MINISTER REGARDING THE EMPLOYMENT OF ORCHID COMMUNICATIONS:

Question

Would the Chief Minister advise whether Orchid Communications has been employed by the Waterfront Enterprise Board (WEB) to undertake promotional work and, if so, why is this considered necessary at this time in view of the proposed establishment of a States property company to take over WEB?

Could members be given details of the Orchid contract and the costs involved?

Answer

One of the key objectives of the Waterfront Enterprise Board, as laid out in paragraph 25 (b) (i) of the Company's Articles of Association is:-

*“**To promote**, co-ordinate and implement a comprehensive strategy for the development of the St Helier Waterfront area as shown on Map No: 3-92 approved by the States on 10th November, 1992 (the “Waterfront”).”*

The Board of Directors are therefore operating the Company in accordance with the States approved Articles of Association, which includes promotion activity relating to the development of the Waterfront area.

The issue to which the Deputy refers is therefore an entirely operational matter for the Company, and for reasons of commercial sensitivity and confidentiality, it is not appropriate to distribute contracts WEB has with its contractors.

3.2 SENATOR J.L. PERCHARD OF THE CHIEF MINISTER REGARDING THE MANAGING DIRECTOR OF THE WATERFRONT ENTERPRISE BOARD’S EMPLOYMENT CONTRACT:

Question

When does the contract of employment of the Managing Director of the Waterfront Enterprise Board expire?

Is the Chief Minister able to instruct the Board of Directors of the Waterfront Enterprise Board to only renew the Managing Director of the Waterfront Enterprise Board’s contract of employment with the formal approval of the Council of Ministers and, if so, will he undertake to do so?

Answer

In 1995 the States of Jersey established the Waterfront Enterprise Board Limited (WEB) as a 100% States owned company. The Company is operated by a Board of Directors.

Within the company’s Articles of Association, approved by the States in 1995, it is quite clear that it is the Board of Directors of WEB which is responsible for the appointment of its Managing Director on such terms as it sees fit.

Article 74 of the Companies (Jersey) Law demands that, in exercising their powers and discharging their duties, directors should:

- (a) act honestly and in good faith with a view to the best interests of the company; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

WEB has in place appropriate mechanisms to ensure proper governance with regard to the setting of remuneration. It has a well established Remuneration Committee which recommends to the Board the remuneration of all Executive Directors and, in support of this process, WEB commissions salary surveys at least every three years.

In responding to the question:

- a) The terms of any contract of employment are therefore confidential to the Managing Director and the Board of Directors of WEB.

- b) Under the Company's Articles of Association, the Chief Minister has the power to issue a direction to the Board if a matter of 'material public interest' has arisen. The remuneration of the Managing Director is an entirely operational matter and it would therefore be inappropriate for the Chief Minister to intervene.
- c) As it is neither a Director nor a Shareholder, it is difficult to understand why the Council of Ministers should become involved in issues which are the responsibility of the Board of Directors of WEB.

3.3 SENATOR J.L. PERCHARD OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING SHARING A MEDICAL OFFICER OF HEALTH WITH GUERNSEY:

Question

Would significant savings be achieved if Jersey and Guernsey shared a Medical Officer of Health and, if so, will the Minister undertake to hold talks to this effect as early as conveniently possible with the Guernsey authorities?

Answer

There are a number of professional advisors to the States of Jersey Government who advise the Jersey Government and implement change within Jersey Legislature. If the Islands were to share a Medical Officer of Health, the postholder would be likely to face challenges with responding to two different Governments with two different sets of laws and regulations.

On the matter of making savings it is worth remembering that the Island spends relatively little on public health and prevention in comparison to the UK, Europe and other parts of the developed world. Reaping the benefit of organised prevention bringing better health and reduced pressure on hospitals makes good sense in value for money terms. Whilst sharing the cost of a Medical Officer of Health could save money in the short term, this would most likely become a false economy as the pace of preventative initiatives slowed, meaning that more Islanders would suffer from chronic illness requiring costly treatment.

The Medical Officer of Health plays a central and valuable role at the heart of the local community. They advise Government on the health status of our population, health inequalities, illness prevention, protecting the community from communicable diseases and environmental hazards and recommends how to achieve improvements in the quality of health care.

HSSD are working with Guernsey representatives to optimise the provision of health services for the Islands for the benefit of their populations. With regard to Public Health specifically, the Jersey and Guernsey teams are working together and will continue to work to optimise the value added by Public Health Doctors, Nurses and other Public Health Professionals. The Jersey Department has also twinned with the Dorset Primary Care Trust and linked with Scotland and the South West Public Health network.

3.4 SENATOR B.E. SHENTON OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE DESIGNATION OF BUILDINGS AS BEING OF 'LOCAL INTEREST':

Question

Will the Minister identify how many properties are listed in the schedule of buildings as being of 'local interest' and how many owners, if any, have been informed that their property has been listed without the process outlined within the Planning and Building (Jersey) Law 2002 being followed?

Will the Minister advise whether any applicants for the development of those buildings of 'local interest' designated without warning, have been informed of their status prior to an application being submitted on such a property and therefore have not been given the opportunity to make representations against such a listing?

Would the Minister advise whether such applications are dealt with by officers as if they were already formally, rather than provisionally, listed and without regard to the requirements of the Planning and Building (Jersey) Law 2002?

Answer

I will respond to the Senator's question, which essentially comprises four parts, as follows.

(a) *Will the Minister identify how many properties are listed in the schedule of buildings as being of 'local interest'.*

None. Buildings of Local Interest (BLIs) are not 'listed': it is only buildings and places of 'special interest' that are Listed, by virtue of their inclusion in the List of Sites of Special Interest under the auspices of Article 51(2)(b) of the Planning and Building (Jersey) Law 2002.

Buildings of Local Interest are included in the Register of Buildings and Sites of Architectural, Archaeological and Historical Importance in Jersey (they are thus described as being 'Registered') under the auspices of Article 6 of the Planning and Building (Jersey) Law 2002. Article 6 enables the Minister to publish guidelines and policies in respect of the development of any area of land and specified sites and he does so by identifying those buildings and places that the Minister is satisfied has public importance by reason of their particular archaeological, architectural and historical importance.

There are presently approximately over 4,300 Registered or Listed properties in Jersey, the breakdown of which is as follows:-

Sites of Special Interest (SSI)	257	(6%)
Proposed Sites of Special Interest (pSSI)	697	(16%)
Buildings of Local Interest (BLI)	3,349	(77%)
Archaeological Sites (AS)	52	(1%)

90 Areas of Archaeological Potential (AAP) have also been identified and designated, which is an area-based protection regime for archaeology.

(b) *How many owners, if any, have been informed that their property has been listed without the process outlined within the Planning and Building (Jersey) Law 2002 being followed?*

None: Article 52 of the Planning and Building (Jersey) Law 2002 prescribes the process which the Minister must follow to add a building or place to the List of Sites of Special Interest. This process was set out in response to a question from Senator JL Perchard (1240/5(5084)) tabled on 02 February 2010 and re-iterated in answer to a question from Senator BE Shenton (1240/5(5181)) tabled on 23 March 2010.

For a building or place to be added to the List of SSIs this process must be followed and is in every case, therefore, every owner of a property that has been listed will have been accordingly served notice of the Minister's intent to List the property, either directly or on site, in accord with the process prescribed by law.

The process to register a Building of Local Interest is not prescribed by law.

- (c) ***Will the Minister advise whether any applicants for the development of those buildings of 'local interest' designated without warning, have been informed of their status prior to an application being submitted on such a property and therefore have not been given the opportunity to make representations against such a listing?***

As stated above, in answer to part (a), Buildings of Local Interest are so Registered by the Minister under Article 6 of the Planning and Building (Jersey) Law. Article 6 is a generic provision relating to the Minister's powers to issue guidance and does not prescribe the process by which any such guidance must be issued. As a consequence, as stated above at (b), the process for the Registration of BLIs is not prescribed by law.

It is recognised, however, that there is considerable value in ensuring that the owners of Buildings of Local Interest are aware of their building's status and the reason for its registration and protection. It is also recognised that it is only equitable that the owners of such buildings are given an opportunity to comment on any proposal to Register their property, and/or to change the status of their property.

The designation of 'Building of Local Interest' was introduced by the then Planning and Environment Committee as part of the *Interim policies for the conservation of historic buildings* in July 1998. The introduction of this new system was based on a review of the status and value of all of the Island's historic buildings and sites. Between 2000 and 2005, all of the owners of those buildings and sites designated as a Building of Local Interest were notified of their status. Since that time, where there has been any change in the ownership of any such properties so designated, the status of these buildings and places is identified as part of the legal search service provided by the Planning and Building Services Department, where a legal search is requested by conveyancers.

More recently, the Minister for Planning and Environment has sought to ensure that, whilst not required to do so by law, the process of Registration of a Building of Local Interest reflects that for the Listing of a Site of Special Interest. This requires (as set in previous responses to questions already tabled at least twice this year) the Minister to serve notice of his intent to designate a building or place on the owners of a property, or on site, and provides them with a minimum of 28 days in which to submit representations to him in respect of his intention. Furthermore, whilst not required to do so by law, the Minister has also sought to enable any such representations submitted to be heard in public at one of his Public Meetings, where he might receive the representations in person, and provide any interested party with an ability to address him in relation to any concerns about the potential Listing or Registration of a property.

The Minister's proposals for the review of the historic environment protection regime seeks to simplify the system by introducing one system of designation – a Listed building or place – under the auspices of the existing law, which would provide for Notice of Intent to be served on owners, with a right of representation and, where a party still remains aggrieved, a right of appeal to the Royal Court.

It is also relevant to note that the List of Sites of Special Interest and the Register of Buildings and Sites of Architectural, Archaeological and Historical Importance in Jersey are public documents and are available online at the States of Jersey website.

- (d) *Would the Minister advise whether such applications are dealt with by officers as if they were already formally, rather than provisionally, listed and without regard to the requirements of the Planning and Building (Jersey) Law 2002?*

In the determination of applications for planning permission, Article 19 of the Planning and Building (Jersey) Law 2002 requires the Minister to have regard to all material considerations. The status of a building, be it Listed as a Site of Special Interest; provisionally Listed as a Site of Special Interest; or Registered as a Building of Local Interest, is material to the Minister's decision in that any such status serves to highlight that the building or place has some heritage value.

Furthermore, Article 19(2) states that the Minister should, in the determination of any application, have regard to the Island Plan. As set out in answer to the earlier question from Senator BE Shenton (1240/5(5181) tabled on 23 March 2010, the States 2002 Island Plan provides the policy context for the determination of planning applications affecting historic buildings, where there is a presumption in favour of preserving the architectural and historic of all historic buildings, as set out in Policies G11-G13.

3.5 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR HOME AFFAIRS REGARDING THE DIVERSITY OF THE STATES OF JERSEY POLICE:

Question

Would the Minister supply a detailed breakdown of the following –

- (a) the number of non-British Police Officers employed by the States of Jersey Police;
- (b) the nationality of the non-British Officers from the States of Jersey Police;
- (c) how many British persons have applied to join the States of Jersey Police and been successful over the last 5 years?

Answer

- a) There are currently 21 non-British Police Officers working at States of Jersey Police.
- b) The nationalities include Irish, Portuguese, Zimbabwean, Swedish and Polish.
- c) 61 British applicants have successfully applied to join the States of Jersey Police over the past 5 years.

3.6 THE CONNÉTABLE OF ST. LAWRENCE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE NUMBER OF PROSECUTIONS SINCE THE INTRODUCTION OF SMOKING RESTRICTIONS:

Question

How many prosecutions, if any, have there been since the introduction of smoking restrictions in both the workplace and restaurants and bars in the Island?

Answer

During the three years since the smoking ban was introduced, the Health Protection Service has not had to commence legal proceedings against any individual or business. The Tobacco Enforcement Officer worked on the principle of persuasive compliance; an approach which has proved very successful. The Tobacco Enforcement Post was subsequently cut last year.

In respect of licensed premises there was a seamless move to non-smoking and although there were many unannounced visits throughout the initial few months, unlike the UK there were no infractions of the law and the legislation has been very well received.

A number of infractions of smoking in commercial vehicles have been noted and the Health Protection Department has written to business leaders and secured compliance with the law. In the case of two taxi infractions, these were raised with Driver and Vehicle Standards, at their request, and the matter has been fully resolved.

The smoking prevalence has decreased over the last eight years dropping from 29% to 19% in adults and from 35% to 20% for teenagers. The smoking ban has been a part of the successful fight against death and disease caused by tobacco; the island's most important cause of premature death. During the months following the smoking ban, there was a 17% drop in heart attack admissions to Jersey General Hospital.

3.7 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE ENERGY CONSUMPTION IN THE ISLAND'S SCHOOLS AND COLLEGES:

Question

Is precise information available on the usage of energy in the Department's schools and colleges and, if so, is it possible to track improvements in energy usage accurately?

Answer

General information can be obtained on the use of energy in the Department's schools and colleges, and can be retrieved from a variety of sources. Gas and electricity consumption, for example, is billed on a monthly or quarterly basis to individual schools and colleges, in the same way that it is to other customers.

Tracking improvements in energy usage to a reasonable degree of accuracy is a time-consuming task which requires the analysis of a range of factors, including the type of building construction, energy conservation measures, and fluctuations in weather conditions. The Jersey Property Holdings Department has recently been conducting a trial study of a cross-section of five primary schools in order to assess levels of energy consumption, and this study has concluded that the total energy performance in these schools is generally very good. It is now planned to extend this study to all States schools and colleges, both fee-paying and non fee-paying, in order to identify levels of energy usage and assess the potential for reducing consumption. This will enable Property Holdings to gain a better understanding of the overall picture, and to be in a better position to decide upon measures, in consultation with Education, Sport and Culture, that will help to reduce energy consumption.

It is also planned that energy usage will be monitored in the future, through a cross-section of benchmark schools and colleges, and this will make it possible to track improvements in energy consumption.

3.8 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE INTEGRATION OF SCHOOL BUSES INTO THE SCHEDULED NETWORK:

Question

Is it intended to integrate school buses into the scheduled network as part of the Integrated Transport Plan? If not, why not?

Answer

Yes, it is intended where synergies exist that the school bus service will be integrated with the scheduled bus services. Due to the history of the bus service they are presently each managed under two separate contracts. However, my Department is working closely with Connex to explore how better integration can be achieved now to meet the early objectives of the Sustainable Transport Plan, which is to be brought to the States this Summer.

In the longer term the two services will be fully integrated under the terms of the new bus contract which will start January 2013.

3.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE FIRST STAGE OF THE CORPORATE SPENDING REVIEW:

Question

Given that the Minister advised members on 20th April 2010 that he had received comprehensive information on the first stage of the Corporate Spending Review from Ministers detailing how they would save 2% of their gross budgets along with user pays initiatives, growth bids and invest to save schemes, why he was unable to release this data to union representatives and to Scrutiny on 23rd April 2010?

Will he detail for members his new schedule for releasing this information to all stakeholders and give assurances that all proposals will be subject to thorough debate and scrutiny before coming to the Assembly in the Annual Business Plan 2011?

Answer

The Council of Ministers received draft proposals from all departments, to achieve the 2% budget reductions in 2011, on 22 April 2010 but requested additional information ahead of their workshop on 6 May.

Last Thursday, 6 May 2010, the Council met in a workshop when all the proposals were discussed. All Ministers have committed to saving 2% in 2011 and, over the next two weeks, they will be working together to finalise the details before a second workshop planned for later this month. Once the Council of Ministers has approved proposals, they will be forwarded to Scrutiny and presented to union representatives for their consideration. The process of debate, discussion and scrutiny can continue up until the Business Plan is debated in September.

3.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE COSTS AND EFFECTIVENESS OF THE 'LIVELINK' SYSTEM:

Question

Further to the response to question 5289 on 20th April 2010, which stated that over 1,000 civil servants (one sixth of the workforce) have access to the "Livelink" system, will the Chief Minister advise members how many of these are senior management above grade 10?

How many officers on average, and at what grades, are involved in the process of producing a single Ministerial Decision from its inception to its appearance on the gov.je website?

Can he explain to members why there has been a massive reduction in the number of decisions published on the website by each Department compared with the old Committee system of "Acts" published along with the accompanying reasons or briefing papers?

Has "Livelink" reduced the information available to scrutiny and the public rather than increasing accessibility and accountability, as it was expected to do?

With set up and hardware costs at over £2 million and annual running costs of £131,000 for the licence alone, does the Minister consider the system to be an efficient alternative to the Committee Clerks it replaced?

Answer

It should be noted that the LiveLink system is not used solely for the recording of Ministerial Decisions. LiveLink is a corporate document management system used by States Departments for general document and records management purposes. The Ministerial Decision process is only a small part of the functionality of the system.

The total number of officers who have access to LiveLink is 1,050 and of these approximately 130 officers have access to Ministerial Decision functionality. Some 27 of these officers are above a grade 10.

The number of people involved in the Ministerial Decisions process depends entirely on the nature of the Ministerial Decision itself. A Ministerial Decision might relate to a significant and complex States wide issue(s), or a simple procedural matter.

The Ministerial Decision recording process involves the following key stages:

- Completing the Ministerial Decision template and supporting documents.
- Departmental Quality Assurance by senior managers of the decision, the reason(s) for the decision and supporting paperwork.
- Uploading the documentation on to LiveLink.
- Quality Assurance of the decision by the States Greffe.
- Approval by the Minister following discussion with officers.
- Publication of the Ministerial Decision onto the States website by the States Greffe.

This process takes up a small part of a number of officers overall working time. It should be noted that with the advent of Ministerial Government the costs of recording Ministerial Decisions were absorbed by departments rather than employing Committee Clerks under the previous Committee

system. Thus, in this area headcount was reduced and costs were saved as part of the new Ministerial Decisions process.

A Ministerial Decision is not necessarily equivalent to an “Act” of Committee. “Acts” were extracts of minutes of States Committees, whereas Ministerial Decisions record the decisions of Ministers and the reason(s) for the decision. Comparing the number of Ministerial Decisions with the number of “Acts” under the previous Committee system is therefore meaningless and should not be used to indicate any reduction in transparency or the availability of information.

As LiveLink is simply used as a mechanism to process and publish Ministerial Decisions, there is no reason to suggest that the use of LiveLink has reduced the amount of information available to Scrutiny and the wider public.

It is important to point out that the costs identified by the Deputy relate to the LiveLink system as a whole not just the Ministerial Decision functionality. These costs therefore cannot be reasonably compared against the cost of the Committee Clerks who were responsible for recording decisions under the Committee system.

3.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING TRANSFER PRICING (OR MIS-PRICING) OF GOODS:

Question

Will the Minister inform members –

- (a) whether Jersey Finance commissioned the report “Transfer mis-pricing and child mortality” by Richard Teather and, if so, why;
- (b) how much did the report cost, and
- (c) to what extent, if any, is Jersey involved in the practice of transfer pricing (or mis-pricing) of goods and services?

Answer

Jersey Finance Limited is charged with the role of promoting Jersey's financial services industry in a positive and accurate light. This includes, but is not limited to, addressing potentially inaccurate and unsubstantiated opinion that could, if unchallenged, have a significant negative impact on the Island's finance industry that employs 14,000 workers and, as a consequence of its collective tax contribution, funds the majority of the cost of the Island's public services.

Recent reports published by Christian Aid directly linked child mortality in the third world to transfer pricing and in doing so dressed up opinion as fact. It is self evident that the Jersey finance industry has been attacked both directly and implicitly in these campaigns and reports and that they will, in all probability, have a corrosive effect if left unchallenged. It is the role of Jersey Finance to promote and defend the reputation of Jersey's Finance industry and given the unfounded allegations and misleading information which have been widely disseminated as a result of these reports, it is entirely legitimate and indeed important and necessary that the body charged with promoting the Island's key sector makes informed comment on these matters.

JFL management sought approval for the report through their board approval process. The cost of the report is c.£6,000. The report's author, Richard Teather, is one of the very few Professors in the UK who teaches a pure tax degree, is an Oxford graduate, is both qualified in law and accountancy,

and associated with eminent think tanks such as the Institute for Economic Affairs and the Adam Smith Institute, and is widely respected as a tax expert on both domestic and international tax matters.

Professor Teather's report clearly and accurately answers the question regarding the role of transfer pricing in international finance.

I believe that Jersey Finance Limited has acted to ensure the reputation of our finance industry is accurately reported.

3.12 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE TERMS OF THE NEW VOLUNTARY REDUNDANCY PACKAGE TO BE APPLIED TO PUBLIC SECTOR WORKERS:

Question

Will the Chief Minister inform members of the terms of the new Voluntary Redundancy (VR) package to be applied to public sector workers and state how it differs from the previous scheme and how it compares with the new statutory redundancy terms soon to come into force in the Island?

Will the Chief Minister state why public sector union representatives have not been consulted over the drafting of the revised VR terms and at what stage is it intended to consult them?

When public sector terms and conditions are investigated as part of the Comprehensive Spending Review at what stage does the Minister intend to consult with union representatives?

Will the Chief Minister assure members that he will properly seek agreement with employee representatives before bringing any proposals to the States for ratification?

Answer

- A. There is no new Voluntary Redundancy package being applied to public sector workers. The States Employment Board (SEB) recently reviewed the current terms (introduced in 1995), and agreed to keep them until the end of 2010.
- B. Senior union representatives were advised in writing on 30th March 2010 telling them that the existing VR terms will be reviewed at the end of the year but will apply as currently stated until then. The unions will be consulted on any proposed changes once the SEB has considered this further later in the year.
- C. A high level draft of the Terms of Reference has been shared with the unions and the ToR are now being worked up in more detail. It is expected that the person appointed to conduct the review of public sector terms and conditions of service will consult with employee representatives, as one of the stakeholder groups, in order to elicit their views of their members' terms and conditions of service. I think it is also important to point out that an integral part of all the 2-year pay agreements that pay groups have signed up to is that they have agreed to cooperate with the comprehensive review of pay and conditions of service in the public service.
- D. I can assure Members that the States Employment Board will do all it can to seek agreement with employee representatives concerning any proposed revisions to public sector terms and conditions of service that emanate from the review of public sector terms and conditions of service. However I would advise the Deputy that provided any changes are within the

resources approved by the States and do not conflict with any other States policies it would be not be appropriate for the States to be asked to ratify any changes.

3.13 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE CONSULTATION TIMESCALE FOR THE GRANTING OF CLASS 1 POSTAL LICENCES TO 2 COMPETITORS TO JERSEY POST:

Question

Following the undertaking given on 20th April 2010, will the Minister inform members what request he has made to the Jersey Competition Regulatory Authority over the consultation timescale concerning the granting of class 1 postal licences to two competitors to Jersey Post and inform members what the new timescale for the process is now?

Will he advise what meetings, if any, he has had with stakeholders to address the concerns expressed by Jersey Post and the Communications Workers Union and if not why not?

What steps, if any, has he taken to ensure that the impact of the introduction of new competitors in this sector on the maintenance of postal Universal Service Obligations are made clear to the Jersey public, and if no steps have been taken, when will he do so?

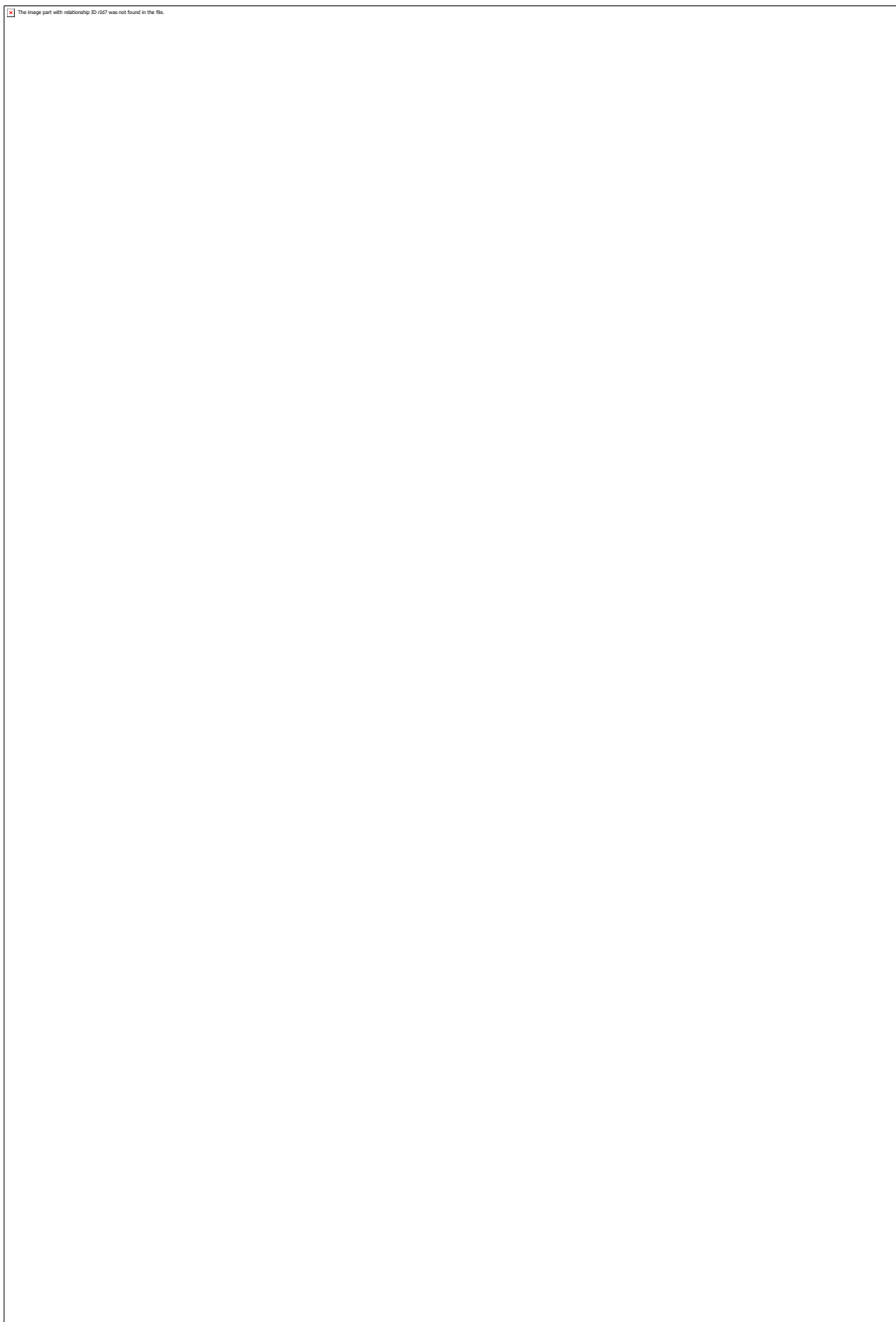
Answer

Having given an assurance to the Assembly, I wrote to the JCRA on 29th April 2010 asking that the consultation regarding the grant of Class 1 Licences to Citipost DSA Limited and Hub Europe Limited be extended. In their reply of 30th April, the JCRA stated that an extension was not necessary given that the consultation had already lasted 31 days, (rather than the statutory 28 days) and that 10 comments had already been received. Both main interested parties, namely Jersey Post and the Communications Workers Union had already responded and it was unlikely that further responses from other parties would be received. They then noted that the JCRA would consider these responses as required by the Postal Services (Jersey) Law 2004 before moving to a Final Notice. This Final Notice would also be subject to a 28 day period during which any appeals regarding the Final Notice can be made.

Since the decision was announced by the JCRA that it was considering opening up the postal market, I have had a number of meetings with representatives of Jersey Post, together with some of their clients and I am fully aware of their concerns. To that end, I noted in my letter to the JCRA that I was concerned that no decision should be made regarding the grant of these proposed licences until the outcome of the efficiency review into Jersey Post had been concluded and that I was prepared to give them written guidance to that effect. Although the JCRA sees the efficiency review as separate from the possible award of new licences, they have given an assurance that the outcome of the efficiency review would be considered as part of the award if relevant to do so.

I am also mindful that the Universal Service Obligation is an important issue for Islanders. It is important to note that the Postal Law prevents a situation where the advent of competition adversely affects the USO and so the JCRA will be mindful of this. However, I think that Deputy Southern is right to draw attention to the need for a wider debate around the USO and what Jersey Post can realistically be expected to provide given the costs involved. To that end I have instructed my department to liaise as a matter of some urgency with the JCRA and Jersey Post to produce and publish a public consultation on the USO in order that Islanders have a chance to comment on the level of service that they wish to have, while recognising what costs come with it. This will take a

few weeks to produce, but will certainly take place before the conclusion to the licensing process currently underway.



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3.14 DEPUTY D.J. DE SOUSA OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE ELIMINATION OF PRICE WARS OVER LAND ACQUISITION WITH HOUSING TRUSTS:

Question

Would the Minister provide the Assembly with details of the instances where issues have arisen between the Housing Department and housing trusts, as mentioned in his response to my oral question of 23rd of February 2010, in relation the elimination of price wars over land acquisition with housing trusts?

Answer

In my response to the Deputy's question on 23rd February 2010 I informed the Assembly that I had written to all Housing Trusts and Connétables stating that I would not support the acquisition of any social rented home where the price being paid exceeded the maximum price which the current debt redemption model demonstrates is sustainable.

There have been no price wars. However, I was concerned that developers holding sites zoned under P.75/2008 were negotiating with a number of social housing providers and that this created the potential for price inflation. It was important to act to prevent this from happening. I have done so. Feedback that I have had from at least one Trust Chairman suggests that my comments were welcomed and supported.

3.15 DEPUTY D.J. DE SOUSA OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE REGULATION OF HOUSING TRUSTS:

Question

In light of the Minister's commitment in the Strategic Plan to Social Rented Housing, what measures, if any, has he taken in the last 4 years to regulate housing trusts?

Answer

As members will well know, I commissioned a Fundamental Review of Social Housing in Jersey in 2007. That review was carried out by Professor Christine Whitehead OBE of the London School of Economics & Cambridge Centre for Housing & Planning Research.

One of the key terms of reference for the review, which were developed with the input of the Health, Social Security and Housing Scrutiny Sub-Panel, was to analyse the present regulatory structure applicable to social housing, compare it with regulation in other jurisdictions, and recommend a suitable framework for the future.

Professor Whitehead's report was published in October 2009 and was open for public consultation until March this year.

I have been considering the findings of the report and feedback from the consultation process and I plan to lodge a report and proposition setting out a number of policy matters, including regulation, later this year.

Any new regulation will have a cost attached to it. Ultimately it will be for States Members to decide what form that regulation should take and how it will be paid for.

3.16 DEPUTY D.J. DE SOUSA OF ST. HELIER OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING A SINGLE DATE FOR THE 2011 ELECTIONS:

Question

Will the Chairman inform the Assembly what steps, if any, the Privileges and Procedures Committee have taken toward a single date for the 2011 elections and would she also advise whether the Committee is continuing to look at bringing proposals forward to reform the constitution of the States Assembly and, if not, why not and will the Committee consider these issues?

Answer

The Committee considered the draft States of Jersey (Period for Election) (Jersey) Regulations 201- at its meeting on 27th April 2010. The Regulations are designed to implement the decision taken by the States on 10th September 2009 to institute a single election day. The Committee requested some amendments to the accompanying Report and the draft Regulations were subsequently finalised and lodged 'au Greffe' yesterday. The Committee will be asking for them to be debated on 22nd June 2010. As explained in the Report accompanying the Regulations, there was a delay between the September 2009 decision and the lodging of the Regulations because PPC needed to discuss the interaction between the single election day and the date of the debates on the Annual Business Plan and Budget .with the Minister for Treasury and Resources.

Complete proposals for reform have been discussed by the States on numerous occasions and rejected. On 5th June 2007, the then Privileges and Procedures Committee lodged the proposition: Composition of the States – revised structure and referendum (P.75/2007 refers), which was rejected by the States on 18th July 2007 by 26 votes to 21. The following day the Assembly rejected by 32 votes to 13 the proposition of Senator J.L. Perchard to hold a referendum to seek the views of the electorate on options for the future composition of the States, but adopted the proposition of the Comité des Connétables to implement a single election day and a 4-year term of office for the 12 parish Connétables (P.54/2007 refers). On 26th September 2007 the States adopted Deputy P.N. Troy's proposition: Deputies: extension of term of office to 4 years, by 22 votes pour and 18 votes contre, but when the draft legislation to give effect to this decision was brought back in January 2008 (P.183/2007 refers) the decision was overturned, principally because the then PPC had also proposed reform to the position of Senator as it was clear that a 4-year term for some members was not workable with the 3-year election cycle needed to elect half of the Senators for a 6-year term. (It should be noted that in accordance with new Standing Order 89A introduced in early 2008 any proposals which alter the membership of the States, members' term of office, or their constituencies, must now be decided by a majority of elected members (currently 27) and if the debate on Deputy Troy's proposition had taken place after that was in force the proposition would not have been approved).

After its appointment in December 2008 the Privileges and Procedures Committee agreed that the reform of the composition of the States was its top priority. Accordingly, in May 2009, the Committee lodged 'au Greffe' the proposition: Composition and Election of the States: Revised Structure (P.72/2009 refers). This was debated by the States on 9th September 2009 and rejected by 38 votes to 10. The Committee made it clear at the time that it saw no merit in continuing to undertake more research or seek further options, as it genuinely believed that there were no other acceptable, workable, options available (see page 32, P.72/2009).

Despite the Assembly's apparent lack of appetite for overarching constitutional reform in the formats suggested to date, the Committee recognises that this matter falls within its terms of reference and on 30th March 2010 (Minute No. A5 refers) agreed that, although the proposals on

the single election day should be brought forward first in isolation, there could be merit in considering whether there was any scope to carry out a further body of work in respect of individual reform measures such as a 4-year term of office, a move to a spring election, and a reduction in the number of States members.

3.17 DEPUTY D.J. DE SOUSA OF ST. HELIER OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE TOTAL NUMBER OF VEHICLES RENTED ANNUALLY BY STATES DEPARTMENTS FROM MOTOR MALL:

Question

Further to the response to my written questions of 23rd February 2010, can the Minister inform members the total number of vehicles rented annually by Departments from Motor Mall for what purpose and at what cost to the States?

What are the criteria and terms of reference when advertising for tenders for this service and when is the current contract up for renewal?

Answer

The Jersey Fleet Management section of Transport & Technical Services negotiates and manages the corporate leasing of a range of standard cars for use by States Departments for general operational purposes.

The contract is awarded every three years following a formal tendering process and was re-awarded to Motor Mall in 2009 to cover the period 2010-2012 inclusive. The invitation to tender was advertised by TTS through the States Corporate Procurement's e-tendering web portal system and resulted in three tenders being received, all from locally registered companies.

The tender conditions require the contractor to provide local service back-up and support for the fleet and the tender is awarded on the basis of overall lease cost with environmental factors of the vehicles on offer also being considered.

Under the agreement cars are replaced annually and Departments have the opportunity to adjust their requirements accordingly.

Currently there are a total of 148 cars of differing size leased to 18 States Departments which will result in payments by Departments totaling £198,660 in 2010 before GST. As the number and mix of cars can be altered by Departments the overall cost to the States varies from year to year.

The cars are used by employees of Departments in order to carry out their day-to-day duties. In some cases cars are held in a 'pool' for use by several staff in a section, some are allocated to an individual depending on the mobility requirements of their job.

3.18 DEPUTY D.J. DE SOUSA OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING REDUNDANCIES AT THE JERSEY NEW WATERWORKS COMPANY LIMITED:

Question

Can the Minister, as representative of the shareholder state whether he is satisfied that the redundancies at the Jersey New Waterworks Company were justified when the company has announced a profit margin to the value of £4,085,000?

Answer

The Jersey New Waterworks Company (JNWC) has announced a profit **before** tax of £4,085,000, an increase of only 1.3% on the previous year.

A Final 2009 dividend for £1,578,000 is proposed to be paid to the States at the forthcoming AGM.

This is in addition to the income tax generated on employee salaries, employee social security contributions and the many jobs and other economic benefits generated by the millions of pounds that the Company spends within the local economy each year.

The retained profits generated by the Company are used to fund its extensive capital programme. In 2009 capital works amounted to £3.3 million spent renewing and enhancing the mains water network, protecting water resources and maintaining its plant and equipment to ensure that it can continue to provide water to the Island of Jersey for years to come.

It is the duty of all Companies and especially a public utility enjoying a monopoly position to constantly seek out and implement efficiencies and reduce costs where possible. JNWC states that the 2009 changes were in the interests of consumers (the changes were one of the factors that helped keep prices for water frozen for 2010) and in the interests of the Company's shareholders (the States being the Major Shareholder).

JNW advise that majority of the staff who were made redundant in December had jobs to start immediately after they finished at JNWC. JNWC's capital programme means that the former employees have every likelihood of enjoying secure and gainful employment for many years to come.

3.19 THE CONNÉTABLE OF ST MARY OF THE CHIEF MINISTER REGARDING THE IMPLEMENTATION OF PARAGRAPH 2.1.1(a) OF THE CODE OF PRACTICE ON PUBLIC ACCESS TO OFFICIAL INFORMATION:

Question

Would the Chief Minister advise members how many departments keep a general record of all information that they hold in accordance with paragraph 2.1.1(a) of the Code of Practice on Public Access to Official Information and would he further advise what steps, if any, departments have taken to improve their records management practices since the Code came into force on 20th January 2000?

Would the Chief Minister advise whether the information asset register, approved by the States on 8th June 2004, is up to date and includes **all** strategic and/or policy reports prepared by departments, and any report deemed to be of public interest, together with the cost of preparation where these were provided by consultants?

Answer

All departments keep a record of all information that they hold in either electronic or paper format, in accordance with paragraph 2.1.1(a) of the Code of Practice on Public Access to Official Information. In addition to this departments make an annual return on requests for information which is presented to the States, the last time being 15th April 2010.

When the Code of Practice was agreed in 2000 by the States it was on the understanding that it could be implemented within the existing resources of departments. Within these parameters, and with the assistance of Jersey Heritage, departments have been working towards ensuring that good records managements practice is followed, for example, development of retention schedules. Departments are aware that they have a duty of records management and, within existing resources, improvements are being made on an ongoing basis.

The gov.je website contains a page called States Reports, previously known as the Information Asset Register, which holds a register of strategic and policy reports as well as other reports that are deemed to be of public interest, (<http://www.gov.je/Government/Pages/StatesReports.aspx>). Departments are aware of the centralised reports section on the website and are therefore responsible for maintaining up to date records. Following the development of the new website the Information Services Department is working with departments to ensure all relevant information is uploaded onto the site. Copies of reports are also available in other parts of the gov.je website, including the sections on States departments and Ministerial Decisions.

3.20 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING FEES CHARGED TO AIRPORT TAXI CAB DRIVERS:

Question

Are Rank Taxi drivers to be charged a fee to collect passengers from the Airport like Taxi Cab drivers and if, so what will be the charge levied?

Has the Minister made representations to the Minister for Transport and Technical Services in relation to the Transport Strategy, and if so would he advise what issues he raised?

Has consideration been given to establishing permanent private hire depots at the Airport and Harbour and, if so, what is the rationale behind these proposals?

Answer

A charge was to be applied to taxi cabs for use of the designated parking areas at a flat rate pegged to the rate of the first 30 minutes, which is currently 60 pence. It was intended to introduce this rate for private pre-booked cab companies using this improved parking facility. There now will be no change to the rank taxi facility and therefore no charge. However it has been decided to undertake further monitoring of the taxi service and until this is complete the implementation of the new parking arrangements for private pre-booked cabs will be put on hold.

The Minister for Transport and Technical Services was involved in early discussions with the taxi organisations and the issues surrounding the reason for relocating the parking area. The subsequent proposal was endorsed by him and the Assistant Minister for Economic Development.

Any future physical changes to transport depots at Jersey Airport will form part of our longer term development of the facilities. At this stage no firm plans have been drawn up.

3.21 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING SCAFFOLDING AT A BUILDING IN LA MOTTE STREET:

Question

Further to my written question of 20th April 2010, in relation to scaffolding at a building in La Motte Street, when the Minister stated that one of the problems delaying the removal of the scaffolding was the death of the owner, would the Minister state if he has information regarding the ownership of the building and, if so, disclose this to members?

Would the Minister further advise whether the detrimental effect of the scaffolding to other businesses in the vicinity has featured in his department's discussions with the owners of the property and outline what pressures, if any, can be applied to bring ensure that the scaffolding is removed as swiftly as possible?

Answer

I can confirm the building is now owned by Barclays Bank PLC.

I am informed that the company is sympathetic to the concerns of the other business in the vicinity and that it has indicated a willingness to take all reasonable steps to progress the matter without undue delay. Indeed, steps have already been taken to appoint a firm of structural engineers to survey the building with a view to putting forward options that would allow the scaffolding to be removed. It is anticipated a decision will be made on those options within the next few weeks.

In the unlikely event that the owner fails to take steps to remove the scaffolding within a reasonable timescale there are provisions in the Planning and Building Law available that could be used to expedite the matter.

3.22 DEPUTY T.M. PITMAN OF ST. HELIER OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING MONITORING THE COMMITMENT OF MEMBERS TO THEIR PUBLIC DUTIES:

Question

Given growing public concern about various aspects of States efficiency -will the Chairman advise what measures, if any, the Committee has at its disposal to monitor and ensure that those members also having second jobs/careers give adequate commitment to carrying out their public duties?

Further still, what sanctions, if any, can be put in place to prevent members simply leaving the Assembly after roll call to go to their second place of work?

Answer

States members are prevented by the States of Jersey Law 2005 from working as public employees. Other than in this regard, there is nothing in the States of Jersey Law 2005, Standing Orders or the Code of Conduct for Elected Members to say that members should not have outside employment or careers, paid or otherwise, nor indeed any other commitment. The Committee therefore has no remit to specifically monitor this, or to quantify or validate the commitment given by any member to carrying out his or her public duties. This is a matter for individual members' conscience and for the electorate.

The Committee has from time to time discussed attendance during States sittings in general terms, but nothing specific in relation to the outside employment of any member. There may be many valid reasons why members need to leave the States Assembly or indeed the States Building during a sitting, but to date this has not resulted in any complaint under the Code of Conduct being made

to the Committee. Should such a complaint be brought then PPC would be required to investigate it in accordance with Standing Orders.

3.23 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE TOWN PARK:

Question

Will the Minister confirm whether he intends to allow work to begin on the Talman area of the Town Park, but to oppose the development of a park on the rest of the designated area, if it is to be without buildings, and, if so, does he not consider that this would be contrary to the public's expectations for the site?

Answer

At the present time, the Transport and Technical Services Department have yet to submit a planning application for the remediation of the site but I understand that an application will be submitted for those works in the very near future. I am unable to allow any work to commence until an application has been approved but I am fully supportive of any necessary steps to decontaminate the site for whatever purpose. Any such application will be dealt with as quickly as possible in the context of the debate on P42 – scheduled for the current sitting of the States - and the North of Town Masterplan but I certainly anticipate remediation works to commence this year.

3.24 DEPUTY M. TADIER OF ST. BRELADE OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING THE INTRODUCTION OF A 4-YEAR TERM FOR ALL STATES MEMBERS:

Question

Is the Privileges and Procedures Committee supportive of plans to introduce a 4-year term for all States Members and, if so, will it undertake to bring forward plans in time for this to be debated in good time before the next elections so that, if the States agree, this can be in place for November 2011?

Answer

Yesterday the Privileges and Procedures Committee lodged the States of Jersey (Period for Election) (Jersey) Regulations 201- which are designed to implement the decision taken by the States in September 2009 to institute a single election day. This matter has given rise to discussions in respect of the possible 4-year term of office. Minute No. A5 of the Committee's meeting of 30th March 2010 reads as follows:

“The Committee discussed whether the introduction of a single election day should be linked to any wider reform, such as a 4-year term of office, a move to a spring election, or a reduction in the number of members. The Committee referred to extracts from the Official Report (‘Hansard’) of 10th September 2009 when the single election day proposal had been agreed by the States, and noted calls from members for the change to be brought forward in isolation. In order to allow the necessary amendments to the States of Jersey Law 2005 to be made in good time before the proposed single election day, it was agreed that the matter should be moved forward as soon as possible. It was therefore agreed that the Committee would pursue the matter of the single election date only at present, and that it would be minded to carry out a separate body of work in respect of any other reform measures, to be brought forward at a later date.”

The Committee is supportive of the move to a 4-year term of office but it is conscious of the considerable practical difficulties surrounding the Senatorial role. The Committee and its predecessors have concluded on numerous occasions that a 4-year term for Deputies and Connétables is unworkable unless the 3-year election cycle for half of the Senators is also amended. It is generally accepted that an 8-year term for Senators would be far too long and it is considered that reducing the Senatorial period of office to 4 years might devalue the role and there would be considerable difficulties in electing all 12 Senators on one day every 4 years if this reform was introduced. The option of reducing the number of Senators to alleviate the problems that would be caused by a single Senatorial election day is available but this option was rejected when it was brought forward by PPC in January 2008. The view has been expressed by many States members during debates that a move to a single election day may lead to further natural evolution in the make-up of the States Assembly and the position may become clearer after the next election.

3.25 DEPUTY M. TADIER OF ST. BRELADE OF THE CHAIRMAN OF PRIVILEGES AND PROCEDURES COMMITTEE REGARDING THE CURRENT QUALIFICATIONS TO STAND FOR ELECTION AS A MEMBER OF THE STATES ASSEMBLY:

Question

Does Privileges and Procedures Committee consider that the current system of only allowing British citizens to stand for election for the States of Jersey is both human rights compliant and fair? Would the Committee be minded to support a change in the States of Jersey Law 2005, in order that any person who has been resident in the Island for an agreed amount of time could put themselves forward for service as a States Member?

Answer

As is customary in many national parliaments, including the United Kingdom, Australia and New Zealand, nationality is a qualification for election.

The nationality for qualification for election in Jersey was considered during the development of the Draft States of Jersey Law. In July 2003 the Privileges and Procedures Committee agreed the following:

“Nationality for qualification for election - The Committee agreed that this should be confined to British citizens in accordance with provisions for national parliaments and because of the requirement to swear an oath of allegiance to Her Majesty;”

The provision in the Law, which was adopted in 2005, reads as follows:

“7 Qualification for election as Senator or Deputy

(1) A person shall, unless disqualified by paragraph (2) or Article 8(1) or any other enactment, be qualified for election as a Senator or a Deputy if he or she –

(a) is of full age; and

(b) is a British citizen who has been –

(i) ordinarily resident in Jersey for a period of at least 2 years up to and including the day of the election, or

(ii) ordinarily resident in Jersey for a period of 6 months up to and including the day of the election, as well as having been ordinarily resident in Jersey at any time for an additional period of, or for additional periods that total, at least 5 years.”

At the time this Law was promulgated the then Privileges and Procedures Committee stated that the law was compliant with the European Convention on Human Rights, advising the States Assembly before the Second Reading of the project that: ‘In the view of the Privileges and Procedures Committee the provisions of the States of Jersey Law 200- are compatible with the Convention Rights’.

The nature of Article 7 of the States of Jersey Law and whether or not it should be amended has not been discussed by the present Privileges and Procedures Committee. As it has been raised as a possible matter for consideration, this will be placed on a future Committee agenda.

3.26 THE DEPUTY OF ST. MARY OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING ACCIDENTS INVOLVING CYCLISTS OR PEDESTRIANS IN THE VICINITY OF THE ONGOING ROADWORKS ALONG THE PROMENADE BETWEEN ST. AUBIN AND ST. HELIER:

Question

Can the Minister provide members with a complete list of any accidents involving cyclists or pedestrians which have occurred along the promenade between St. Aubin and St. Helier in the vicinity of the ongoing road works?

What arrangements, if any, are in place to ensure that safe practices are followed with respect to all users of the promenade?

What is the situation regarding liability, if contributory negligence exists *prima facie*, in the event that one of the injured proceeds to sue?

Answer

My Department is aware of two accidents involving cyclists which have occurred along the promenade between St. Aubin and St. Helier in the vicinity of the ongoing road works. The details are as follows;

On the night of 19th March, 2010 a cyclist hit the site fencing and suffered a broken collar bone.

On the 13th April 2010 a cyclist hit a piece of blue rope stretched across the cycle track and suffered a broken wrist.

There are two separate projects being carried out which affect the promenade and cycle track in this area. The first accident occurred on the Victoria Avenue Promenade and Cycle Track Replacement Project which is being carried out by TTS direct labour and the second is the Victoria Avenue Resurfacing Project being carried out by Trant (Jersey) Ltd.

Both projects have a member of staff responsible for checking traffic management and public safety on a daily basis. It is suspected that with both of these incidents the fencing/signage and the blue rope in question had been deliberately placed in the line of cyclists by vandals following the site inspections. Both incidents have been reported to the police who are investigating.

Both my Department and the Contractor hold third party insurance for personal and property damage and the injured parties have been made aware of this.

3.27 THE DEPUTY OF ST. MARY OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE NUMBER OF REDUNDANCIES AT THE JERSEY HERITAGE TRUST:

Question

Can the Minister advise members how many staff will lose their jobs at the Jersey Heritage Trust, what is their combined length of service, what the total savings will be and the exact effect on the service provided by the Trust?

Answer

In the recent round of redundancies a total of 15 individuals will cease working with the Jersey Heritage Trust, including three compulsory redundancies (2.9 fte with 26 years service), 10 voluntary redundancies (7.7 ftes with 92 years service), one post not hired (.26 fte with seven years service), one voluntary early retirement (1 fte with 23 years service). This makes a total of 15 individuals (11.86 ftes) with a combined total of 148 years service to the Trust. In addition, four posts have been frozen, making a total of 19 people over the past 12 months, or 25% of the headcount, equating to approximately 25% of the payroll.

The total staff savings are calculated by the Trust £300,000.

The effect on services is that there will be changes to the opening of sites as reported recently. Hamptonne will move to an events-only opening regime; the Maritime Museum will close between Autumn half-term and Easter; the Jersey Museum will close between New Year and Easter. In addition, the following functions are being outsourced: marketing and communications, technical support, bookings, design, schools education work, social history curator. New charges will be introduced for OAPs and local children.

3.28 THE DEPUTY OF ST. MARY OF THE CHIEF MINISTER REGARDING THE GROWTH IN GDP:

Question

Would the Chief Minister advise the Assembly of the growth in GDP (or other equivalent measure of the Island's overall wealth) over the most recent period of 10 years for which accurate figures are available?

Answer

Figures are publicly available in the GVA and GNI 2008 report and the Jersey Economic Trends publication, both produced annually by the Statistics Unit and available on the Statistics Unit website.

GVA (Gross Value Added) provides an appropriate measure of economic activity in Jersey. In nominal terms, GVA increased by 67% between 1998 and 2008. In real terms (after adjusting for inflation), GVA increased by 18% over the same period.

3.29 THE DEPUTY OF ST. MARY OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING LEGAL ADVICE IN RELATION TO CONTAMINATION OF NEIGHBOURING PROPERTIES ON THE TALMAN SITE:

Question

Further to the 1996 legal advice referred to in the PWC Report 1999 (page 14) has the Minister taken recent legal advice on the need to avoid any contamination of neighbouring properties on the Talman site and on the consequences for the States of Jersey if such pollution does occur and, if so, would he advise members what advice was received?

Has the Minister formally evaluated the risk of contaminating neighbouring properties under the different options for the creation of the Park, especially the 'Park only' and the 'Park with buildings wrapped around the eastern edge' options and, if not, why?

If an evaluation has taken place, would the Minister inform members what the different levels of risk are and how these were arrived at?

Answer

The legal advice to which the Deputy refers (actually on Page 13 of the PWC report) was provided in relation to the States liability for remediating contaminated land on both the Talman and Gas Place sites. The advice suggested that a court could find the States liable for any future contamination to neighbouring properties caused by the site, if it did not take "*reasonable steps to prevent or minimise risk*". No further legal advice has been requested as the advice given in 1996 still remains valid.

Planning and Environment's involvement in respect of this site will only extend so far as to include determining any planning application that is submitted in connection with the site and acting as regulators of both the Water Pollution (Jersey) Law 2000 and the Waste Management (Jersey) Law 2005. The department will require that any planning application submitted – whether for the as yet unresolved '*park only*' or '*park with development*' options - is accompanied by a contaminated land remediation strategy for the site. This responsibility lies wholly with any applicant although officers of P&E are happy to discuss the content of such information prior to an application being received.

Any contaminated land remediation strategy must demonstrate that contaminated materials within the bounds of the site are remediated or removed in order to demonstrate that users of the site and

any surrounding premises will not be at risk from any contamination. Further the strategy must demonstrate downstream compliance to show groundwater quality to a level that has been prescribed by the department. As always P&E requires that any developers that any ground remediation strategy minimise and mitigate risks to controlled waters. If buildings were to be constructed on any part of the site the remediation strategy should appropriately reflect this element.

Any strategy would be developed and agreed with regulators not only from P&E but also from Health and Social Services as the safety of users of the site and the wider public must not be compromised whatever the form of final development. Consideration of any risks would include any contracting or construction period for works on the site.

4. Oral Questions

The Bailiff:

We come then to oral questions and first Deputy Trevor Pitman will ask a question of the Minister for Home Affairs.

4.1 Deputy T.M. Pitman of St. Helier of the Minister for Home Affairs regarding the number of alleged abuse cases relating to the cellars at Haut de la Garenne:

Would the Minister advise the Assembly how many of the 30 alleged abuse cases relating to the cellars at Haut de la Garenne are still part of the ongoing historic abuse investigations; how many, if any, are not being pursued, when was it decided to discontinue their investigation and for what reason?

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

In answer to a question previously I indicated there were 30 such allegations. Those, in fact, were made not by 30 people but by 8 people. These were all properly investigated by the police, sometimes with the benefit of legal advice and none of these complaints passed the evidential test so as to warrant a prosecution.

4.1.1 Deputy T.M. Pitman:

Could the Minister clarify whether the former lead officer in the case, Mr. Gradwell - I do not believe I can avoid naming him - invited some of the Haut de la Garenne survivors to the police station to show them some examples of evidence, i.e. shackles that had been found in the cellars. If this is correct would this action not have made the evidence inadmissible in a court of law?

Senator B.I. Le Marquand:

I am unaware of any such occurrence. That does not mean I am saying it did not happen, I am simply not aware of it. I would have needed to have specific notice of such a detailed question.

4.1.2 Deputy T.M. Pitman:

Could I ask that the Minister seek out the information and report it back to me? Would that be possible, please?

Senator B.I. Le Marquand:

It would be helpful if I could have something precisely in writing so I know exactly what the question is, I am then happy to make inquiries.

4.1.3 Deputy M.R. Higgins:

Yes, if I could just follow up on the question. Is it usual in criminal cases for an investigating officer to show evidence such as the things that have been said in a criminal case to witnesses before they have gone into court?

Senator B.I. Le Marquand:

There are grave dangers in criminal investigations of police officers revealing too much detail which can subsequently contaminate the evidence of witnesses. That is a particular concern in all criminal investigations and therefore officers should be very careful not to lead witnesses in any way by providing them with information or showing them items in such a way that might contaminate their evidence.

4.1.4 Deputy F.J. Hill of St. Martin:

Will the Minister confirm that among the 8 people who made the allegations that one of them was made through an advocate? Will the Minister confirm?

Senator B.I. Le Marquand:

Again, I do not have that level of detail.

The Bailiff:

Deputy Pitman, final question.

4.1.5 Deputy T.M. Pitman:

Could the Minister clarify whether the whole media strategy surrounding the historic abuse inquiry was a Home Affairs strategy or a police strategy? If a police strategy, was the lead individual still overseen by the Minister?

The Bailiff:

It is not clear how that arises out of this question but, Minister, it is up to you if you want to answer.

Senator B.I. Le Marquand:

I am answering with some caution because I do not want to trespass into expressing an opinion in relation to disciplinary matters as Members will understand. But it is my understanding that the media strategy was a police strategy not a Home Affairs strategy. I could be wrong on that but that is my understanding.

The Bailiff:

Very well, then we will come to question 2 which Deputy Maçon will ask of the Minister for Health and Social Services. Deputy.

4.2 Deputy J.M. Maçon of St. Saviour of the Minister for Health and Social Services Health and Social Services regarding staff suspensions:

Will the Minister provide an update on the number of Health and Social Services staff who are currently suspended, whether any employees have been suspended for more than a year and, if so, would she explain why?

Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):

There is currently one member of staff suspended. This suspension was initiated in February 2009 and remains current due to an ongoing police investigation.

4.2.1 Deputy J.M. Maçon:

I thank the Minister for her response. Can the Minister give an undertaking that the skills gap of the individual will continue so that we do not have a repeat of what has already occurred with another member of staff?

The Deputy of Trinity:

Yes, I am happy to confirm that.

4.2.2 The Deputy of St. Martin:

In a written answer I received on 9th March I asked how much had the suspension cost for the present doctor and the answer I got was £406,000. That is getting on towards £500,000. Could I ask the Minister what actions she is personally taking to ensure that this suspension comes to a speedy conclusion?

The Deputy of Trinity:

Like all suspensions I would like it to come to a quick conclusion but as I said before, this is a matter which is due to ongoing police investigations, so from that point it is very difficult.

4.2.3 The Deputy of St. Martin:

Could I just ask confirmation from the Minister, is it a police investigation or is a matter for the Department for Social Security? Is the Minister in a position to tell me or tell the House who is responsible at the moment for the investigation? The police or has it been handed over to the Department of Social Security?

The Deputy of Trinity:

That particular case is utterly engaged, as I said, with the police as well as Health and Safety Executive and the Law Officers' Department. But the police investigation must take primacy in this matter.

4.2.4 Senator J.L. Perchard:

Why does the Minister consider it important that any police or criminal investigation should be completed before disciplinary action could be taken against members of staff?

The Deputy of Trinity:

Because I think it is a police investigation and must take first account. I do not wish to go into any particular details in this particular case.

4.2.5 Senator J.L. Perchard:

I am not asking the Minister to go into any details of the case, can the Minister explain why she considers it important that any police or criminal investigation be completed before a disciplinary action can be taken against a member of staff?

The Deputy of Trinity:

As I have said, the police investigation must take prime concern.

4.2.6 Senator S.C. Ferguson:

Would the Minister like to comment on the fact that it is quite probable that it was a management failure that led to this suspension?

The Deputy of Trinity:

No, I would not like to make any comment whatsoever about this particular case.

4.2.7 Senator S.C. Ferguson:

I appreciate that but would the Minister confirm that she will be looking into the management implications?

The Deputy of Trinity:

All these suspensions, if there are any, then they will come out publicly with the police investigation, I would have thought.

4.2.8 Deputy R.G. Le Hérisier of St. Saviour:

Can the Minister tell the House who initiated the referral to the police?

The Deputy of Trinity:

I do not have that information but I can get it to the Deputy.

4.2.9 Deputy R.G. Le Hérisier:

A follow-up. Given the issues that arose with a previous case where there were inordinate delays, has the Minister at the end of all this, without in any way prejudicing ongoing investigations, made it possible to sit down with the relevant authorities and ask why these cases go on for ever and ever?

[10:00]

The Deputy of Trinity:

Yes, one of the recommendations was about developing a memorandum of understanding with the States of Jersey Police and the Health and Safety section. This will lay out how all the agencies work together to try and cut through investigations. That is in the process of being done.

4.2.10 Deputy M. Tadier:

Is the preponderance of suspensions in recent years symptomatic of the growing and underlying malaise in the Health Department and, if so, what steps is the Minister taking to address the underlying issue?

The Deputy of Trinity:

To totally refute that, the previous case was, as we all know, down to a review and we had to deal with that. But within the Health and Social Services staff there are well over 2,500 staff, all of which do a very particular and very good jobs, sometimes under great pressure. The main importance is for patient and client safety and that is my number one thought. That has to be my number one priority.

4.2.11 Deputy P.V.F. Le Claire:

I was surprised by the answer that the Minister gave and I would like to ask a supplementary along the lines of what Senator Perchard inquired about in relation to police activity and suspensions. Because we follow best practice from within the National Health Service and other places in Jersey, and a lot of people have medical practices from there, is this common place in other jurisdictions within the United Kingdom, for example, within other health care trusts or within other councils' portfolios of health care, is it common?

The Deputy of Trinity:

Yes, it is common. As I said, we have well over 2,500 and the number of patients and clients that come through - let alone hospital - each day is very high; let alone admitted into hospital; let alone in the areas of mental health, child protection. The areas of Health and Social Services are very diverse and I stress that patient and safety is the number one priority.

4.2.12 Deputy P.V.F. Le Claire:

Sorry, I do not believe the Minister understood my question, possibly my fault. I was trying to ask is it common that no disciplinary action will be taken until police procedures have been completed in other jurisdictions?

The Deputy of Trinity:

I need to have a written request of that to be absolutely sure.

4.2.13 Deputy T.M. Pitman:

Could the Minister advise, is she aware whether there is a consistent policy among all departments on these matters and is there any lead given by the Chief Minister?

The Deputy of Trinity:

Yes, there is a set policy laid down. I think that is within the States Employment Board, of which the Chief Minister is the Chairman.

4.2.14 Senator B.I. Le Marquand:

Would the Minister accept that the reason why in general the criminal investigation takes place first before the civil investigation is because of the danger of prejudice to a fair trial of an individual due to contamination of evidence by virtue of leading questions and such other matters?

The Deputy of Trinity:

Yes, I thank the Senator for that comment.

4.2.15 The Deputy of St. Martin:

The Minister made great play, and I can understand why, when she was under ... talking about a concern about the various reports and the previous doctor, but the Minister made great play on the words "lessons have been learnt and we must move on." Can the Minister tell the House what lessons have been learnt so we are able to move on because this particular doctor has been off work now since December of 2008 - so it is 18 months - so what lessons have been learnt to ensure that we do not have another doctor suspended for 3 years and de-skilled at great public expense?

The Deputy of Trinity:

As I stress, lessons are always to be learnt and I think if lessons are not learnt then the job has not been done. But to stress that suspension is being reviewed monthly by the Suspension Review Panel and takes account of all employees in States employment who are currently suspended for 28 days, and a direct manager of the Suspension Review Panel meeting provides any change in circumstances on a monthly update.

The Bailiff:

Very well, we move on to the next question which Deputy Le Hérissier will ask of the Minister for Treasury and Resources.

4.3 Deputy R.G. Le Hérissier of the Minister for Treasury and Resources regarding Fiscal Stimulus Funding for Fort Regent:

Would the Minister advise whether Fort Regent will receive any monies from the Fiscal Stimulus Fund and, if not, why?

Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

I do not think that this is a new answer. Quite simply the Fiscal Stimulus Programme does not include a provision for funding relating to Fort Regent because no bid was received for evaluation.

4.3.1 Deputy R.G. Le Hérissier:

Would the Minister not concede that there is a process in which he has been involved where, in a sense, he has been seeking submissions for this policy and given that these properties are looked after by his own department, is he not surprised that for places like Fort Regent and Rue des Prés, of which I am still receiving complaints, have not been dealt with?

Senator P.F.C. Ozouf:

I do not think that Rue des Prés has got anything to do with fiscal stimulus, but the Deputy has got it in anyway. That is not the subject of the question. In relation to States property generally, the Deputy is aware that there is, as a result of this Assembly's wise decision for fiscal stimulus, millions of pounds being invested in maintenance, in schools, in other States buildings which is not only benefiting the economy but improving maintenance and catching up with infrastructure. Not everything however is possible.

4.3.2 Deputy G.P. Southern of St. Helier:

Thank you. Would the Minister take this opportunity to state to the Assembly how much of the £44 million still remains in this Stimulus Fund to be spent this year rather than last?

Senator P.F.C. Ozouf:

That is not an easy question to answer in an oral because most of the ... it would be perhaps appropriate to say what is the amount of the £44 million which has not been allocated? There are a number of green and amber lights which are still on the programme, the programme today is fully committed in terms of the spend and I expect that most of that money is going to be spent in the economy during this year, although there are some programmes, such as Advance to Work at Highlands which will continue into next year. But most of the fund is now committed, although final decisions have got to be made.

4.3.3 Deputy G.P. Southern:

Is the Minister prepared to update the Assembly with those figures?

Senator P.F.C. Ozouf:

I am happy to do so. I will send an email later to Members.

4.3.4 Deputy D.J. De Sousa of St. Helier:

Can the Minister inform the House what quantities of the Stimulus Fund have gone to States departments and what quantities have gone to the private sector?

Senator P.F.C. Ozouf:

The vast majority has gone into keeping people in work. There has been no money, in a sense, that has gone into keeping any States departments occupied with work, save for those departments that have received money in order to, for example, employ more teachers at Highlands in order to run the Advance to Work programme, *et cetera*. The majority of the money, while they have all had sponsoring departments have effectively been then gone out to the private sector and most of the money is going into construction projects, maintenance projects of which the vast majority is going to be seen being injected in the economy over the next few months where we have predicted that there would be a continuing downturn in construction and maintenance and other projects.

4.3.5 Deputy A.K.F. Green of St. Helier:

The Minister mentioned he had no bid for Fort Regent. I know he has bids for other schemes, I wonder if he could give us a progress report for example on the Opera House, the Sea Cadets and any other bids that he is considering at the moment.

Senator P.F.C. Ozouf:

I have to say that the Assistant Minister for Education is quite right, there have been a number of bids from Education, including the projects that he mentioned. There have been already significant sums injected in the Highlands projects. There are outstanding decisions which I am expecting to make quite shortly in relation to a capital project at Beaulieu, support for the glass church which is not large, but also I am hoping within the next few days to finalise an agreement with the Opera House in order to make that decision for the long awaited completion of the Opera House. They have done very well in bringing forward their projects. They have been tenacious in pursuing me for a final decision and I hope to make one within the next few days.

4.3.6 Deputy M. Tadier:

I noted the Minister's words with interest that the money from the fiscal stimulus was being used to keep people in work. I am also interested that the Minister thinks it is the role of government to subsidise businesses to keep people in work and so I would ask will this ethos extend to the public sector?

Senator P.F.C. Ozouf:

The public sector is in work and it is a case of ensuring, during the period of an economic downturn, that those employed by private sector companies that would not have projects and work by the private sector be kept in work by additional money from the States. For example, all of the projects that we are doing in maintenance are keeping people in work that otherwise would not be because of the lack of credit, because of the downturn. I do not think the question is in relation to the issue of the public sector and presumably he is referring again to the public sector pay round, but I do not think that is relevant.

4.3.7 Deputy M. Tadier:

A supplementary. In that case, if it is appropriate to use money from the Consolidated Fund to keep people in work in the private sector who might otherwise be unemployed, when the time comes to make cuts in the public sector will the Minister also seek to dig into that fund to keep people in the public sector in work?

Senator P.F.C. Ozouf:

We will have a substantial debate later on in this sitting in relation to the Public Accounts Committee and their proposal for deeper cuts in public spending in 2011 and 2012. My views on this are quite well known, it is that I believe that the economy will be returning to growth in 2011 and 2012 and we will need to withdraw some of the money that we have been putting in the economy, most importantly we need to balance the books of the States Assembly. If there are going to be changes in manpower levels as a result of the savings across the organisation then, of course, we will ensure that every protection and every assistance is given for any individual who is out of work, furthering Advance to Work programmes and the good work that has been done by the Skills Board.

4.3.8 Deputy R.G. Le Hérissier:

Notwithstanding the excellent work being undertaken by the Minister for Education, Sport and Culture in between promoting the national anthem in terms of the long term future of the Fort, does the Minister not feel it is rather odd that he wears one hat which has overseen the deterioration of the Fort and he wears another hat where he could well have helped resolved that issue?

Senator P.F.C. Ozouf:

As a regular visitor to the Fort I am well aware of the need for investment and for a proper future for the Fort being established. But I am afraid just simply throwing a few tens of thousands of pounds at the Fort from fiscal stimulus money I do not think is enough in order to find the solution for the Fort. There has been a working party which has been set up, which is designed to design that. When there is a capital project, when there is something to support, we will get behind it and I

do not think it is appropriate ... there have been discussions before about the Fort Regent and there is not a fiscal stimulus bid that is shovel-ready to go for the Fort in the short term. Long term, we need to find a solution. I share the Deputy's concern.

The Bailiff:

Very well, we come next to a question which Deputy Shona Pitman will ask the Minister for Treasury and Resources.

4.4 Deputy S. Pitman of St. Helier of the Minister for Treasury and Resources regarding the profitability of the Market Sub-Post Office:

Would the Minister inform members whether the Market Sub-Post Office has made a financial loss to Jersey Post for the last 5 years?

Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

Jersey Post Sub-Post Office network consists of 22 outlets and is run on a stand-alone business unit basis. With the traditional type of counter transactions switching to alternative electronic methods Jersey Post's volumes of letters is declining significantly. The total sub-post office business made a loss over the last 5 years and without action this loss will continue to rise. The Central Market Post Office was previously run by an independent Sub-Postmistress with financial support from Jersey Post. On her retirement Jersey Post took over the running of the Central Market Sub-Post Office in July 2008 and the total cost of running the Central Market Sub-Post Office was in the region of £141,000 a year. The new model with alternative access to postal services will mean that the majority of this expenditure will be saved, contributing to a significant reduction in the overall loss of the network. Jersey Post has to be focused on taking a commercial approach to running its business, at the same time to ensure that it reshapes the provision of services to meet the future customer demands. In the case of the sub-post office network they accept that the traditional post office model with counters is no longer viable commercially. Jersey Post has already introduced a number of automated post and pay kiosks where customers can post letters and parcels and pay their utilities without the need to go to the post office. There were going to be further reforms needed to bring the sub-post office network into a break-even position.

[10:15]

4.4.1 Deputy S. Pitman:

Supplementary. Could the Minister then tell us what profit the post office was making and what services will be lost once this service goes to the Co-op?

Senator P.F.C. Ozouf:

The first question is that Jersey Post as a business overall is currently profitable. I acting as shareholder will attend the Annual General Meeting of Jersey Post in the next few days and receive formally the accounts. Jersey Post is profitable. It is profitable, however, because of the substantial amount of fulfilment business that Jersey Post has. There are substantial difficulties going forward with Jersey Post as we see letters and the traditional business declining. I am in discussions with the Minister for Economic Development about how we can work with Jersey Post and the J.C.R.A. (Jersey Competition Regulatory Authority) to work out a future which does not require public subsidy for Jersey Post. I am afraid I have forgotten the second part of the question.

4.4.2 Deputy S. Pitman:

Well, he did not answer the first part of the question. **[Laughter]** Would the Minister inform Members what profit has been made by the sub-post office each year in the last 5 years and also what services will be lost once the service goes to the Co-op?

Senator P.F.C. Ozouf:

I thought I had answered the question. It has been loss-making. The entire retail network is loss-making to a significant extent, and no services will be lost as far as I am aware in terms of the services provided by the Central Market. If there are then I am happy to have discussions with the Deputy and Jersey Post in order to find solutions.

4.4.3 Senator S.C. Ferguson:

As a comment, if there is any sort of public subsidy then the accounts of Jersey Post should be published to the public. My understanding is that packets such as the boxes of flowers and so on were not accepted by the Central Market Post Office for shipping. Why was that not done and has that been taken into account in the figures which the Minister has quoted, because that would have made the Central Market Post Office run at a profit?

Senator P.F.C. Ozouf:

First of all, the accounts for Jersey Post are published together with all the other owned utilities in one consolidated document and I will advise Members of exactly the date that that happens. I am not, I have to say, the Minister for Post, I am not the President of the Committee for Postal Administration. Jersey Post is a wholly-owned States company and I cannot answer detailed questions in relation to cost. I know that she and other Members are in discussions with Jersey Post. I think that for everything that I have seen there is an inescapable issue that the retail network is loss making and that difficult decisions are going to have to be taken in order to bring the retail network to at least a break-even position, of which unfortunately the Central Market is an important component of bringing it back into a break-even position. I regret that and we are working with Property Holdings to find an alternative use for that valuable and important site in the Central Market.

4.4.4 Deputy D.J. De Sousa:

Does the Minister not consider that open competition in the post market will put Jersey Post at a disadvantage due to having to cope with the ordinary day-to-day post?

Senator P.F.C. Ozouf:

Strictly wearing the responsibilities that I have as shareholder on behalf of the Assembly for Jersey Post, Members will perhaps not be aware that I have written to the J.C.R.A. expressing my concern about the issue of issuing further licences and also stating very clearly that there is no prospect of any public subsidy in my view, subject to this Assembly's decisions of course, in relation to subsidising both the retail network or the delivery of letters. I am urging caution with the J.C.R.A. in relation to their decisions and I know that that is something that is a matter of ongoing discussions with myself and the Minister for Economic Development. However, again, the J.C.R.A. is an independent agency which has been set up but they can of course hear the views of Members and I have made my views very clear.

4.4.5 Deputy P.V.F. Le Claire:

Would the Minister care to comment about the fact that when the Central Post Office is taken away from the market that that will have an impact on the other businesses within the market? It is not all about profit; it is certainly about providing services to the community.

Senator P.F.C. Ozouf:

I completely agree that it is not about profit in relation to the Central Market and that is why about 10 days ago I met with as many stallholders as could be gathered together in order to discuss the future of the site with Property Holdings for the post office. I am determined that we take as much of a bold and innovative path in terms of finding an alternative use for the Central Market Post Office. It is vital that we get a facility - a retail outlet - which will match, if not exceed, the footfall from the post office. Indeed market trader themselves I think were split. Many of them see the

opportunity but they are concerned that they want a site which is going to yield footfall and which is going to help the Central Market. They were pleased and thanked me and thanked the Assembly for the significant investment which has been made in the roof *et cetera* for the Central Market.

4.4.6 Deputy G.P. Southern:

Does the Minister accept that there is a balance indeed, perhaps a competition, between the impact of the introduction of postal competition into the market on his taxes and dividend revenues, and as a Minister that has to balance with his duties as an Island-wide representative representing 90,000 of the population who need the universal service obligations presented by the post office?

Senator P.F.C. Ozouf:

Fundamentally competition drives innovation and the threat of competition in whatever market, whether it is telecoms or postal, drives innovation and lowers cost. That is what we are seeing in a number of markets and we are going to be seeing it in the postal services too. I do accept that there is an important issue of how the universal service obligation for Jersey Post is funded and I would not want to see an immediate unbridled competition in the postal packet market which would render Jersey Post - immediately probably - unprofitable and cause me and this Assembly a difficulty. I have made those views very clear. What is not clear at the moment is the extent to which Jersey Post needs to make further efficiencies in their overall operation in order that they can close the gap on the current loss-making retail and postal delivery network. It should not be fundamentally in the longer term subsidised in the way that it is, and therefore difficult decisions will have to be made.

4.4.7 Deputy M. Tadier:

First of all I would ask the Minister, does he accept that Jersey Post is not simply a business like any other, it is a utility and a public service? Because I know that the Minister is an intelligent man I would like to have him explain how on earth, if he wants to reduce subsidies, can he do this by leasing-out the most profitable parts of the business which currently pay for the less profitable parts, because that simply does not seem to make economic sense to me or anyone here I would suggest?

Senator P.F.C. Ozouf:

The Assembly has set up an independent regulator, as is the normal procedure for governments around the world in setting up a non-political regulator. Regulators that have to have regard to the funding of the utilities need to have regard to customer interests and the general well-being of the Island. I do not think that the Deputy is suggesting that any of the utilities should simply be cast in aspic in order that they can continue to exploit a monopoly position where there is one. There is a balance with these issues and the J.C.R.A. must balance these carefully. Balancing issues of customer demands and funding the operation in their decisions in terms of licensing. Fundamentally competition works, it reduces cost and it means that consumers are better off, and that is what the J.C.R.A. is doing.

4.4.8 Deputy M. Tadier:

I would challenge the Minister to answer the first question. First of all the whole problem as I see it is that the Jersey postal service is not simply a business and as soon as we classify it erroneously as a business when it is a public service we can allow all sorts of pernicious events occur in its name. So would the Minister simply acknowledge the fact that ... if this is the case would he simply agree or disagree that Jersey Post is not a business, it is a public service and there is a service level agreement which should be maintained?

Senator P.F.C. Ozouf:

This is not a simple issue. First of all, Jersey Post is a business. It has been set up as a business by this Assembly and it is regulated accordingly. Indeed I think there is a philosophical debate that

this Assembly is going to have to wrestle with over the coming months of how we provide services. I do not believe that services cannot be provided in a business-like way. Currently we are the regulator, the operator, the funder and the provider of lots of services: can this be afforded in the longer term? The Deputy is one that I think would not agree with raising G.S.T. (Goods and Service Tax) or other taxes. There are real issues about how we can afford public services in the longer term and how we deliver them. If the Deputy is suggesting that we simply say to Jersey Post: “You are a public service and we will subsidise you” the money has to come from somewhere and has to be prioritised against other priorities of this Assembly of Health Services, Education, Home Affairs, *et cetera*. Currently Jersey Post does not receive a public subsidy and I do not believe it should do in the longer term.

Deputy M. Tadier:

Can I make a clarification? A point of order. The Minister did put words in my mouth speculating as to which taxes I would or would not support. I can say I would not support G.S.T.; I would quite happily support the increase or introduction of other taxes.

The Bailiff:

The Deputy of St. John and then a final question from Deputy Shona Pitman.

4.4.9 The Deputy of St. John:

Would the Minister agree that when the post office was privatised it was known that all sub-post offices or the majority of them would be loss-making and that an undertaking was given by the president of the committee - of which I was a member of at the time - that we would make sure that provision was made that sub-post offices would not be lost to the community. Therefore, would he give great consideration when looking at anything in the future that we do not lose our sub-post offices?

Senator P.F.C. Ozouf:

First of all if I may respectfully say to the Deputy, the post office has not been privatised, it has been incorporated as a States-owned entity. There is an important difference and for the avoidance of doubt I confirm that there are no plans in order to dispose of the Jersey Post holding that the States of Jersey has. I know that the Deputy was a member of the Committee for Postal Administration and the Committee for Postal Administration did a very good job in running the post office at the time. However, things have moved on. Ten years ago one would not have possibly conceived the massive changes in terms of the postal business, the huge decline in terms of letter volumes, the huge differences in terms of the way that people get services. I am aware that these changes have had a significant issue on Jersey Post and changes are going to have to be made, both in terms of the way we receive letters and we get those services. What I will say to the Deputy is as far as the sub-post offices are concerned, there are solutions for this, most importantly, I hope, for example providing postal services at Parish Halls in the future, just as La Poste has done in France, that Mairies are now almost sub-post offices in their own right. There are innovative solutions as to the issue of the sub-post office network and I am going to give Jersey Post every encouragement to find them.

4.4.10 The Deputy of St. John:

I accept the clarification from privatised to incorporatised but we are somewhat playing at words given that you are the main shareholder in this and the Minister is the only person with responsibility on this particular issue therefore I sincerely hope that the Minister will take note of the comments made by the Members this morning that the people of Jersey do not want to lose their sub-post offices, and I hope he will agree to that.

Senator P.F.C. Ozouf:

I will do everything I can as appropriate as a shareholder in order to deal with the challenges that Jersey Post certainly has.

4.4.11 Deputy S. Pitman:

Would the Minister inform Members as to why the 4 staff currently working at the sub-post office are not being transferred to the Co-op?

Senator P.F.C. Ozouf:

The reason why I am advised that they are not being transferred is because of the model for the postal provision at the Co-op is different. The costs that I referred to in my answer were the direct costs for Jersey Post. The future model of Jersey Post is to get other entities - in this case the Co-op -, to provide the identical services that the post office provides. This is where the cost-saving is and therefore those 4 jobs are not being transferred to the Co-op, those jobs are disappearing and that is unfortunately one of the difficulties of the difficult decisions that Jersey Post has to make in order to cut its costs and to provide those services in a more economical way in the future.

[10:30]

The Bailiff:

Very well, we come then next to a question which Deputy Tadier will ask of the Minister for Health and Social Services.

4.5 Deputy M. Tadier of the Minister for Health and Social Services regarding the grading of the newly appointed Interim Managing Director at Health and Social Services:

Would the Minister advise Members at what Civil Service grade the newly appointed Interim Managing Director at Health and Social Services will be paid and what this equates to as a gross weekly sum?

The Deputy of Trinity (The Minister for Health and Social Services):

The substantive post of Hospital Managing Director will be made at a Civil Service A grade. We have secured a significant reduction on the typical market rate for an interim hospital managing director because of the attraction of working in Jersey. However, contractual details are private and confidential. The Hospital Managing Director will lead the operational implementation of the vital work on behalf of the newly appointed Chief Officer which will allow her to concentrate on leading the strategic delivery of all Health and Social Services.

4.5.1 Deputy M. Tadier:

The Minister talks of the attraction of working in Jersey. It must be the only post in the Health and Social Services Department which does attract people to Jersey. The Minister is again hiding behind confidentiality, I would simply ask then first of all who can the information be made available to? Can it be made available to States Members in confidence? Secondly, would she inform whether the current pay is more or less or the same as what would have been paid to the previous incumbent?

The Deputy of Trinity:

The first point that Deputy Tadier made about attraction to Jersey is that staff do come over here and do take up posts and I think he belittles the staff that do come here. There are certain attractions and one of them is definitely the quality of life over here. The second point about the contractual... is it comes through from the States Employment Board but I can ask the Chief Minister and come back to the Deputy. The last post of a hospital director was over 5 or 6 years ago and it is difficult to equate the salary then to this interim post.

4.5.2 Deputy M. Tadier:

The Minister said that I was in some way belittling the staff of the general hospital, I do not see how on earth I am doing this, I am simply saying that at the moment the current conditions at the Jersey Hospital are not sufficient to entice necessarily the best calibre of staff or to offer the best packages. But moving away from that I would simply say to the Minister, is she saying that I should perhaps make an application under the Code of Practice on Public Access to Official Information for this kind of information because this is again an example where Members are denied information on the basis of confidentiality which should be readily available to any member of the public as a taxpayer because this person is employed by the taxpayer and so the information should be freely available. Would she not agree and would she stop hiding behind confidentiality and make the information available as she can well do.

The Deputy of Trinity:

Any contract, I think, for any States employee is private and confidential. But as I said before I would talk to the Chief Minister and come back to the Deputy.

The Bailiff:

Deputy Vallois, did you wish to ask a question, I thought I saw your light.

4.5.3 Deputy T.A. Vallois of St. Saviour:

Could the Minister advise why it is possible then to tender out within the *Jersey Evening Post* with the grade and the amount for any individual in a job for Health and Social Services however for an interim director it does not have to release the grade or the amount of money?

The Deputy of Trinity:

What is advertised in the *Evening Post* is a post rather than a person's salary.

4.5.4 Deputy T.A. Vallois:

I would like to just ask the Minister, in the *Jersey Evening Post* it does state the grade and the bracket of pay that the employee would receive, could I therefore ask the Minister to answer the question?

The Deputy of Trinity:

I stand by the answer that I gave and also the one I said to Deputy Tadier, that I will discuss it with the Chief Minister and come back not only to Deputy Tadier but to Deputy Vallois as well.

4.5.5 The Deputy of St. John:

Could the Minister give us details of what other inducements are involved in this position, whether it is housing expense, transport, *et cetera*, and how many applications for the position were from within the Island?

The Deputy of Trinity:

As I understand it there were no other inducements, if that is the word the Deputy used. There were 4 ... this is an interim post, I understand that there was 4 interviewed. I do not know how many applied for the job, I do not have that information. As I said, this is an interim post. As I understand it there was no-one locally in the last 4 but when a substantive post does come - this is an interim post for only 6 months - and when the substantive post becomes advertised, which will be fairly soon, then it will be open to anyone and will go through the due process.

4.5.6 Deputy R.G. Le Hérissier:

Is the Minister aware that I have put in a Freedom of Information request which is currently under a long period of delay in order to get all Chief Officers salaries in the public domain? Secondly, is

the Minister aware that there is a lively debate in Britain based on open information about the salary and bonus structure of Chief Executives in the Health Service?

The Deputy of Trinity:

I was not aware that the Deputy had put that information through and I am sure there is always lively debate about people's salaries.

The Bailiff:

Do you want a final question, Deputy Tadier?

Deputy R.G. Le Hérissier:

Can I have a supplementary, Sir?

The Bailiff:

No, I think we have got to move on now, Deputy.

4.5.7 Deputy M. Tadier:

I appreciate the Minister feels constrained by confidentiality therefore I will ask a more general question. Would it be normal for an interim manager of this position - an interim director - to be paid more than the present incumbent or the normal incumbent due to the fact that it is a temporary post?

The Deputy of Trinity:

Just to confirm that we have not got a hospital director, that is the whole point that an interim one ... that it was identified in the Verita recommendations that one was essential. The Hospital Director has delivery of all clinical operations within the Jersey General Hospital so it is very difficult to compare salaries to the incumbent because there is not one.

4.5.8 Deputy M. Tadier:

So I infer that the answer is yes that this post would be more highly remunerated than the previous post even though it is slightly different?

The Deputy of Trinity:

We had not had a hospital director, and I am not sure it is the same job description, back 5, 6, if not 7 years ago. So it is very difficult to compare.

The Bailiff:

Very well, we come next to question...

4.5.9 The Very Reverend R.F. Key, B.A., The Dean of Jersey:

Will you allow a point of information? To say that as somebody responsible for chairing the Appointment Panels of 2 people employed by the Health Service - that is to say the Chaplain and the Joint Second Chaplain who is also the Chaplain at the prison - we have found, as a matter of fact, no difficulty at all in recruiting people of the highest calibre who have given up senior jobs in the United Kingdom to serve in Jersey and I just give that information to the House.

The Bailiff:

Thank you. Then we will come to a question which Deputy Lewis will ask of the Minister for Economic Development. Deputy.

4.6 Deputy K.C. Lewis of St. Saviour of the Minister for Economic Development regarding tourism figures and the Tourism Strategy:

Would the Minister advise whether tourism figures so far this year have been positive; what the effect of the volcanic ash disruption has been and whether the Minister will be taking any action to revise the whole Tourism Strategy, and if not why not?

Senator A.J.H. Maclean (The Minister for Economic Development):

Tourism in Jersey, as in most other countries, has not been immune to the global recession. Last year our staying leisure visitor numbers dropped by 3.8 per cent; in many respects this was a good performance compared to other holiday destinations. 2010 started with some optimism as tour operators reported good forward bookings. That changed with the closing of U.K. (United Kingdom) space for 6 days after Easter. We estimate that it resulted in the loss of about 4,000 leisure and business visitors to the Island. I can, however, reassure Members that in this challenging economic climate we will continue to do all that we can to support our valuable tourism industry. The key to this is working ever more closely in a fully integrated way with the industry to find the best solutions. That is why we recently established the Tourism Marketing Group with key industry representatives. Thank you.

4.6.1 Deputy K.C. Lewis:

It has recently been reported that 2 St. Helier hotels may be redeveloped. It was famously said by the Head of Jersey Tourism several years ago that we are managing decline. What steps is the Minister taking to reverse that decline?

Senator A.J.H. Maclean:

As I have stated in my question, we are living in very challenging and difficult economic conditions that are not unusual to other destinations. Having said that, we are working very closely with the industry. In 2008 when the global financial crisis started we set up the tourism taskforce and agreed a 10-point plan with the industry, with their full support, looking at, in particular, areas like building on Jersey's strength, brand value, tactical actions and ensuring that we utilise technology like the websites. That we are doing with some degree of success, but the conditions are difficult.

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

It is encouraging to hear the Minister say that he works closely with other Ministers and the tourism industry. Could he tell me how closely he works with Education? Does he know that Highlands College this year has not one course for travel and tourism and many disappointed students who were hoping to get on to the course?

Senator A.J.H. Maclean:

I do work closely with all fellow Ministers, including the Minister for Education, Sport and Culture and I am clearly disappointed by what the Deputy says, and I will look into the matter. What I can say is that from the tourism point of view, jointly with the Jersey Hospitality Association, there was funding and a project put in place to encourage young local out of work people to get involved in tourism. The aim of that particular project, Bienvenue, was to get people off the unemployment register and into work rather than importing people into the Island. That project is not as successful as I would have hoped and we will continue to try and encourage it.

4.6.3 Deputy J.A. Martin:

Could I just ask a supplementary on that? Yes, I had heard of this other training but when looking further I was told it was only for 6 months, which would only see them halfway through. So other than take a 6 months into training and then being left high and dry and no course at Highlands because you would be halfway through any course, people have not opted to do this. Could he look into the way that ... at least it would cover a year of training and then if people did want to return to college after that year they could, in the next year they are open?

Senator A.J.H. Maclean:

Yes, the Deputy is correct; the project was for the season. Of course it was there to encourage employment of local people rather than importing which was the aim. What I will do is raise the matter that she has mentioned today with the Skills Board. Clearly my department, Education, Sport and Culture, and Social Security form part of the Skills Executive and it is that body that should look at the matter that the Deputy has raised and I will bring it to their attention. Thank you.

4.6.4 Deputy T.M. Pitman:

My actual question was asked by Deputy Lewis in his supplementary. However, in April we heard mention of £10 million that had been voted for tourism some years ago yet only £2 million, I believe, had been forthcoming. Can the Minister advise whether he has been pursuing the Minister for Treasury and Resources to see where that £8 million has gone?

Senator A.J.H. Maclean:

Yes, the Deputy is referring to the funds voted in principle by this Assembly some years ago for the Tourism Development Fund. That in principle decision was made at that time and the Deputy is also correct about £2 million is all the funding that we have currently had. I have had discussions with the Minister for Treasury and Resources, but clearly we are in a difficult climate at the moment and there is simply not the money available, as I understand it, to bring those funds forward.

Senator P.F.C. Ozouf:

May I just correct something? The question is the money was voted. The money was never voted, it was just an expression of this Assembly. This Assembly makes decisions on voting and there was never an amendment to the Business Plan for it.

4.6.5 The Deputy of St. John:

As a former member of the Tourism Committee, would the Minister agree that it is not all doom and gloom, given that some businesses, even with the volcanic ash, have been able to succeed? I am thinking of Condor, they have been able to pick up business from airlines at a very difficult time of the year and therefore would the Minister agree it is not all doom and gloom but there is some light at the end of the tunnel.

[10:45]

Senator A.J.H. Maclean:

Absolutely. I am delighted to agree with the Deputy of St. John. There are businesses in the Island in the tourism sector that are performing well in the current difficult climate, that are seeing their figures up and it is a good example of good business working hard and with innovation to develop the market. We understand it is challenging, obviously, but nevertheless there are business that are performing quite well. I might add to the end of March total arrivals in the Island were down 1.6 per cent, air arrivals were down 3.3 per cent but sea arrivals were up by 6.7 per cent. So, as the Deputy says, there is very much a mixed picture and we will continue to support the industry in all ways we can.

4.6.6 Deputy D.J.A. Wimberley of St. Mary:

That was a lovely closing line: "We will continue to support the tourism industry in every way we can." We have had an interesting reinterpretation of the Tourism Development Fund from the Minister for Treasury and Resources that it was never voted at all, and I will check that. But I want to ask the Minister for Economic Development about the Tourism Development Fund. You said these are hard economic times and wonder whether other jurisdictions, when there are hard economic times and one of their leading export industries is facing a tough time, simply walk away? I want to know from the Minister what his commitment is to re-establishing the T.D.F. (Tourism Development Fund) and showing some genuine support for this industry?

Senator A.J.H. Maclean:

I take exception of what the Deputy says. There is no question of anybody walking away, certainly not my department and certainly, I am sure, the tourism industry has the full support of all Members of this Assembly. I have no doubt about that. That commitment will remain as it has in the past, it will so do in the future. But we are in difficult times, there is less money available, we have to work much more closely, as I have said, with the industry and I believe we are currently doing that. I think there is, as the Deputy of St. John said, some degree of optimism. Jersey had advantages that other destinations do not have, for example the currency exchange differentials are seeing more people choosing Jersey than perhaps European destinations. So I think there is room for optimism but we have to work hard at it.

The Bailiff:

Do you wish a final question, Deputy Lewis? Very well, we come next to a question which Deputy Le Claire will ask of the Chief Minister.

4.7 Deputy P.V.F. Le Claire of the Chief Minister regarding representation at the World Trade Organisation:

What action, if any, is the Chief Minister taking to address the infringement of constitutional responsibilities by the United Kingdom to the Crown Dependencies, acknowledged in paragraph 86 of the House of Commons' Justice Committee's "Eighth Report of Session 2009-10", through the ceding of representation at the World Trade Organisation to the European Union when Jersey is not a member of the E.U. (European Union)?

Senator T.A. Le Sueur (The Chief Minister):

The Justice Select Committee noted in their report that in the case of the World Trade Organisation the U.K. is represented by the E.U. and does not send a delegation of its own and that therefore the Crown Dependencies remain unrepresented in that forum. It is, of course, correct that the European Commission nowadays represents all E.U. Member States, including the U.K., in negotiations at the World Trade Organisation. However, membership of the World Trade Organisation does not currently extend to either Jersey or Guernsey. When the agreement to establish the World Trade Organisation was signed in 1994 only the Isle of Man had in place necessary intellectual property legislation to meet the requirements of the trade-related aspects of intellectual property rights or T.R.I.P.s as it is known, and so World Trade Organisation membership was only extended to the Isle of Man of the 3 Crown Dependencies. That remains the position today and so the matter raised by the Justice Committee does not currently affect us. In order to address the position we shall need to update our intellectual property laws - our T.R.I.P.s laws - and that is something which we have been pursuing for some time now.

4.7.1 Deputy P.V.F. Le Claire:

That was very interesting. I wonder then if the Chief Minister can tell us what is the actual timeframe for this in relation to us taking ourselves and our representations to the bodies that are making decisions that might affect us in the future and what other likely implications are there now that the United Kingdom has ceded more of its authority to the European Union will there be for Jersey in the future?

Senator T.A. Le Sueur:

As to the second part, although the involvement of the E.U. may have less influence from the U.K. the E.U. does contend to represent the interests of all countries in Europe and in this matter it is not a contentious issue and that is why the E.U. speaks with one voice for the whole of Europe. As far as the timeframe for ourselves is concerned we had originally put the T.R.I.P.s legislation into the current year's legislation programme, however as a result of debate in the Business Plan last year

that was deferred in exchange for some other legislation which Members considered more important and so the timeframe really depends on the enthusiasm of Members to pursue this particular aspect of the legislation. Maybe in the current Business Plan we can reinstate that and take it forward at an early time.

4.7.2 Deputy P.V.F. Le Claire:

Can I ask that the Chief Minister does in fact do that because I think it is important for us to ourselves on the international stage in these areas and I would welcome and support the Chief Minister in any attempts that he has in doing this and congratulate him for that suggestion?

Senator T.A. Le Sueur:

I am pleased to hear that support. I hope it will be maintained at the time of the Business Plan debate.

The Bailiff:

We will move then to the next question which the Deputy of St. Martin will ask the Minister for Home Affairs.

4.8 The Deputy of St. Martin of the Minister for Home Affairs regarding allegations made in relation to abuse in the stone bath or immediate area of Haut de la Garenne:

Will the Minister inform Members how many allegations were made in relation to abuse in the stone bath or immediate area at Haut de la Garenne; why and when was the bath demolished, who gave authority to demolish it and what did its demolition and removal cost?

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

I cannot give a figure in relation to the first part of the question because of the general nature of many of the allegations made in terms of place *et cetera*, but of course this figure is within the figure of 30 made by 8 people which I have previously given. The bath and the drain were dismantled for evidential purposes on instructions of the Senior Investigating Officer at the time who was the former Deputy Chief Officer prior to the building being handed back, with his agreement, on 10th July 2008. I cannot quantify the cost in relation to the dismantling for evidential purposes.

4.8.1 The Deputy of St. Martin:

I think this saga may well run on because I gather that a sample was removed ... a sample of blood was found by the Bedfordshire Police and sent off to a forensic laboratory. Is the Minister able to give us a result of that particular sample ... sorry, I will come again, is the Minister able to give us a result of the examination of that blood? Was a prosecution followed?

Senator B.I. Le Marquand:

No, I am not. This is clearly an operational matter and it is not matter that I would delve into unless I had a very, very specific question and thought it appropriate to answer.

4.8.2 The Deputy of St. Martin:

Could I again get back to the demolition of the bath, is the Minister able to say that ... could I ask where the Minister has received information that the bath was demolished prior to the departure of the former Deputy Chief Officer? Because my understanding is that a sample of the stone was removed to be taken away for sample but certainly not that the stone bath was demolished.

Senator B.I. Le Marquand:

I can only act in a case like this on the information which is provided to me which in this case has been provided to me by the Acting Chief Officer.

The Bailiff:

Very well, we will move on then to the next question which the Deputy of St. Mary will ask of the Minister for Education, Sport and Culture.

4.9 The Deputy of St. Mary of the Minister for Education, Sport and Culture regarding cuts at the Jersey Heritage Trust:

Can the Minister explain how the cuts at the Jersey Heritage Trust will help the Education, Sport and Culture Department achieve the goals with respect to culture and heritage in the States Strategic Plan, and can he explain how he intends to proceed in this area going forward?

Deputy J.G. Reed of St. Ouen (The Minister for Education, Sport and Culture):

Over the last 12 months I have been working closely with the Jersey Heritage Trust to address the financial crisis they found themselves in and every effort has been made to ensure that the care of our Island heritage is undertaken by an organisation fit for purpose and sustainable for the future. Information contained in 3 independent reports covering all activities undertaken by Jersey Heritage Trust has helped inform the department and the trust to determine the best way forward. Having considered the findings of these reports I have agreed an approach with Jersey Heritage Trust which, with the support of the States, will enable it to realign and reprioritise its activities. I regret the loss of posts at the Jersey Heritage Trust but accept that the Trust needs to manage its affairs within the resources available. My aim is to do what I can to support the Trust in the restructuring process, which is focused on ensuring that our heritage is able to be enjoyed both now and in the future. I am presently preparing a proposition which I will bring to the States to set out what I believe the States needs to do in order to secure the future of the Trust and the vital work it undertakes for the Island. This is consistent, I believe, with my responsibilities as Minister for Education, Sport and Culture and the aims and objectives in the States Strategic Plan.

4.9.1 The Deputy of St. Mary:

The Minister has referred to sustainability and the Trust acting within the resources available, he has not really spelt out the gravity of what has happened at the Trust. We have lost 15 people with 148 years service between them, that is 10 years each, and specifically I would like to ask the Minister how he thinks that outsourcing schools' education is going to work? There used to be obviously a post within J.H.T. (Jersey Heritage Trust) for doing schools work. How does he think that outsourcing that can help the cause of Heritage awareness in the Island, especially among our children? How does he think that introducing charges for children will achieve the goal of making our children more aware of the heritage of the Island?

The Deputy of St. Ouen:

Starting on the matter of the resources available, if the Deputy had - and I presume he must have - read the reports that have already been published, it is quite clear that the Jersey Heritage Trust found themselves in a situation with a £550,000 annual structural deficit which needed to be dealt with. As such it is only right that the Trust is required to manage its affairs appropriately while at the same time the States and, indeed, my department acknowledging that they need help to deal with the more fundamental matters that are, again, raised in those reports. With regard to proposals to outsource certain areas that are currently conducted and provided by Jersey Heritage Trust, I am presently not able to provide details on that matter because that is a responsibility of the Jersey Heritage Trust and it alone. I do know, however, that discussions have been taking place with employees to consider alternative ways of providing the service and I believe this is ongoing. Thank you.

4.9.2 Deputy R.G. Le Hérissier:

Would the Minister assure the House that when the cutbacks - be they necessary or not - took place at the Trust, was - in a sense - the misery shared between management grades and non-management grades?

The Deputy of St. Ouen:

I am aware that the restructuring process is still ongoing and, as such, all areas of the Jersey Heritage Trust activities and its organisation are being looked at.

4.9.3 Deputy R.G. Le Hérissier:

Could the Minister tell us how many formally defined management grades were removed and can he give the House an assurance that front line services which produce revenue and which allow accessibility to sites have been retained to the fullest possible degree.

The Deputy of St. Ouen:

I am unable again to provide the Deputy with the particular information regarding the management post because I have not been privy to and actively engaged in the day-to-day work of the Jersey Heritage Trust which is quite properly their responsibility. All I am aware of is that the restructuring process is ongoing and they are seeking to achieve a reduction in the structural deficit of approximately £350,000. I am just trying to think of the other question. Could the Deputy remind me on the other part of his question?

4.9.4 Deputy R.G. Le Hérissier:

Yes, when the Minister reviewed the cuts was he absolutely certain in his mind that accessibility to sites - provision of front line services - were as strong as they could be?

The Deputy of St. Ouen:

Absolutely, and one of the first instructions that I gave to the Jersey Heritage Trust is that there should be no - and I repeat, no - permanent site closures. I accept that we are in difficult financial times, however the Trust and the Island need to be able to react to improvements which I hope will be coming in the not too distant future.

[11:00]

4.9.5 The Deputy of St. John:

Will the Minister explain how his proposed 2 per cent cuts for the coming year and 10 per cent thereafter affect Jersey Heritage Trust and has he put in to the Council of Ministers his response on the 2 per cent cuts which were due in last week?

The Deputy of St. Ouen:

Discussions on the 2 per cent cuts are ongoing at this stage. I will inform the Deputy that I am not seeking to deliver 2 per cent cuts on each section of the services that I provide because I acknowledge, as in the case of Jersey Heritage Trust, they have issues and spending pressures that need to be properly dealt with and considered by this House. I would like to remind this Assembly that commitments were given along with this cultural strategy back in 2005, however no resources were provided to ensure that the necessary opportunities and the services that were required were able to be delivered, hence the current state that Jersey Heritage Trust find themselves in.

4.9.6 The Deputy of St. John:

Supplementary on that? The Minister has not answered my question on whether or not he had submitted his document on cuts for 2011 of 2 per cent. Will he answer it and tell us when in fact he will be giving it to the Council of Ministers?

The Deputy of St. Ouen:

I have already answered the question and I do not propose to repeat myself.

4.9.7 Deputy M. Tadier:

Would the Minister explain how the closure of Hampton is consistent with point 15 of the Strategic Plan to protect our unique culture and identity?

The Deputy of St. Ouen:

Hampton has not been closed. Indeed just this weekend it was enjoyed by hundreds of people and the challenge, I think, for the Island as a whole and Jersey Heritage Trust is to make and maximise the use of the sites available. That is exactly what I believe that they are doing. I would hope that in the coming months that Hampton will be enjoyed by many, many more people.

4.9.8 Deputy M. Tadier:

The Minister is being slightly disingenuous. I cannot help feeling we are playing with words. To all intents and purposes Hampton has been shut ordinarily so members of the public simply cannot go up there, even in the summer tourists cannot go up there in the peak season to visit what is a very beautiful old farmhouse scenario. Will the Minister simply accept that this is a concession that we should not have had to have made and that it is not consistent with point 15 of the Strategic Plan and that something needs to be done very quickly so that it can be reopened for locals and for tourists alike?

The Deputy of St. Ouen:

I would like to see Hampton used more than it is presently proposed. The reality is that Hampton was losing over £100,000 a year. £100,000 a year. Now, there is an issue that we need to deal with and it is how much do the public and the Island contribute to ensure that our heritage type sites can remain open and accessible to the public. I know it is difficult sometimes to see restricted opening hours but I would just reiterate that Hampton is not permanently closed for business. Yes, people will be restricted to access it at certain times, however I would hope and encourage all the members of the public to take the opportunity to reinforce the view that many of us hold that Hampton is a useful heritage site that needs to be preserved for future generations.

The Bailiff:

Deputy of St. Mary, do you wish to ask a final question?

4.9.9 The Deputy of St. Mary:

Yes, thank you. I have to try and remember what I was going to say. Does the Minister agree with 2 aspects of what the Jersey Heritage Trust ... there is a lot of doom and gloom around the Jersey Heritage Trust but there are 2 things: one is that last year they increased their membership by 40 per cent, they got nearly 50 per cent more income from the Jersey Museum than 2008 and so on. There are a lot of successes and I just want the Minister to confirm that he accepts those successes as real ones and also that the Locum Report, which is one of the 3 reports, which looked at the functioning of the Trust as opposed to simply looking at the money, said on several occasions in that report that the performance of the Jersey Heritage Trust was excellent, for example the level of penetration with the resident and U.K. leisure market ...

The Bailiff:

It is quite a long question, Deputy.

The Deputy of St. Mary:

... is very high and they also point out the admissions money per visitor is also very high. Would the Minister first of all agree that the J.H.T. is a successful organisation and, secondly, would he agree with Locum's other statement: "Virtually no single heritage organisation or museum service

in the country generates enough income to cover operating costs” and does he accept the implications of that statement?

The Deputy of St. Ouen:

I support most of what the Deputy says. I believe that Jersey Heritage Trust have been successful in providing a whole range of activities for the Islanders and visitors alike to enjoy. The reality is, like in many other areas that we have already spoken about this morning in questions, that the impact of lower visitor numbers has reflected on the income of the Trust and has put their services under pressure. It is now up to us to, as I say, restructure Jersey Heritage Trust and equally for this Government and these States Members to consider what financial support is appropriate to secure the future of our Island heritage, both now and in the longer-term.

The Bailiff:

Very well, we come next to a question which Deputy Tadier will ask of the Minister for Health and Social Services.

4.10 Deputy M. Tadier of the Minister for Health and Social Services regarding the introduction of Community Care Orders:

Would the Minister explain why she would or would not support the introduction of Community Care Orders to enhance the provision of mental and social health care in the Island?

The Deputy of Trinity (The Minister for Health and Social Services):

Community Treatment Orders were introduced in England and Wales in 2009 as part of the amendment to the 1983 Mental Health Act. These allow for people with serious mental health problems to receive ongoing treatment while living within the community. It has been recognised for some time now that a new Mental Health law is required in Jersey and I and my officers will be keen to consider Community Treatment Orders within the new law as an alternative to confining individuals in a unit. Officers are currently looking at resource implications required to undertaking a root and branch review of all the current legislation, which includes the Community Treatment Orders.

Deputy M. Tadier:

I thank the Minister for her response. I would simply add that obviously there are members in our society who have a level of functionality for whom it is not necessarily appropriate for them to be institutionalised, nonetheless they do not have the same executive function that we may do and that they do need some kind of halfway house. So I do welcome the comments of the Minister and I hope that we can both work together with other Members to provide a constructive and improved law in this regard.

4.10.1 The Deputy of St. John:

Has the Minister put to the Council of Ministers its 2 per cent cut for 2011, if not why not? Is this an area that would be slashed in her final report, and if so would she be able to reconsider it?

The Bailiff:

Deputy, how do you consider that arises out of the question about Community Care Orders?

4.10.2 The Deputy of St. John:

It arises by the answer given and I have just incorporated it in the bigger picture. I want to make sure that the funding is not cut in this particular area.

The Bailiff:

Very imaginative, Deputy. [Laughter]

The Deputy of Trinity:

No, it has not been cut because it is something that we are looking ahead on and we know that we need to update our mental health laws but a great deal of work needs to be done because it is a very complicated piece of law.

4.10.3 The Deputy of St. John:

The Minister did not answer the first part of my question. Has she put in her response to the 2 per cent cut for 2011 to the Council of Ministers? I think the answer is no.

The Bailiff:

That definitely does not arise out of this question. Very well, Deputy Tadier, do you wish a final question. Then we come to a question which Deputy Lewis will ask of the Minister for Economic Development. Deputy.

4.11 Deputy K.C. Lewis of the Minister for Economic Development regarding help for farmers currently facing the worst potato crop for 50 years:

What strategy, if any, is the Minister proposing for the future, in order to help farmers currently facing the worst potato crop for in years?

Senator A.J.H. Maclean (The Minister for Economic Development):

Could I ask my Assistant Minister, the Constable Norman to deal with this question.

Connétable L. Norman of St. Clement (Assistant Minister for Economic Development - rapporteur):

A good strategy, a very good strategy, would be to pray for rain. I say that because the current problems are almost exclusively drought-related and what we have to do and what we do very strongly is to keep the brand image strong; as strong as we possibly can. This, at Economic Development, we are doing with vigour. Very recently we had a very strong and successful presence at the recent Real Food Festival in London with simultaneous promotional activity in top London restaurants showcasing Jersey produce, including of course the world famous or the Western Europe famous Jersey Royal potato. There is a lot of P.R. (public relations) activity going on to make sure the brand remains strong and people remain aware of it. I am sure I do not have to tell Members but farming is a volatile business, subject more than most to the vagaries of the weather and the market. No one knows this better than the local potato growers who are experienced enough to recognise and plan for the fact that some years will be less successful than others. It is also worth mentioning, I think, that we shall shortly be publishing the Rural Economy Strategy White Paper which will be going out to consultation which will address risk management approaches and further levels of support to the Island agricultural industry. Thank you.

4.11.1 Deputy K.C. Lewis:

I thank the Assistant Minister for his reply. My question prompted by farmers contacting me with reports of many potatoes being the size of marbles. The Royal is facing competition in the U.K. from cheap foreign imports and I am delighted to hear the Minister saying they are increasing the P.R. in that respect. The Jersey tomato is a shadow of its former self and it would be an absolute disaster if the Jersey Royal potato followed suit. Does the Assistant Minister agree?

The Connétable of St. Clement:

Yes, absolutely, I could not agree more. The Jersey Royal is as integral to Jersey as is its beaches, its Jersey cow and its finance industry. We are going to give it every support that we possibly can.

Unfortunately the Economic Development Department is not responsible for the weather. If it were, it would be much better.

4.11.2 The Deputy of St. John:

Given we are told that this is a one in 50 years event, would the Minister agree that the one in 49 ... the other 49 years were good, we would have expected the industry to have put funds aside and would he agree considerable funding is at hand through area payments *et cetera* so the industry is not yet on its knees. Given we see huge rents being paid for land and the industry has no longer small tenant farmers but 2 huge conglomerates within the Island who have a war chest to fight each other and therefore can dig into that for support?

The Connétable of St. Clement:

I think what the Deputy is saying is that the agricultural industry is in good heart and in good standing and I absolutely agree with him. We have seen massive investments in the agricultural industry, both with the potato area and in the dairy industry running to in excess of £20 million of private money in the last 2 to 3 years which shows great confidence. We are seeing more land under cultivation than we have for many, many years. We have seen the price of land, the rental value of the land, increasing showing that the demand is there. We have seen growers advertising in the local newspaper for land because they cannot get enough land on which to grow their crops. As I said, the confidence, I think, is there. Things like this happen and hopefully it is a one-off but, as I said, no one knows more than the growers the vagaries of the weather which can occur and they plan for such eventualities financially I would expect, and knowing the type of people involved in the industry these days I have got no doubt that this is the case. We, for our part, will continue to promote the brand.

4.11.3 Senator J.L. Perchard:

Once again I wish to remind the Assembly that I do have a commercial interest in the production of Jersey Royals. I feel bound to ask the Minister this question; is the Minister aware that many Jersey Royal growers disapprove and are embarrassed by this question and I wish to inform the Assembly and the Minister that I received many phone calls this morning, messages from growers, who at this time of economic hardship for Islanders, retailers, small businesses, hoteliers, they wish to disassociate themselves from this question and the underlying suggestion made in it by the Deputy Lewis of St. Saviour.

[11:15]

The Connétable of St. Clement:

I have to confess that I have yet to meet an embarrassed Jersey farmer but ... and I certainly have not received the calls that it is implied other Members have received about the current difficult situation. But I think quite honestly the question is fair. I think the Deputy, the States and the Island need to know and be reassured that the Economic Development Department and the Agriculture Department in particular, is continuing to support the brand of the Jersey Royal and, as I said, that we will continue to do with vigour.

Connétable D.J. Murphy of Grouville:

I think Senator Perchard has rather beaten me to it. I have also had several phone calls from growers this morning highly embarrassed about this situation and they are saying they completely deny it. They are perfectly happy.

4.11.4 Deputy M. Tadier:

Would the Assistant Minister consider issuing sacks of potatoes to any representatives of Jersey Finance or Ministers when they are visiting India, Hong Kong and China to show the population over there of the true diversity of the Jersey economy and kill 2 birds with one stone?

The Connétable of St. Clement:

This is already happening. I just have a feeling that might have been a facetious question, but the reality is the Jersey produce is already being promoted in the countries that the Deputy mentioned, including India and China, mainly through the innovations and the industry of Jersey Dairy who are promoting products in those areas. There is a wonderful interest from all over the world these days, particularly since the legislation changed about the importation of bull semen for the importation or exportation from Jersey to these countries of Jersey cattle. There is huge opportunity out there for the agriculture industry as a whole. We have got to grab them. As I said, we will be supporting them.

4.11.5 The Deputy of St. Mary:

Senator Perchard and the Constable of Grouville have rightly pointed out that the problem is not quite what it seems but certainly some fields are performing better than others and I can see that for myself. The Minister said: "Pray for rain". I want to go back to the question of water because that is what this question is really about. It is about rain. I am surprised that the Minister hardly mentioned it apart from saying facetiously that we should pray for it. I just want to know what his comments are on the issue of rain harvesting within agriculture in order to be more resilient as climate change proceeds.

The Connétable of St. Clement:

I have absolutely no idea what rain harvesting means. If it means increasing storage for the water that falls on this Island, there is plenty of water that falls on this Island - I know from my experience a few years ago when I was director of the water company. There is a lot of water that falls on this Island and unfortunately we have got very limited storage space. But I see from recent announcements that the water company have plans to increase capacity and that will be welcomed, I am sure, by the entire community, not just the agricultural community.

The Deputy of St. Mary:

I was meaning by the agricultural community themselves, for example, on glasshouse sites where there is plenty of water going to waste.

The Connétable of St. Clement:

I am not sure of water going to waste particularly on glasshouse sites, certainly water is going to waste when the reservoirs are full throughout the Island.

The Bailiff:

Deputy Lewis, do you wish a final question? Very well, we will move then to the next question which the Deputy of St. Mary of the Minister for Planning and Environment. Deputy.

4.12 The Deputy of St. Mary of the Minister for Planning and Environment regarding the protection of wildlife on the Ecréhous:

Given allegations of disturbance to wildlife and inappropriate behaviour by some people on the Ecréhous reef, can the Minister advise the Assembly what immediate action is being taken to protect wildlife on the reef in accordance with the Ramsar Convention, particularly, but not only, with regard to nesting birds?

Deputy R.C. Duhamel (Assistant Minister for Planning and Environment - rapporteur):

The Planning and Environment Department is currently investigating an alleged breach of the condition attached to a planning permission for building work on La Grande Brecque Les Ecréhous. This investigation is at a very early stage and officers visited the site on Friday, 7th May 2010. As such it would be inappropriate to comment further at this point. Notwithstanding though

the current situation the department takes very seriously its duty to safeguard the environment and its obligations under the Ramsar Convention. This commitment is evident in the ongoing programme to draw-up comprehensive management plans for the Ramsar sites that will seek to balance the needs and expectations of all users of these areas.

4.12.1 The Deputy of St. Mary:

The question is really about the degree of priority and the degree of importance and the issue in question is building work and inappropriate use of parts in use for the petrol generator. But it goes beyond that because boats are landing visitors there in the nesting season. So I just want to know from the Minister ... I have heard a sort of commitment but the question is how fast do things move? An investigation; well the terns have gone, they have not nested this year. So I just wonder what proactive steps the Minister has in mind to make sure this does not happen again?

Deputy R.C. Duhamel:

The proactive steps, perhaps I could read out the building condition, or at least one of them: “No work shall take place on the Les Ecréhous reef and associated eyelets where the birds are nesting between 1st January and 1st August of any year, and 10 days after the last known fledging has left any nesting sites at La Grande Brecque.” So it is quite clear that in terms of building construction work taking place on the reef, that any disturbance to the birds, particularly nesting birds, is covered. I might add that I have been sent pictures of other landing parties for tourism purposes which are conducted not only by Jersey companies but by French companies and indeed I have got a picture of a helicopter flying over the site which undoubtedly would cause disturbance to the birds. Unfortunately at this point in time there is nothing to prohibit French helicopters flying over the reefs or indeed any others and all other people visiting the reefs. This is why a comprehensive management plan will be drawn-up for the Ramsar Area to take into account all the needs and expectations of users as far as possible in the best planning tradition.

4.12.2 The Deputy of St. Mary:

Will the management plan include rapid action provisions so that if someone gets out a petrol generator and starts slicing tiles on the reef then it will be stopped immediately? If so, by whom?

Deputy R.C. Duhamel:

This is obviously one of the considerations to be considered by my Ramsar Management Group. It might well be suggested if indeed a new King of the Ecréhous cannot be appointed - and come back Alphonse Le Gastelois pretty quick - that perhaps an electronic means of surveillance could be undertaken in order to offset any disturbances which are clearly already earmarked and highlighted within the wildlife section of that law.

4.12.3 The Deputy of St. John:

When can we expect to see the plan for the Ramsar Site for its entirety, given Jersey signed-up to Ramsar many years ago and nothing has yet been produced by the department. Will the Environment Scrutiny Panel be consulted within this area?

Deputy R.C. Duhamel:

It is my stated intention, and certainly at the first meeting recently, to include all members of any group that has a recorded interest or wishes to record an interest in the Ramsar Area. We have undertaken a public consultation survey and the results of that are being looked at at the moment. A number of meetings have been arranged for the remainder of the year and it is certainly the intention of the working group to deliver the comprehensive management plan by the end of the year.

The Bailiff:

Do you wish a final question, Deputy? Then we will move to the next question which the Deputy of St. Martin will ask of the Minister for Home Affairs. Deputy.

4.13 The Deputy of St. Martin of the Minister for Home Affairs regarding the funding of the historic child abuse investigations:

Will the Minister inform Members whether additional funding has been required in relation to the historic child abuse investigations and, if so, why; how much have the investigations cost to date and who is monitoring the expenditure?

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

The position is that for 2008 and 2009 additional funding of £6,827,514 was required. Additional costs of £190,100 have been incurred to date in 2010 making the total additional cost £7,017,614. In addition to this costs of £1,182,291 have been met from within the States of Jersey budget to date bringing the total cost in police terms to £8,200,535.

4.13.1 The Deputy of St. Martin:

It has been alleged that there has been a lot of mismanagement of fees, *et cetera*... of monies: has the Minister to date found any evidence to support that allegation that monies were misused and really wastefully expended during the course of the investigations?

Senator B.I. Le Marquand:

This question of course brings me directly into one of the issues in relation to the disciplinary matters which I am currently involved with and so I cannot really answer that question definitively because I am conducting disciplinary proceedings. But it is no secret that there are allegations of financial mismanagement.

4.13.2 The Deputy of St. Martin:

I am grateful for the fact they are just allegations but nothing has been substantiated and I am sure that they will not be substantiated. Can I ask the Minister who has oversight from the Ministerial side, does the Minister have that close Ministerial oversight of the expenditure or is it just primarily left down to the accounting officer?

Senator B.I. Le Marquand:

I did omit to answer the last part of the question, which I will now do so. Financial management of the inquiry is currently overseen by a multiple-agency Gold Strategic Co-ordinating Group. The Chief Officer of the Home Affairs Department is the accounting officer but the management system is now run through a Gold Strategic Group. These are essentially operational matters and not a matter for the Minister to get involved in.

4.13.3 Senator A. Breckon:

I wonder if the Minister could confirm that he has commissioned an independent inquiry into the financial probity of the Haut de la Garenne inquiry and has received the results and is not yet able to release them?

Senator B.I. Le Marquand:

That is correct. In addition to the disciplinary investigations I commissioned an auditor's report in relation to financial management. I have seen a draft of this but I do not believe that the final report is yet available.

4.13.4 Deputy R.G. Le Hérissier:

Could the Minister tell the House what the monies expended this year have indeed been expended on? Secondly, could he confirm that one of the financial reports came from the Wiltshire Constabulary and could he confirm the dates at which this report is likely to be put in the public domain?

Senator B.I. Le Marquand:

Matters in relation to the historical abuse inquiry in terms of prosecution are still live and it is correct that one of the disciplinary reports which I received related to financial management issues. It is unlikely that I will be able to put matters relating to the disciplinary report into the public domain until after the date of resignation of the current Chief Officer of Police which is 20th July this year.

4.13.5 Deputy R.G. Le Hérisier:

Follow up. I wonder then could the Minister outline what the purpose of that report is and what he will be doing with the information contained therein?

Senator B.I. Le Marquand:

I assume by the words “that report” Deputy Le Hérisier is referring to the Wiltshire Report. That is a disciplinary report, which I have considered and will shortly be meeting with Mr. Power as part of this disciplinary process, following which meeting I will determine what, if any, disciplinary charges he faces in that area.

4.13.6 The Deputy of St. Mary:

Can the Minister confirm therefore that Members are going to be faced with the debate and vote on the appointment of the Acting Chief Officer as Chief Officer without seeing, apparently, any of the Wiltshire Reports, even though selected extracts have been on the front page of the *J.E.P.* (*Jersey Evening Post*)?

Senator B.I. Le Marquand:

Selected extracts have not been on the front page of the *J.E.P.* The *J.E.P.* have not seen the contents of any of the Wiltshire Reports. What they have done is seen outside of the document, but they are most certainly not selected extracts. Now I have forgotten what the first part of the question was because I felt it necessary to repudiate the second part.

[11:30]

The Deputy of St. Mary:

The first part of the question was it appears from the answer the Minister gave to Deputy Le Hérisier that Members will be faced with debating and voting on the appointment of the current Acting Chief Officer as Chief Officer without seeing the Wiltshire Reports.

Senator B.I. Le Marquand:

I have made it clear that I will continue to put back the date of the debate on the appointment of the next Chief Officer until such time as I am in a position to put substantial information before Members of the House. In written questions I have declined to be penned-down as to precisely what I could put out in what form because I do not know that as yet and I am taking advice on that.

4.13.7 The Deputy of St. Mary:

May I ask a supplementary? The Minister claimed that the front page of the *J.E.P.* was not based on the Wiltshire Report but I thought, and my memory serves me correct, it definitely said, both the headline and the text, referred quite clearly to the Wiltshire investigations and that Power had been found to be “at fault”.

Senator B.I. Le Marquand:

The question that I was asked, and the allegations put by the Deputy of St. Mary was that there were extracts from the Wiltshire Report contained in the *J.E.P.* article. There were not, and that is what I said previously. The Deputy has now changed the wording of what he is saying happened and, frankly, I cannot now remember what the change of wording was, but it was changed.

4.13.8 Deputy M. Tadier:

As a Member of the Council of Ministers, would the Minister agree that the scenario for Haut de le Garenne is a salutary reminder of how a lack of investment, financial or otherwise, can come back to haunt us many years later at great cost in human and monetary terms and does he agree that it is also a warning of the dangers of short-term balanced budgets?

Senator B.I. Le Marquand:

I think that what it does tell us is that we must do much better in the future and that means that I hope that I will be receiving support from Members for the financial aspects of the Sex Offenders Law, and also the vetting and barring schemes because these, frankly, together with improved work in a children's service and in the police force in the Public Protection Unit are key to improved level of service and safeguard of young people and vulnerable adults.

4.13.9 Deputy M. Tadier:

Does the Minister agree that we effectively reap what we sow? If we allow neglect of our vulnerable children we can only expect many years later that this is an inevitable consequence with tragic human consequences and perhaps, more importantly, for certain States Members, a financial cost?

Senator B.I. Le Marquand:

If there are failures in the system to protect young people or failures in the system of care for young people, then there will undoubtedly not just be personal tragedies in individual lives but also significant financial costs later to society.

4.13.10 Deputy T.A. Vallois:

Could the Minister advise at what stage or specifically the date in the investigations that the management group that he mentioned was set up and how much the management group has spent with regards to the investigation since the setting up of this group?

Senator B.I. Le Marquand:

I cannot give a precise date in relation to the setting up of the financial management group. I think, from memory, it was in autumn 2008, but I am not precisely clear on that. I do not have a precise breakdown of dates. What I can say is that the figures for expenditure for 2009 was £2,305,515 plus £379,000 of police time within budget and I have given the 2000 figure already. But I cannot give a breakdown precisely. I would need to have a written question so I could give precise figures on precise dates.

4.13.11 Deputy T.M. Pitman:

In fairness to the suspended police chief officer, is the Minister happy with the length of time this process has been drawn out, or would he in fact say the length of time it has taken is a scandal?

Senator B.I. Le Marquand:

I am not happy with the length of time that matters have taken. As I have said repeatedly, I have now been for some time in a position where with the complexity of the disciplinary matter it is clear that the procedure could not be completed prior to 20th July. That is a regrettable state of affairs but the investigations were very thorough and took a great deal of time and there were other reasons for delays at different times.

4.13.12 The Deputy of St. Martin:

I can understand him saying he has difficulty answering some of the questions because they are operational matters, but if indeed the Minister for Home Affairs has difficulty answering operational matters, can I ask the Minister then who has political oversight for Home Affairs?

Senator B.I. Le Marquand:

The Minister has responsibility for political oversight of the police, there is no question about that, but this Minister will not intervene in operational matters while they are taking place. That is a fundamental constitutional principle to which I hold.

4.14 Deputy T.M. Pitman of the Chairman of the Privileges and Procedures Committee regarding States Members with second jobs:

Given the issue of part-time M.P.s (Members of Parliament) with second jobs was highlighted in the recent United Kingdom elections, will the Chairman advise the Assembly what reforms, if any, the Privileges and Procedures Committee has considered or will be considering relating to States Members with second jobs and who withdraw from the Chamber after roll call and leave the States building entirely for long periods of time during States sittings?

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

As this question is broadly similar to the written question which Deputy Pitman has also asked me today, in the interests of States efficiency I would firstly refer Members to my written answer, which is 22 in the bundle, although I will of course be prepared to read it out if requested.

Deputy T.M. Pitman:

It might be nice for the public. Can I have a supplementary then? **[Interruption]** Okay, please.

The Connétable of St. Mary:

States Members are prevented by the States of Jersey Law 2005 from working as public employees other than in this regard there is nothing in the States of Jersey Law 2005, Standing Orders or the Code of Conduct for elected Members to say that Members should not have outside employment or careers, paid or otherwise, nor indeed any other commitment. The committee therefore has no remit to specifically monitor this or to quantify or validate the commitment given by any Member to carrying out his or her public duties. This is a matter for individual Member's conscience and for the electorate. The committee has from time to time discussed attendance during States sittings in general terms but nothing specific in relation to the outside employment of any Member. There may be many valid reasons why Members need to leave the States Assembly or indeed the States building during a sitting but to date this has not resulted in any complaint under the Code of Conduct being made to the committee. Should such a complaint be brought to P.P.C. then P.P.C. would be required to investigate it in accordance with Standing Orders.

4.14.1 Deputy T.M. Pitman:

When unsuccessfully attempting to increase the quorum for the States it was stated, and fairly, that some Members who are not in the Chamber would be down in the facilities room working, however upon election we commit to serve the public. With both the Conservatives and Labour already moving on this issue as a part of the drive to restore faith in politicians, does the Chairman not agree that if we cannot regulate to ensure politicians attend the States and at least stay in the building, then in effect P.P.C. is really a waste of time because it is clearly toothless?

The Connétable of St. Mary:

I wonder if I can seek some clarification from the Deputy because I am a little concerned whether he is expressing concern about outside employment specifically or whether simply about

attendance in the States because he has linked the 2, but I am not sure where he is expecting the emphasis to come from my response.

Deputy T.M. Pitman:

I think they are clearly linked and I am sure the Chairman of P.P.C. appreciates that. The Chairman said it is quite understandable that sometimes we will have to leave the building, and I am sure that is, maybe for a doctor's appointment or whatever, but does the Chairman hold the view that going to another place of work during the States day is acceptable because I, and other States Members, and a lot of the public do not?

The Connétable of St. Mary:

As I have already said, the commitment that States Members give to their duties is not something that P.P.C. could monitor. It is a matter for States Members conscience under the oath of office which we swear and also the other elements I have already alluded to. As for leaving the building to go to a second place of work, as I have said, there have been no issues raised with P.P.C. in this regard, neither have there been any issues raised with Members undertaking work within the States building which might not be directly related to the States sitting. This is something which has not been P.P.C.'s remit to monitor tightly and it is not clear to me how I could ascertain without intruding into Member's affairs which they may need to keep private for their constituent's work, exactly what they are doing at any particular time during a sitting.

4.14.2 The Deputy of St. John:

Would the Chairman agree that the way Jersey runs its affairs is somewhat better than that of the United Kingdom where we see the sleaze of Members and their expenses, just to name one area, and would the Chairman agree that things are done somewhat better in Jersey?

The Connétable of St. Mary:

I believe that in general States Members behave with the integrity and the responsibility which the electorate expect of them. For that I am incredibly grateful. There are always ways in which we can improve and I would certainly not aim to criticise Members of another government that, can easily be done by their own electorate and needs no assistance from me.

The Bailiff:

That probably answers it.

4.14.3 Senator J.L. Perchard:

Does the Chairman believe that it really would be in the Island's best interests if a person seeking election to the States should be unemployed or even unemployable?

The Connétable of St. Mary:

I believe that during the election process the electorate of this Island are quite capable of asking the pertinent questions and making their own decisions about the merits or otherwise of one particular candidate over another. What I would say though is that views expressed during the U.K. election were varied and, in fact, various bodies of opinion did say that Members with outside interests - provided those interests, of course, did not interfere with the integrity of their actions once elected - brought a breadth and depth of experience and knowledge that was valuable within the Assembly rather than perhaps a narrow focus that other Members might have brought without it.

4.14.4 Senator A. Breckon:

I wonder if I could ask the Chairman of the Privileges and Procedures Committee if she believes it is discourteous for some Members of this House to absent themselves for long periods without a proper excuse?

The Connétable of St. Mary:

I would hope that Members when they do absent themselves either from the Chamber or from the States building itself do so in full cognisance of the Code of Conduct and the oath that they have sworn to put proper weight on their public duties. That is a matter for the Members and conscience, I believe.

4.14.5 Senator A. Breckon:

I wonder if that is a matter that P.P.C. have any knowledge of or indeed looked at or is it just paying lip services to this?

The Connétable of St. Mary:

As I have already said, the P.P.C. has on several occasions looked at different ways of monitoring and perhaps increasing a States attendance in the Chamber. We have not had any occasion to look at anything relating to outside or secondary employment and so I cannot give any indication of the committee's viewpoint on that. It has not been raised.

4.14.6 Deputy M. Tadier:

Does the Chairman think that it would be more acceptable if those Members who did excuse themselves from the Chamber for very great lengths of time, be it due to work commitments or otherwise, were also to absent themselves during voting?

The Connétable of St. Mary:

I am a little confused. Quite clearly if a Member has had to leave the building for, for example, a medical appointment they will not be here to vote. If they are back in time to vote and are sufficiently apprised of the debate that has gone on then there is no reason why they should not vote.

4.14.7 Deputy M. Tadier:

Maybe I should clarify, I am simply talking about people who leave the building, let us say for a second job, would it be more consistent if they were also to not be present for the voting seeing as they have not heard the debate, for example? At least that is consistent.

The Connétable of St. Mary:

I cannot be more specific. The matter of secondary employment is not something that is either frowned upon or excluded by the States of Jersey Law. There are perhaps Members who absent themselves for reasons that are not related to that who then come back and vote. I am no more able to make any comment on those than I am on Members with secondary employment.

[11:45]

4.14.8 The Connétable of Grouville:

Can I ask the Chairman if she would insist that the Deputy produces proof and names of the people who are allegedly leaving the building or are not being present in the States because this scattergun approach is extremely unfair to other Members who are diligent and do stay in the House. This is of course playing to the crowd as usual, it is the sort of thing we expect from the J.D.A. (Jersey Democratic Alliance) but as other Members who do not leave the building and who do not absent themselves I feel it is extremely unfair.

The Connétable of St. Mary:

I would advise the Constable that I do not believe this rises to any particular party influence or any influence on behalf of any Member to have a scattergun approach. I have simply said, and I will restate the fact, that there have been no complaints made to P.P.C. and any complaints that are made will be investigated according to the code. As I say, there has not been a complaint.

4.14.9 Deputy T.M. Pitman:

I do appreciate the Constable of Grouville playing to the gallery again unsuccessfully, but there we go. I will just say this question nice and slowly because I think Senator Perchard did not understand it. I am not suggesting that people should have to be unemployed upon seeking election. I am suggesting that does the Chairman agree that surely people sign-up to be a politician, they tell the electorate they will serve them, they should be here, not trotting off to do a second job or to go and do their shopping as I have had complaints about a number of Senators and I am certainly happy to state that one Senator I have searched the building for and could never find him, so unless he is living in the basement sometimes ... are we meant to be full-time politicians or are we not? Perhaps the Chairman could give us her opinion?

The Connétable of St. Mary:

I will say this also slowly, as I have said, there is nothing in the States of Jersey Law, Standing Orders or the Code of Conduct that prevents Members having outside interest, remunerated or otherwise, whether that be any kind of charity commitment or work commitment. It is up to Members to satisfy themselves and ultimately satisfy their electorate that they devote sufficient time to their public duties. Many of the electorate do value quality time that their Members give them and there are many hard working Members in the Assembly, but not all Members achieve things in the same way or, indeed, within the same timeframe.

4.15 Deputy R.G. Le Hérissier of the Minister for Economic Development regarding the impact of changes to postal rates on small traders or local societies:

Is the Minister satisfied that the changes to postal rates just announced will not adversely affect the interests of small traders or local societies who mail items like journals to the United Kingdom and overseas?

Senator A.J.H. Maclean (The Minister for Economic Development):

Changes to postal rates to reflect size-based pricing have been introduced following consultation between Jersey Post and the J.C.R.A. who regulate postal services in the Island under the Postal Services Law. The new price structure which is consistent with that applied by Guernsey Post is required to address changes to the charges levied by the Royal Mail for postal services for Jersey's mail delivered in the U.K. I accept that small traders and local societies may indeed find that their overall costs have increased and that is certainly disappointing and, indeed, difficult for them. However, I understand that the increases directly reflect increased charges incurred by Jersey Post.

4.15.1 Deputy R.G. Le Hérissier:

Would the Minister not acknowledge that a few years ago there was a similar hit at people like this in that concessions or so-called concessions like small packet rates - surface rates - were withdrawn and they had a major effect upon people who, for example, were trying to develop eBay-type businesses as well as local societies who used to mail an awful lot of journals overseas. No notice was taken, I was very involved, I have to say, at that stage, would he not acknowledge that this essentially administers the final kiss almost of death to these people who are trying, despite bureaucratic obstacles, to develop small businesses?

Senator A.J.H. Maclean:

As the Deputy knows, both myself and my department are extremely supportive of small businesses and will do all we can to assist them in whatever markets that they hope to develop. Nevertheless the Deputy raises a valid point, although Members should bear in mind that postal charges were in many respects artificially low for many years to the advantage of both small and large businesses, and so there has been a degree of catch-up during the period of time and this recent increase is a direct reflection of that.

4.15.2 Deputy R.G. Le Hérisier:

Would the Minister not accept, rather on the lines of not totally comparable to the market post office situation, that by applying an almost ruthless dogmatic approach to a small area of the postal system you are throttling the development of small businesses?

Senator A.J.H. Maclean:

I accept, as I said in my original answer, that it is a difficult area for small businesses and all I can conclude is that the Deputy will, I am sure, be supportive of the proposals by the J.C.R.A. to open-up the postal market, introduce competition and potentially drive-down prices. Meanwhile we will do all we can to support small businesses and indeed look at other ways of the delivery of their packages, perhaps electronically is one option that may be available.

4.15.3 Deputy G.P. Southern:

Does the Minister accept that the application of these new rates to fulfilment-sized packets which has led to the demand for the introduction of competition in this particular market, that in answer to a written question he has said he has received assurances from the J.C.R.A. that the efficiency study that is being conducted will be completed before any further action is taken? Can the Minister point anywhere in the letter from J.C.R.A. where that assurance is confirmed? Does he have the assurance in writing or is it merely oral because there is no evidence of it in the papers that he has given in answer to an earlier question?

Senator A.J.H. Maclean:

In a conversation with the J.C.R.A., there was a verbal undertaking or a verbal statement, I should say, that the efficiency review could be considered and would be considered and, indeed, contained within a letter that I have received from the J.C.R.A., they have confirmed that they will have by the time that they need to make determination on this matter enough information to be able to consider the elements of the efficiency review that they believe is relevant.

The Bailiff:

I am sorry, I am afraid time has run out so that brings questions to an end and we then move on to questions to Ministers without notice and the first period of questioning is to the Minister for Social Security.

5. Questions to Ministers Without Notice - The Minister for Social Security

5.1 Deputy G.P. Southern:

Is the Minister content that the application of the now defunct old Family Allowance Law to income support claimants in considering their continuing protection from transition protection is appropriate given that it has not been revised for the past 3 years?

Deputy I.J. Gorst of St. Clement (The Minister for Social Security):

Yes, I am content.

5.1.1 Deputy G.P. Southern:

Is the Minister equally aware that assessments made nowadays include Long Term Incapacity Allowance (L.T.I.A.) as regarded income whereas previously under family allowance such payments were not regarded - in fact were disregarded - and this leads to numbers of people having their income and benefit reduced unnecessarily?

Deputy I.J. Gorst:

There is a small disregard for L.T.I.A. and that is currently at 5 per cent. It is a difficult area. It is my understanding that when the transitional Order or Regulations were approved there was no

intention at that point to up-rate the previous old laws that people would be entitled to benefit under and therefore I have not up-rated them, and income support, as it stands, was approved by this Assembly and the transition Regulations were approved by this Assembly.

5.2 Deputy J.A. Hilton of St. Helier:

Is the Minister aware of any financial difficulties currently being experienced by retired women who have previously opted-out of the social security system which I understand a lot were encouraged to do in previous decades, thereby prejudicing their entitlement to a full pension provision in the event their marriage subsequently breaks down?

Deputy I.J. Gorst:

I did have a very brief conversation with the Deputy some days ago on this particular subject. An individual who was on her husband's card, as it was then considered the married women's election, would be entitled to two-thirds of the pension. That changes if that relationship breaks down and they become divorced. I would say that the information that I have received is one whereby that individual is not prejudiced but benefits; I would not want to go into detail now until I have full research and facts and I have been able to consider a way forward, because I would not want to encourage people down a line of behaviour which might not be beneficial to them, purely because of a financial gain.

5.2.1 Deputy J.A. Hilton:

If I could just request that the Minister consults with his department to see if there is any evidence of hardship being experienced.

Deputy I.J. Gorst:

I am more than willing to do that. I have already set in train that piece of work arising out of my conversation with the Deputy and it will, I believe, require changes to the law in due course.

5.3 Senator S.C. Ferguson:

Would the Minister like to bring the House up to date on the progress with regard to identifying and preventing benefit fraud?

Deputy I.J. Gorst:

We have drafted a new fraud strategy. As I have said in the past, the creation of the income support system itself was the or is the greatest tool to preventing fraud because all benefits are distributed from a one-stop shop and documentation is required to prove the claim in advance. If we look at other jurisdictions we do see that they appear to have problems with benefit fraud. We are aware of that. We have drafted a new strategy in the light of experience elsewhere. We will be employing more staff through the course of this year and we hope to see savings obviously this year, but throughout next year as well. I suppose that is the effect.

5.3.1 Senator S.C. Ferguson:

Will, as part of this strategy, the Minister be communicating far more with the Connétables who are very much more aware of circumstances out in the Parishes which may not have been revealed to his department?

Deputy I.J. Gorst:

Our door is always open to the Parishes to come to us if they are aware of individuals that they feel may be in receipt of benefit inappropriately, as we are from any member of the public, and we do from time to time receive correspondence from individuals making comments about other individual's benefit level, and we investigate where it is appropriate.

5.4 Deputy S. Pitman:

The Minister will know that currently for a few months now the department have been reviewing recipients of income support. Would he not agree that it is not satisfactory that if there is a cut in somebody's income support, i.e. that it was a welfare legacy and it has been removed, that they are only given a 2 week or one week or even just a few days' notice? I have 2 constituents who have suffered this. One has had £100 cut off and was given a week's notice and the other one, £60 a week.

Deputy I.J. Gorst:

I am afraid if entitlement to their benefit is no longer in place, entitlement to benefit is no longer place. As with any benefit, if one is no longer entitled one is no longer entitled from the point that one is no longer entitled. It is not appropriate to continue entitlement for an extended period if the entitlement ceases. The department does review cases and is reviewing cases and some transition cases which we have reviewed those individuals and families we have found to be no longer entitled and therefore the benefit is reduced as is appropriate under the laws which determine the entitlement benefit.

[12:00]

5.4.1 Deputy S. Pitman:

The Minister has not answered the question. I asked if it was appropriate that these people who are living on benefits and pensions are only given 2 weeks, one week or just a few days that ... the lady who I refer to was one of my constituents who was cut by £100 a week was given only a few days' notice and both of these constituents I refer to are in serious rent arrears because of such notice and because they cannot cope. Now what is his department doing to help these people, and can he answer the first question of whether or not the time is enough given to these people?

Deputy I.J. Gorst:

I think I did answer the question, with respect. If entitlement is no longer in place then the department obviously ceases to pay the benefit which would be appropriate. We must remember that income support looks at the household income as well as the benefit entitlement, therefore just because an entitlement benefit may no longer be in place it does not mean to say that there is no income coming into that household, therefore looking at the amount of benefit which is being reduced is not looking at the full picture of the income that that household has to live on in the future.

Deputy S. Pitman:

The Minister has not answered the question.

The Bailiff:

You have asked 2 and there are other Members who wish to ask.

Deputy S. Pitman:

He has not answered the question of the time given to these people on income support. Is it appropriate?

The Bailiff:

Sorry, Deputy, we are going to move on. Deputy Tadier, please. We cannot keep going on.

5.5 Deputy M. Tadier:

I was updating my blog last night and I accidentally put questions without answers rather than questions without notice. Anyway, would the Minister explain why it is that certain people who cannot afford to pay their rent are happily given a rent element but are told they are not entitled help with the deposit, which is arguably more of a problem for lower earners?

Deputy I.J. Gorst:

I am not aware of the individual case, but individuals who might struggle to pay the deposit can under circumstances receive a loan via the department to pay for that deposit.

5.5.1 Deputy M. Tadier:

I will inform, maybe. I can only speak from personal experience but in this case it is quite clearly somebody who could not afford their rent but they also had debts from college. They were 30 years old, they had not had time to save. They were told because she had been living at home for X amount of time she should have been able to save up a deposit but they did not have one and it was completely inappropriate. Is the Minister saying that there is ... that person was given wrong advice or is there a lack of flexibility which is perhaps the underlying problem in the system?

Deputy I.J. Gorst:

No, I am not saying that that individual was given wrong advice. It is very difficult for me to comment on an individual's circumstances because it unfortunately is never quite as straightforward as we might like to consider it to be. We know that under-25s are not entitled to a rental component, however there is some discretion in allowing that. In this particular individual's case there I cannot comment on it because I do not have the full details.

5.6 Senator J.L. Perchard:

Is the Minister satisfied that his department is doing enough to support and encourage those who are in receipt of long term benefits back to work and will he consider introducing a punitive system of benefits that penalise those who when offered employment choose not to accept?

Deputy I.J. Gorst:

We must be careful to ensure that we are talking about different categories of benefits. An individual who is receiving income support who is able to work is required to actively seek work. If they do not fulfil those actively seeking work criteria then their benefit can be reduced. Those individuals perhaps who are on long term incapacity allowance, and have not been in work for a long time, the previous Minister did instruct an independent expert, Professor Stafford, to look at that. That piece of work has not been driven forward as quickly as I might have liked but it does need to drive forward. This does also tie-in with perhaps how we are going to try and find some of our savings in the comprehensive spending review going forward and encouraging people to go back to work, investing in help so that those who are long term unemployed can get over the hurdles and the barriers that they have been encountering to get to work because we all know the longer that one is out of work the more difficult it is to find work and we are trying to encourage people back into work.

5.6.1 Senator J.L. Perchard:

I know this is a sensitive subject, and the Minister says we must be careful in defining the form of benefit, but if a person who is in receipt of any form of benefit is offered gainful and useful employment and refuses to accept it, would the Minister consider some sort of punitive structure?

Deputy I.J. Gorst:

The reason I said we had to be careful about the type of benefit that an individual is receiving... because there are different laws which govern benefit application and the law which governs long term incapacity and sick pay does not allow for that. That is an old law, it goes back to 1964, so the element of entitlement to long term incapacity is governed by that law, there is not the flexibility to take that benefit away if a person does not seek work perhaps for the other percentage that they have not been granted long term incapacity. However, if they have a top-up under income support because we do not consider their household income is adequate then, yes, there would be the requirement for them to actively seek work.

5.7 The Deputy of St. Martin:

It is a follow up really from the question I asked the Minister for Health and Social Services: will the Minister inform Members of the progress of the department's investigations into the death of a patient at the hospital in December 2008 and say whether his department has interviewed the doctor concerned and how much longer will the investigation take given that it began well over 12 months ago?

Deputy I.J. Gorst:

I must be careful in answering this question; I am stepping into an area which I do not normally deal with. I can confirm that the Health and Safety Inspectorate which falls under my department is providing a report into this particular case. I can update Members and say that, as I understand it, report is now finalised and will be provided to the commissioning officers, as I understand it, later this week. As one would expect, the main characters or individuals around the situation, as I understand it, have been interviewed by the Inspectorate.

The Bailiff:

That brings questions to the Minister for Social Security to an end. So we move on then to the second question period, which is the Minister for Planning and Environment.

6. Questions to Ministers Without Notice - The Minister for Planning and Environment

6.1 The Deputy of St. John:

In the new North of Town Masterplan that was put out to Members yesterday and in the public domain, I note that Ann Court and the Town Park block houses look more like Wormwood Scrubs and Parkhurst. Will, when the time comes, the Minister look at replacing buildings similar to those in David Place if any buildings are going to go on Ann Court?

Senator F.E. Cohen (The Minister for Planning and Environment):

I am sorry to hear that the Deputy has spent so much time looking at Wormwood Scrubs. The intention was certainly not to emulate Wormwood Scrubs in any way at all. The principle is classical architecture. We have simply shown blocks. We had this problem with the Esplanade Quarter scheme that Members thought that we were showing completed buildings in our proposals. These are Masterplan proposals and the buildings contained therein are simply block illustrations. There is no architecture and no design there yet.

6.1.1 The Deputy of St. John:

Will the Minister look at replacing or replicating the buildings similar to those in David Place within the Ann Street development?

Senator F.E. Cohen:

Sorry, I missed that part of the Deputy's question. Yes, most certainly. The principle is classical architecture but we are yet to design the building, so yes they will emulate those in David Place and in other areas where classical architecture abounds.

6.2 Deputy J.A. Hilton:

Members may recall that I have raised questions in the House before over the non-completion of the estate up at Le Clos Vaze, the question I wanted to ask the Minister was ... I am delighted to report that the play space is now operational despite being told that it would be finished last November. It is operational, there are still matters outstanding with regard to the completion of the estate almost 3 years after it has been occupied by the residents. What lessons, if any, has the Minister learnt from this episode?

Senator F.E. Cohen:

The lessons I have learnt are that it is extremely difficult to ensure that conditions on planning applications are implemented within the timescale the Planning Department would like if the developer is keen to avoid implementing those conditions. We have a small enforcement team comprising 2 officers. If we tried to implement immediately every planning condition they would be working day and night, 365 days a year. Our resources are limited. We do our best and we rely on the good faith of applicants to comply with conditions. Applicants usually are very keen to comply with conditions before they get their consent and become a little more reluctant once they have got the consent, but we do our best.

6.2.1 Deputy J.A. Hilton:

Would it not be possible for the Minister to take action against those individuals, and I think he has just said that in the main the majority of applicants do try and carry out conditions imposed upon them, would it not be possible to isolate those applicants who are failing to do so and take some positive action against them?

Senator F.E. Cohen:

We sometimes do and the process is, I am afraid, long and complex and one is better off to try and encourage the applicant to comply with the conditions of the consent. But in the extreme, yes we will take action.

6.3 The Connétable of St. Clement:

In view of the Minister's often repeated promise not to bring forward proposal for rezoning any major sites for housing without the support of the relevant Connétables, what will the Minister be doing about the proposed sites and the draft Island Plan which meet this criteria? In other words, which do not have the support of the relevant Connétables.

Senator F.E. Cohen:

To repeat, I gave a very clear undertaking to the Connétables on more than one occasion that I would not bring forward developments within their Parishes that did not have their support. The sites within the Island Plan consultation were those that were considered by the department to be best in planning terms; however if they do not have the support of the Connétable I will clearly be recommending to the Inspector that they are not proceeded with.

6.3.1 The Connétable of St. Clement:

I was encouraged by that answer until the very last moment, the Senator will be recommending to the Inspector they not be proceeded with. Is the draft plan in the ownership of the Minister or is it in the ownership of the Inspector and does the Minister not have the authority to bring forward the draft Island Plan as he would wish to see it or is it going to be as the Inspector would wish to see it?

Senator F.E. Cohen:

Ultimately it is the Minister's plan but the next stage is that the Inspector will examine the plan and part of the examination will be my submission to the Inspector that the sites that do not have the Connétable's support should not be proceeded with. We will have to see what the Inspector comes back with at the end of his period of examination.

6.4 Senator J.L. Perchard:

The new North of Town Masterplan on page 16 marks in bright red as landmark buildings the magnificent St. Thomas' Church, the charming structures of the central market and fish market, the wonderful examples of opulent architecture of the Masonic Temple, the imposing dominant Victoria College, and some other smaller buildings. I note also that the large gas cylinder at the foot of St. Saviour's Hill is marked in the same colours and therefore put in the same category, as is

the concrete mass of the old Odeon Cinema. Can the Minister advise the House if this is a mistake or is it me that has gone mad?

Senator F.E. Cohen:

I can confirm that it is the Senator that has gone mad. **[Laughter]** The gasometer is marked in red simply because it is a large building. It is a landmark and is identified as a landmark building. There is certainly no intention of listing it, no intention of preserving it and I certainly hope it will be removed as soon as possible.

Senator J.L. Perchard:

For the second part of my question?

Senator F.E. Cohen:

I was hoping to avoid further discussion on to the Odeon Cinema. The Odeon Cinema is one of those buildings that has very different views from different groups of people. Some are desperately enthused by it. Some think it is frankly awful. What will happen is that when plans come forward we will need to balance very carefully the advantages and disadvantages of maintaining or demolishing the building but at the present the building is listed and therefore we have to take into account the fact that the building is listed and that for some people it has great architectural importance.

[12:15]

6.5 Deputy T.M. Pitman:

Learning from my Senatorial colleagues I thought I might use a few sound bites, so could I ask the Minister, does he not concede that the proposed flats on the Town Millennium Park are not a Masterplan, it is a disaster plan. In fact it is not a plan, it is cram. Will he not listen to 17,000 people and withdraw his support for this appalling idea and give us a park and just a park and nothing but a park?

Senator F.E. Cohen:

I regret the language used by the Deputy but I clearly see that he is passionate about the issue. We have presented an holistic masterplan; it is a masterplan that involves significant regeneration of the north of the town through a number of mechanisms. The proposed development of social housing or apartments or flats on a small part of the east end of the park is one of the key elements of the plan. It should be debated by the House. It is not a matter for me to decide and the democratic process is that the House should be able to decide whether or not they wish to support the plan or certain elements of the plan.

6.6 Connétable D.W. Mezbourian of St. Lawrence:

I would like to take the Minister back to the imposition of conditions on planning consents and remind him that the La Providence development had 60-plus conditions imposed and I wonder why conditions are imposed by the Minister when he has acknowledged here that often they will not be implemented as they should be?

Senator F.E. Cohen:

In relation to La Providence, we were particularly careful to control the development through the use of numerous conditions. Many of those conditions have been revised or discharged during the period of the development. I do not think that any of the conditions have been revised to the detriment of the scheme and I am assured that those conditions that remain will be discharged before the scheme is completed.

6.6.1 The Connétable of St. Lawrence:

To go back to the Minister's mention of having only 2 enforcement officers within his department, in the past couple of weeks I have had to contact those enforcement officers on a considerable number of matters that have been raised with me by parishioners. Is the Minister satisfied that his department is being run as effectively as possible by the fact that he has only 2 enforcement officers when we know that there are a great deal of problems surrounding conditions and questions of planning applications?

Senator F.E. Cohen:

The department is being run exceedingly well by an exceedingly competent Chief Officer. However, the Chief Officer has to operate within very difficult financial constraints. Very clearly 2 enforcement officers are insufficient, we are doing our best with the 2 officers we have. They are under considerable strain and they have to prioritise their enforcement work. We could do with more but I am afraid there is no money, neither is there likely to be any further money.

6.7 Deputy J.A. Martin:

It is quite short notice but I am referring to the aerial shot of the North of Town Masterplan, and I am wondering if the Minister for Planning and Environment can provide aerial shots of the other 11 Parishes for comparison for a later debate?

Senator F.E. Cohen:

If Members wish me to provide aerial shots of the other Parishes and the rest of St. Helier, I would be more than happy to provide them, but I think Members know what they will show.

6.7.1 Deputy J.A. Martin:

Is the Minister for Planning and Environment confirming where the grey spots on this plan would be green and the green would be grey in all the other Parishes?

Senator F.E. Cohen:

There is a difference between an urban Parish and a country Parish. **[Laughter]** One will be predominantly green and one will be predominantly grey, and long may it be so.

6.8 Deputy A.K.F. Green:

I would like to take the Minister back to landmark buildings and we have got a new landmark building that probably fits - if not worse - in the gasometer, and that is the new incinerator, which I gather was going to be sympathetically landscaped and I wondered if the Minister could tell me how he now intends to ensure that that monster is sympathetically landscaped?

Senator F.E. Cohen:

The language the Deputy chooses to use precludes any further consideration of the architectural success of the building when it is complete, and I would urge him to reserve his judgment until the building is complete. There is still cladding to go on the building. There is still a huge landscaping proposal which will mask some of the building, but I have made no secret of the fact that the building is frankly enormous and it has a significant impact and always will have an impact, whether it is an architectural success we will be unable to gauge until it is completed and we see the reaction to it.

6.8.1 Deputy A.K.F. Green:

Is the Minister telling me that the cladding will diminish the size of the building? Is it invisible cladding or disappearing cladding?

Senator F.E. Cohen:

The Deputy knows perfectly well that is not what I am saying. What I am saying, to be more specific, is that the cladding will mask the contents of the building. The building will be huge, it will always look huge and there is nothing I or anyone else can do about the size of the building.

6.9 The Deputy of St. Mary:

The States have formally approved the building of a park across the entire land and they voted for that, and they voted for the compulsory purchase of the Talman site. There have been numerous statements of support for the building of the park across the entire land by P. and R. (Policy and Resources) and in Strategic Plans. Can the Minister explain on what authority he has reversed the policy of this House and the stated wishes of the population?

Senator F.E. Cohen:

The Deputy chooses the bits of the States proposition that suit him. The reality is that we approved the use of the area for a town park and the creation of a car park. The Deputy wishes to produce a park but does not wish to produce a car park. The job of the Minister for Planning and Environment and the Planning Department is to deliver masterplans - or part of our job is to deliver masterplans. The authority is within the States because I have lodged the masterplan for endorsement by the States. I am not claiming authority to implement the masterplan. I am asking the States whether they wish to endorse it. If they do not wish to endorse it, I will not be implementing the masterplan, therefore it is the States decision.

6.9.1 The Deputy of St. Mary:

The question was, with respect, on what authority the Minister has single-handedly reversed the votes of this House for a park across the entire site by bringing forward a masterplan which has one-sixth of the land covered in plants?

Senator F.E. Cohen:

I think I have already answered the question. But to repeat, I have not gone back on anything the House decided. I have lodged a masterplan. The masterplan is for the House to debate and we will see whether the House wishes to endorse this masterplan or not. The Deputy no doubt will have his chance to make a long contribution to that debate at an appropriate time.

The Bailiff:

Very well, that brings questions to the Minister for Planning and Environment to an end. We then come to personal statements and leave has been given to Deputy Tadier to make a personal statement, although he is not here. He has now come in. [Aside] [Laughter]

PERSONAL STATEMENTS

7. Personal Statement by Deputy Tadier regarding his resignation from the Privileges and Procedures Committee

7.1 Deputy M. Tadier:

That was very just by my watch. While I get my breath back. I would like to take this opportunity to make a formal statement regarding my resignation, last month, from the Privileges and Procedures Committee. My decision to resign was not one that was taken lightly or hastily. There is not one single reason that has brought me to this position, but several contributory ones, occurring over a period of several months. The first time I was led to question the actions of P.P.C. and my position on it was early in January this year, when I received email contact from several members of the public asking about correspondence that had been received by the chairman of the committee from the suspended Chief of Police, in which he stated that he wished to make a complaint about his suspension process and alleged misconduct on the part of certain individuals - politicians and civil servants - in relation to the said suspension. Both I and other members of the

committee were not aware of the existence of the letter and it was only due to the fact that it had been published on a local media blog site that I became aware of this. This was embarrassing because members of the public were in possession of material which was intended for the committee and yet the majority of the committee had not seen the material in question. In turn, this led to speculation in some quarters that the material was deliberately withheld from the committee. At a last minute meeting of P.P.C. held on Monday, 18th January 2010 - the day before the year's first States sitting - concern was raised by more than one member that the information was not shared, and the issue of public perception was again aired. At this point, I did consider, in consultation with other members, whether or not to resign. I was not entirely happy with the explanation given by the chairman to do with the decision not to share the letter with other members, however I decided that I could still make more of a positive difference on the committee than off it, and so remained on board. What led me to reconsider my position was what I would call the debacle that led to the Deputy of St. Martin being called in to P.P.C. on what should have been instantly dismissed as a "frivolous" complaint, in that the comments that the Deputy had made were quite obviously, as was later found by the majority of the committee, simply fair comment. Meanwhile, the media had been leaked confidential information about the fact that the Deputy of St. Martin was to attend P.P.C. and "might be suspended", according to one accredited media source. Deliberately or otherwise, a frivolous complaint which should have been dismissed there and then by the committee, was allowed to become a political football. It was at this point that I realised that I was no longer willing to be embroiled in such machinations of the State, in which the Privileges and Procedures Committee was being used as a pawn. Aside from this, I have been frustrated with the lack of action and progress of the committee on many fronts, including a lack of willingness to stand up for and speak out on the rights of States Members, particularly following seemingly illegal raids and alleged harassment; there has been a lack of support for Back-Benchers in the pursuit for parity on issues relating to the provision of BlackBerries and the use of laptops. Most significantly, I was disappointed that the committee was unable to make any significant progress on electoral reform. I acknowledge that, ultimately, it was the decision of the Assembly that decided on this issue of reform, but I do feel that it would have been more effective-led by a committee committed to reform. If and when this is the case, I will be more than willing to resume my place on P.P.C. Nonetheless, I would like to thank the Chairman for having given me the opportunity to work on the committee, and the 5 other members for having the chance to work alongside them. It has been interesting, if at times frustrating, and I have learned a lot. Lastly, I would like to acknowledge the hard work of the Greffier, the Deputy Greffier and the Committee Clerk - Anna Heuston - and thank them for their help and professionalism in all contact and correspondence we have had. I know that whatever the composition of any future P.P.C., the committee will continue to be served well by their commitment and hard work.

7.1.1 The Connétable of St. Mary:

I am aware that Standing Orders do not permit a debate on a personal statement, suffice it to say that I do not necessarily agree with Deputy Tadier's observations, but I hope you will allow me just to repeat my thanks to Deputy Tadier for his past contributions to the work of the committee.

PUBLIC BUSINESS

8. Draft Employment of States of Jersey Employees (Amendment No. 5) (Jersey) Regulations 201- (P.22/2010)

The Bailiff:

There are no matters under K so we come then to Public Business, and the first matter on the Order Paper is the Draft Employment of States of Jersey Employees (Amendment No. 5) (Jersey) Regulations, projet 22, lodged by the Chief Minister. I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Employment of States of Jersey Employees (Amendment No. 5) (Jersey) Regulations 201-. The States, in pursuance of Article 42 of the Employment of States of Jersey Employees (Jersey) Law 2005, have made the following Regulations.

8.1 Senator T.A. Le Sueur (The Chief Minister):

This proposition puts forward the legislation to bring into effect a decision made by the States on 18th December last year. That decision was to increase the membership of the States Employment Board to 5 of which there should be 2 Members who were not Ministers or Assistant Ministers. Members will note that within my proposition there are a couple of procedural matters which were not part of that previous proposition and hence they were not decided one way or the other, which I believe are simple but necessary practical matters.

[12:30]

I am aware that the Deputy of St. Martin does not share my views on these matters but I shall endeavour to explain why I believe they are necessary. In order to understand the present proposition it is necessary to understand a bit of the history behind the employment of States of Jersey employees. When I first entered the States back in 1987 we had something called the Establishment Committee and indeed at that time I was a member of that committee. However not long afterwards the Policy and Resources Committee came into existence and with it came the responsibility of human resources. Consequently the Establishment Committee ceased to exist and it was replaced by a sub-committee of the Policy and Resources Committee known as the Human Resources Sub-committee. That sub-committee naturally reported to and was the responsibility of P. and R. It was not, and I emphasise, it was not a committee of the States. In October 2002 the States decided that the functions of the Human Resources Sub-committee should be transferred to the Policy and Resources Committee pending the implementation of a new form of government as preparation as part of the general arrangements to implement part of the Clothier proposition. That situation continued very satisfactorily until 2005 and the advent of Ministerial government. In 2005 there were 2 important changes in this area. The first of course was the introduction of the Ministerial system and the Ministers who had the, at that time, peculiar legal status of a corporation sole. That is to say they had legal personality separate from their own personal status. They became separate legal entities. Ministers clearly became the successors to Committee Presidents but where did that leave the Human Resources Sub-committee? While one person could become a corporation sole with separate legal entity, clearly a sub-committee could not. The problem was compounded by the fact another event happened in 2005 and that was the creation of the Employment of States of Jersey Employees Law whereby among other things all States employees came under one employer. So who was to have legal responsibility as the employer? It could not be the Council of Ministers because although the Ministers themselves are corporation sole, the Council of Ministers is not. It could be the Chief Minister by himself because clearly he is indeed a corporation sole but it could not be a sub-committee of the Council of Ministers or a committee of the States because they cannot be corporations sole or otherwise. As with many issues arising out of a change to Ministerial government, there was no clear solution. In the end the Employment of States of Jersey Employees Law provided for a States Employment Board comprising of certain Ministers chaired by the Chief Minister or his nominee; a board which also had legal personality as a body corporate. So under the law legal liability rests with the board, although in reality whenever there is litigation involving the States Employment Board it is the Chief Minister who is personally served with the summons. Now it is absolutely right that Ministers should be held responsible and accountable for matters under their control. Where I do have a problem is if I am to answer for matters for which I do not have control, and that is why I have included in the draft legislation Article 4(a) which requires a minimum of 2 Ministers or Assistant Ministers as part of the overall quorum. I can accept responsibility for decisions made by a board having the majority of the

Executive, but it would be very difficult to justify taking responsibility for a decision reached by a majority of non-Ministers. Just as when questions are asked in the House relating to the States Employment Board it is the Chief Minister who is answerable and accordingly it is important that I fulfil and discharge that responsibility. Accordingly, while I accept the decision of the States that in order to attain greater inclusivity and more balance there could be others on the States Employment Board who are not members of the Executive. It is equally clear that such parties should not be at any time the majority decision-makers. However good their decision may be, they would have the power but not the responsibility. That is why I argued last year that the majority of the members of the Employment Board should be from the Executive and that is why today I am proposing a natural extension of that philosophy to ensure that any decision taken, any policies formulated, must carry at least the equal weight of the Executive. There is a second issue in my proposition to which the Deputy of St. Martin takes exception and that is my suggestion that the Chief Minister should nominate the 2 members of the Employment Board who do not come from within the Executive. That is a matter which gives me less concern because really it is just a matter of procedure. The objective of my proposal is to create a balanced team within the States Employment Board and the Chief Minister nominating the 2 non Executive members enables all Members to assess whether the composition of the board reflects the balance they would like. Clearly, if Ministers take the view that the 2 candidates put forward by the Chief Minister do not subscribe to that balance they will reject those nominations. That is no different from the situation which arises in many other States appointments where a Minister, for example, puts forward a candidate or candidates for a position and the States - sometimes in camera, sometimes in public - decides whether or not to approve that nomination. So I do emphasise that Members are free to reject the nominees of the Chief Minister. The Chief Minister, I am sure, will get the message and nominate a more suitable candidate or candidates. The outcome may not be very different but whether Members go along with my proposals or adopt the first amendment of the Deputy of St. Martin. But my suggestion of names being put forward in advance by the Chief Minister is that it gives both those nominated and those voting time to think. Members will be aware that there have been instances, for example, in appointing Scrutiny Panel chairmen... but because the position was taken on the hoof, so to speak, it is possible that States Members lost the opportunity to select the best candidate for the post. But I can elaborate on these matters in more detail if necessary when we go on to the Articles and we debate the Articles to the amendments. In the longer term, I believe that it may be necessary in setting policy to revisit the whole nature of political responsibility for the employment of States employees, but in the meanwhile I am pleased to propose the principles of this amendment to the Employment of States of Jersey Employees Law which brings into operation the decisions we reached last November. I move the principles.

The Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles?

8.1.1 The Deputy of St. Martin:

I am conscious of the time and I would hope that Members will not rush through this particular proposition because I went again the other day through Hansard and it was interesting to note that there were occasions when we were not quorate and people were not here obviously to hear the full debate. But I just wonder really whether in actual fact this debate should go forward in its present form because the States made a decision on 18th November and that decision has not been rescinded. What we have before us today is really something else. It is not the decision of the States, and I would ask before we get underway, have a ruling from yourself or whoever, that whether in actual fact this proposition as it stands is in order because what the Chief Minister is coming to the House with is not what the States agreed by 41 votes to 4 on 18th November.

The Bailiff:

It is in order from a procedural point of view. It is entirely for the Chief Minister as to what political view he takes but in terms of procedural matters for the States and Standing Orders it is in order.

The Deputy of St. Martin:

The point I was asking for really because what Members have got before them today with this particular proposition, P.22, is not what the States voted for and I am conscious that I do not want to stray into my amendment because clearly we are then looking at 2 different debates, which is the point I was raising really. I just feel that what we have today, I remind Members, is not what we voted for and I certainly would ... I do not really want to add any more because I have really got to wait until the amendment comes to the fore, and in that case, before we get to the amendment, we have got 5 minutes, I will be speaking for some time and I am just wondering that we will not start the amendment until probably after lunch.

The Bailiff:

Does any other Member wish to speak on the principles? Very well, I call upon the Chief Minister to reply on the principles.

8.1.2 Senator T.A. Le Sueur:

I take note of what the Deputy says. I believe that the proposition here does reflect what was decided in November last year. It may add to that but it does not subtract from what was passed by the States at that time, and I tried to make that clear in my speech. I, nonetheless, take note of what the Deputy of St. Martin says and we will really have the substantive debate on the amendment when we come to it which I suspect should be after lunch. Clearly, the question needs to be put to the Scrutiny Panel but meanwhile I maintain the principles.

The Bailiff:

All those in favour of adopting the principles kindly show. The appel is called for in relation to the principles then. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 30		CONTRE: 12		ABSTAIN: 0
Senator T.A. Le Sueur		Connétable of St. Lawrence		
Senator P.F. Routier		Deputy of St. Martin		
Senator P.F.C. Ozouf		Deputy R.G. Le Hérisier (S)		
Senator T.J. Le Main		Deputy G.P. Southern (H)		
Senator B.E. Shenton		Deputy S. Pitman (H)		
Senator F.E. Cohen		Deputy of St. John		
Senator J.L. Perchard		Deputy M. Tadier (B)		
Senator A. Breckon		Deputy of St. Mary		
Senator S.C. Ferguson		Deputy T.M. Pitman (H)		
Senator A.J.D. Maclean		Deputy T.A. Vallois (S)		
Senator B.I. Le Marquand		Deputy M.R. Higgins (H)		
Connétable of St. Ouen		Deputy D.J. De Sousa (H)		
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				

Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

This matter falls within the Corporate Services Scrutiny Panel. Senator Ferguson, do you wish this matter to be referred to the panel?

Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):

No, thank you, Sir.

Deputy R.G. Le Hérisier:

Could I move the adjournment?

The Bailiff:

What we could do... we still have a few minutes. If everyone is agreed we can take the first 2 Regulations where there do not appear to be any contentions and then perhaps adjourn when we come to Regulation 3 where the Deputy has an amendment. If Members agree I will ask the Chief Minister to propose Regulations 1 and 2.

8.2 Senator T.A. Le Sueur:

I think these 2 Regulations are perfectly simple. Regulation 1 simply refers to the law itself and Regulation 2 defines what “member” refers to. I cannot see they being contentious, but if there are any questions I will try to answer them. I propose Regulations 1 and 2.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on either of those 2 Regulations?

8.2.1 The Deputy of St. Martin:

Just to make clear what Members are voting for because as I see it the interpretation one is quite simple. I do not have a problem with that. Article 2, again, I just seek assurance because I think Article 2, which refers to Article 5, and if Members would look at page 8 I would like clarification really what Article 5 is because I thought Article 5 would be number 5 on page 8, which would mean that if a vote is tied it would be taken as lost because that is what the States voted for on 18th November, so I am a little unclear and if I am unclear, are Members as well.

The Bailiff:

That is Article 5 of the Law, and that is dealt with in Regulation 3. So it is not as you are thinking, Deputy. Do you understand? The reference is to Article 5, in other words, it is the people who are appointed under Regulation 3.

The Deputy of St. Martin:

I thought Article 5 would really become the substance of the debate of my amendment.

The Bailiff:

It will be, Deputy. In other words, what Regulation 2 says is there is a definition of “member” and that means whoever is appointed under Article 5, in whatever form it is adopted by the States. Now if it is adopted by the Chief Minister’s form it will be that way, if your amendment is successful it will be your way. Very well. Does any other Member wish to speak on Regulations 1 or 2? Are

you asking for the appel in relation to Regulations 1 and 2? Have you taken together Regulations 1 and 2? The appel is called for then in relation to Regulations 1 and 2. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 41		CONTRE: 3		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy S. Pitman (H)		
Senator P.F. Routier		Deputy M. Tadier (B)		
Senator P.F.C. Ozouf		Deputy T.M. Pitman (H)		
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

I think the adjournment was proposed before we come then to the substantive debate on Regulation 3.

[12:45]

LUNCHEON ADJOURNMENT PROPOSED

LUNCHEON ADJOURNMENT

[14:17]

Deputy P.V.F. Le Claire:

I wonder if I might before this States reconvene ask with your permission to hand to the Chairman of Privileges and Procedures Committee a bronze of François Scornet that I was given today. I think it would be more appropriate if it was in the possession of the States for display than within my own dwelling, and I would like to do that if I could.

The Bailiff:

I am sure the Chairman of P.P.C. will be grateful for that. **[Approbation]**

Deputy P.V.F. Le Claire:

It was courtesy of the Minister for Planning and Environment, but thank you.

PUBLIC BUSINESS - resumption

The Bailiff:

We return to the debate upon Projet 22 and we come now to Regulation 3 where there is an amendment, so would you like to propose Regulation 3 please, Senator?

8.3 Senator T.A. Le Sueur:

Regulation 3 deals with the composition of the board. At present the law says that the board will be the Chief Minister or a member of the Council of Ministers and not less than 2 other members of the Council of Ministers. At the present moment only Ministers can be members of the States Employment Board. The amendment which I am proposing reflects the decision of the States last November whereby the chairman still remains the Chief Minister, or his nominee, the 2 Executive members can now be either Ministers or Assistant Ministers, so that widens the scope of choice from just 9 other Ministers to Ministers and Assistant Ministers, and 2 other Members of the States who are neither a Minister nor an Assistant Minister so, so far, I think we are all at one accord. Where I go on in part 2 it is suggested those 2 Members who are not Ministers or Assistant Ministers should be appointed by the States, which is fine, on the recommendation of the Chief Minister to be a member of the board. I explained this morning why I felt it was better for the nominations to come from the recommendation of the Chief Minister, and that was in the interests of getting a balance on the board and to ensure that Members have a chance to think before they vote as to who would be constitute the States Employment Board. It is a matter where clearly there is a difference of views, meanwhile I propose the Article as it stands, Article 3.

The Bailiff:

Is that seconded? **[Seconded]** So Regulation 3 is proposed.

8.4 Draft Employment of States of Jersey Employees (Amendment No. 5) (Jersey) Regulations 201- (P.22/2010): Regulation 3 amendment (P.22/2010 Amd.)

The Bailiff:

There is an amendment to Regulation 3 lodged by the Deputy of St. Martin so I will ask the Greffier to read that amendment.

The Deputy Greffier of the States:

On page 8, Regulation 3, in the substituted Article 5(1)(c)(ii) for the words “appointed by the States, on the recommendation of the Chief Minister”, substitute the words “elected by the States”.

8.4.1 The Deputy of St. Martin:

I think it might be helpful to Members to have a little overview of what happened. On 18th November the House debated P.175. What I was asking the States to do was to change the composition of the States Employment Board. There were 2 main reasons: (1) Deputy Southern had brought a vote of no confidence against the S.E.B. (States Employment Board) and I made it clear during the debate while I could support some of the issues he had there I could not support it as it was because all we were going to do was vote it out without having a replacement, and I said I would come back to the States with a proposition. The other reason really for bringing Members attention to it was the tremendous amount of work that needed doing about the suspension issue, which clearly again was a situation which I felt the States Employment Board had done very little and, as a result of the proposition I brought forward to the House, and were accepted by the House, I think we are in a much healthier position as far as suspensions goes. So I came to the House with a proposition asking that the new S.E.B. should comprise of 2 Executives, that is the Chief Minister and one other nominated by him, and also 2 non Executives who were elected from the floor, very important. Now, just prior to the debate, as it seems to be usual, the Chief Minister brought in a late amendment and he agreed in principle that we could have 2 non elected Members, so we are halfway there. But he wanted 3 Executive members plus 2 non Executive members but the 2 non Executives had to be nominated by him. Now at the start of the debate - and I have got Hansard here - the Minister had a ... possibly because we had a little chat over the lunchtime period and he decided he would seek approval to amend his amendment on the floor, so to speak, and he was successful and what we had was that the Chief Minister said: "Well, I would like to have 3 members of the Executive plus 2 elected from the floor" so in other words, it was a compromise. We were going to have 3 Ministers plus 2 elected, which was what I was wanting. That then went for the debate and as a result of the vote, one could almost read it before you started, but the amendment was carried by the usual 28 votes to 17. So what the States voted for was that there would be 3 Ministers, 2 non-Ministers elected from the floor. That is what the majority wanted: 28 to 17. Then it was put back to the House to propose on the amended form and that was carried by 41 votes to 4. In actual fact I supported the Chief Minister. While I would rather have had 2 and 2, I went along with 3 Ministers, 2 non-Ministers elected from the floor. So 41 Members, including the Chief Minister, including myself, we have all voted for what we should be having today, and that was the point earlier on when I said we have not had a rescindment from the decision this House and 41 of us voted for. Not that I did not trust the Minister but in the interests of efficiency I did keep a close eye on the movement and the briefing notes that went towards the Law Draftsman and, in fact, I had asked questions during the interim period about how soon would the documents or the proposition come back to the States. I know that certainly the brief was submitted to the Law Draftsman on 1st December 2009, the Chief Minister told me in answer to a question without notice, and the brief that went to the Law Draftsman was as the States had agreed, 3 Ministers, 2 non-Ministers elected from the floor. Now, that was drafted and I have got the minutes here of the States Employment Board, and the States Employment Board met on 22nd January 2010 and they looked at the drafted amendment which the House had agreed. It is interesting there that the States Employment Board is made up of Senator Le Sueur, Senator Ozouf - who was not in the Chamber during the course of the debate, he was out of the Island on States business - Senator Le Main, who was not present for the debate, and did not vote, and the Connétable of St. Brelade. The minutes say that they discussed it and they realised of course it was as indeed the States had agreed for it. However, it says ... I would assume that one of the Members may well have queried it because he was not in the Chamber but it was asked that it should go back to the Greffier to check whether in actual fact the States did agree that there should be 3 to 2 elected from the floor. One can only assume that having consulted with the Greffier, the Greffier would have confirmed that was the decision of the States. However, the minutes do not record this, but it would appear that someone from the S.E.B., it may have been the Chief Minister or one of the members of his board had asked for the Law Draftsman to amend the decision of the States and come back to the States with a proposition that said 3 plus 2 nominated by the Minister, exactly what the Minister wanted before he sought permission of the House to amend his amendment. So eventually that comes back to the

S.E.B. in its drafted form and I have got it again here. It says: "The board, having acknowledged the pressing need to clarify the role and the responsibilities of the Executive in relation to employment matters concluded they should refer the matter to the Council of Ministers." So then we have the Council of Ministers producing their comments which all Members will have received over the weekend. The comments are that it is going back to what it originally wanted: 3 Ministers, 2 non-Ministers nominated by the Minister. In the comments, the Chief Minister comments to the effect that it is very important to have people who are on the board who are accountable. Yet, at the same time, the Chief Minister was quite happy to have 2 Members from the floor to be on the panel. He says: "None of whom will have executive responsibility." Well, of course, we all have executive responsibility. If we are on the States Employment Board, we are all elected Members. Yet, here we have the Minister saying, an example, of course, a good example, that P.A.C. (Public Accounts Committee) has Members who are elected and they have non-Members who are elected. It also says that it will only be quorate when there are sufficient numbers of elected Members. Well, again, I would submit that, as far as the States are concerned, we are all elected Members, whether you are nominated or elected. So my amendment is asking the 41 of us who voted for 3 Members of the Ministerial, 2 non-Executive elected. All I am asking is for Members who made that decision way back in November to stick with it because what we have now is the Chief Minister coming to the House, asking us to approve something which he himself asked to be amended. My concern really is about the 2 nominated by the Minister. If the S.E.B. is going to have any credibility, it would only be credible if Members are elected from the floor, not nominated by the Minister. I would say that in fact there is nothing wrong with a Minister proposing 2 people and they will be elected from the floor.

[14:30]

It may well be said if they are proposed by the Chief Minister they will have probably a better chance of getting elected because they are the Chief Minister's nominees, but at least at the same time it will allow for Members on the floor to be elected and have that credibility. In actual fact, I did make it known to the Chief Minister that I would not stand for a position on the S.E.B. unless I could be elected. If the Chief Minister wished to propose me, I would be no doubt grateful, but at the same time I would not accept a position if I was nominated. So what I am asking Members to do is to go back to the decision we made last November and reject what the Chief Minister is asking for because he did not want it in the first place. He asked for it to be dropped on the day of the debate. We have agreed to the 3-2 elected from the floor, and that is what I am asking for now. I do not think I am going to stray yet, Sir, into the quorum. I will come back to the quorum ...

The Bailiff:

Just on the method of appointment here.

The Deputy of St. Martin:

Yes, Sir. Anyway, I would hope now Members fully understand what I am asking for is to reject what the Chief Minister is asking for and for the House to stand by the decision it made way back in November. If I may propose the amendment, Sir.

Deputy P.V.F. Le Claire:

I will second it, Sir, and I am not speaking but, if I may, I would like to just ask for your ruling, Sir. In this proposition, if I am following this correctly, it seems that there has been a decision of the States which is now facing question. We are having to decide again and yet there has not been an official rescindment. Is this correct, Sir?

The Bailiff:

Because this is legislation, it seems to me it is in order for the Minister to bring it forward, and it is for the Assembly now to decide. Last time it was simply requested in principle. Now this is the

actual legislation which does not always accord to the very letter with what the principle decisions may have been. It is for the Assembly to decide. By reason of the amendment, the Assembly now has the choice of which way to go.

Deputy P.V.F. Le Claire:

Sorry, Sir. It helps because, in the past, I always thought that decisions of the States were decisions of the States. Now I am quite clear that they are not decisions of the States until they are in law; is that correct, Sir?

The Bailiff:

No, a decision of the States is a decision of the States but it is a question of whether it is binding on the legislation. It is not. It is free for the Minister to bring forward such legislation as he wishes. He does that at political risk if he is in fact acting contrary to a wish expressed by the States.

8.4.2 Senator T.A. Le Sueur:

I do not think that we need make particularly heavy weather of this. This is a very straightforward amendment and I understand the views of the Deputy of St. Martin. Indeed, as he rightly says, when this first came to the S.E.B., we simply, in an effort to turn it around as quickly as possible, reflected what the States have decided, but then, looking at it more carefully, the States Employment Board believed that there was a better way of delivering the wish of the States to have a mixture of Executive and non-Executive Members in a way which still preserved the requirement of the States Employment Board to be accountable and to carry out an executive function. So, in effect, what the States Employment Board decided was we should put it back to the States to see whether we could improve upon the decision made by the States in November. It was not to go against that decision of 3-2; it was to see if we can improve upon it. Ultimately, it will be for the States to decide whether the proposal as put forward by myself is an improvement or is a retrograde step. Either way, we get the same end result of 2 non-Executive States Members being appointed to the States Employment Board, and that is really the fundamental point of the issue. So I do not believe it is a great deal-breaker. It is really one for Members to decide whether it is really better for an executive function to be carried out under the control of the Executive or whether we have this balance. The Deputy of St. Martin asks if the States Employment Board can be credible with 2 Members nominated by myself, or the Chief Minister. Clearly, whatever the outcome of this debate, I will nominate 2 Members because I have already asked 2 Members if they would be prepared to stand. It may well be that other Members will get nominated and it will be for the House to decide, at the end of the day, who is best-placed for that job, but I believe it is right that the States should have the chance to decide for themselves whether the procedure which I set out in these Regulations is a better procedure than that which we, last time, did not debate and take a vote on because the amendment, as the Deputy of St. Martin said, was withdrawn. If we had proceeded with that debate at the time, we would have got a result and we would not have had this debate today. We are having it today instead of then, and we will have to wait and see what the outcome is. As far as I am concerned, the important thing is that we do move forward, we do appoint these 2 non-Executive Members of the States to the States Employment Board and we go forward rather than stay where we are. So I do not believe that we have amended the States decision. I believe what we have tried to do is to improve upon the existing decision and it is on that basis that I maintain my Article 3 and why I now oppose the amendment.

Deputy M.R. Higgins:

Can I seek a point of clarification? Members of the public believe that the States collectively is the Executive who make the decisions in this Island. Now, we have Ministers, and people talk about Back-Benchers, but I thought all Members were equal and determined policy for the Island. Therefore, the Chief Minister is talking about the Executive meaning Ministers and then talking

about the rest of us. I would like clarification. Are we collectively the Executive in this Island deciding what is going on in the Island or not?

The Bailiff:

I am sorry, Deputy, I think that is not necessarily for the purpose of this debate at all. The simple issue before the Assembly is whether Regulation 3 should be passed in the form by the Chief Minister or the form by the Deputy of St. Martin. Now, Senator Breckon?

8.4.3 Senator A. Breckon:

For my mind, there are 2 good reasons for supporting the amendment, and one is, as the Deputy of St. Martin pointed out, on 18th November 2009 the States agreed to do this, and the second one is now the inclusion of Assistant Ministers. Ministers are elected by this House and if they do something in this role or somewhere else, then there is a mechanism to get rid of them. For Assistant Ministers there is no such function and they are part of the Executive, if you like, by invitation. They have not been elected by this House. They have been invited by somebody else to be Assistant Ministers, without the approval of this House, and they are now included. So, in theory, you could have one Minister of whatever and you could have 2 Assistant Ministers with no authority from this House whatsoever and 2 nominees from the Chief Minister. For me, that is not a satisfactory situation. I do not think that is being disrespectful to Assistant Ministers, and it was something we started doing in the scrutiny process, asking what Assistant Ministers do, and the answer is there is no answer **[Laughter]** because there is no defined role and different Ministers either include them or exclude them or send them away to do something or whatever it may be, but for me it is not satisfactory that Assistant Ministers have been slipped in here under the radar without any approval from this House. If that extends to the other bit, then I think we should support the amendment of the Deputy of St. Martin, and that is my reason for doing so. Thank you.

8.4.4 Deputy G.P. Southern:

The Chief Minister used 2 words which are remarkably common in his speech. One was “accountability” and the other one was “control”, as in the phrase “under the control of the Executive”. Those 2 words caught my attention because, fundamentally, they come down to who is the employer. The employer, we are told, is the States Employment Board, a body corporate as the Chief Minister was careful to outline, and accountable to whom? Accountable to the Chief Minister. Who is the Chief Minister accountable to? Accountable to the electorate out there through this body. Who employs public sector workers? Who employs public service workers in this Island? We do. Ultimately, the accountability comes back to us. If proof is needed that that is still what happens, let us have a look at the decision of the States Employment Board endorsed by the Council of Ministers to impose a unilateral pay freeze earlier in the year. That decision, despite going through the Council of Ministers, came back to this House, recognising our authority and the accountability to this House. The Minister, in making his case earlier, talked about having members of S.E.B. accountable to him. Later on, he said “under the control of the Executive” but certainly accountable to him. I immediately thought of a discussion we had perhaps not a month ago about collective responsibility. Is any Assistant Minister, is any Minister bound to the Chief Minister by any form of strong accountability whatsoever or responsibility whatsoever? No, they are not, and at the time the discussion with the Chief Minister rolled around the possibility of do we need collective responsibility. Now, had we had collective responsibility, the Chief Minister would have been making a perfectly valid case: “I want to be able to control the States Employment Board and they are accountable to me by this mechanism of collective responsibility. Therefore, my control of S.E.B. is enhanced.” In fact, that is not the case. There is no more control in nominating or electing Assistant Ministers or ordinary Members of the States given to the Chief Minister by either of those mechanisms. What is important is to reassert the control and the accountability that this Chamber has in terms of its employment policies which it puts into place through S.E.B. and the Chief Minister but ultimately accountable to us. Had we wished 6 months ago - if it was that

long - we could indeed have said to S.E.B: “No, we do not want you to adopt that policy. We say no, that is not the right policy. Go back and renegotiate.” We chose not to, but neither here nor there. The control, the authority, was ours. Every time, and it happens time and time again, Ministers and the Council of Ministers come back to ask this House for more control to be given to the Executive. This House at all times must beware of those requests to give over more of its accountability, more of its authority to the control of Ministers. Ministers have plenty enough control as it is under our new system and I urge Members to be very careful before we hand further authority and further control over to the Council of Ministers and abandon what I believe is our duty to be the body to whom the Chief Minister and S.E.B. are accountable.

8.4.5 The Deputy of St. John:

I have got real concerns with the comments that were made by the Chief Minister. Real concerns. Thank goodness that our eagle-eyed Deputy of St. Martin has picked this up because it quite easily could have gone through unnoticed. I was grateful for Senator Breckon’s comments about the appointment of our Assistant Ministers, where they stand within the Chamber. Members need to be reminded, with time, as time goes by, it slips away from the back of your mind knowing that these people in the Executive in fact were not appointed by this Chamber as such, but what really worries me - and it does worry me - is the way the Chief Minister spoke because he looks as if he wants to... and I hope I am not slighting him, become a control freak because that is what is coming across.

[14:45]

I apologise if you have taken it the wrong way, Chief Minister, but that is what seems to be happening and I think it is wrong that you want this amount of control when this House, at the end of last year, agreed on a way forward, and some way must be found that ... the House agreed the way forward and that needs to be transcribed into the law, not have an amendment or have it brought back in this fashion that it is basically what is required or what you would like to have, because I presume, now that you have chosen your 2 candidates and asked them ...

The Bailiff:

Now the Chief Minister has.

The Deputy of St. John:

Now the Chief Minister has chosen his candidates and asked them to take up this position, that throws a slight on the likes of myself who might have wanted to sit on the board because, by doing what the Chief Minister has done, it has sent a message around that there is a “them and us” within the Chamber. I think that is totally wrong. Totally wrong. After the way the Chief Minister spoke, no way could I support him. I think it is a slight on quite a number of Members. Thank you.

8.4.6 Deputy P.V.F. Le Claire:

I am going to say something that is probably going to upset the Chief Minister and some of his colleagues, but I do not suppose that is going to make any difference to the way they will pay attention to this speech anyway. It is really about a subtle difference but an important influence and, despite having agreed recently in the States Strategic Plan that we would have a government that was more open and more inclusive of society, we have done pretty much the exact opposite, led by this current Council of Ministers, and unfortunately I have to put that blame upon the Chief Minister, not as an individual but as the Chief Minister; as a person, I have no problem, but as the head of the Council, he must bear the responsibility here. We saw it recently in some written questions I put to 5 Ministers on the details of their departments to help understand the Comprehensive Spending Review, and ironically, rather than answering my questions which was criticised in the *J.E.P.* by one of the readers as being downright ridiculous, which I also thought it was, if you look at the answers that they gave me, they are word for word. The 5 Ministers gave

me answers that were practically word for word. There are whole sections which are exactly verbatim, word for word. The parts I refer to in particular are the bits where I did not attend the Comprehensive Spending Review. Point of information, the Deputy Chief Officer and his assistant came to the Environment Scrutiny Panel and gave us a very lengthy presentation on the Comprehensive Spending Review which I did participate in trying to assist in. Also, it points out, and this is one of exactly the same words on 5 pages: “Far from attempting to help and assist the Comprehensive Spending Review, answering such questions would involve a vast amount of additional time consuming” blah, blah, blah. How did 5 Ministers, with all of their officers, come to the same conclusions with exactly the same words if they are operating without collective responsibility? A week later, we saw in the paper: “Attending Scrutiny, the Chief Minister wishes to have collective responsibility.” Now, it may be that in order for the Council of Ministers to continue to work into the future that they need collective responsibility because I understand they are having difficulties with one of their Ministers, one of the Ministers in particular who they did not choose, ironically, at the outset of government. Surprise, surprise. My goodness me. So the one they did not choose is giving them difficulties **[Laughter]**. I could go on but why bother?

8.4.7 Deputy C.H. Egré of St. Peter:

When is an amendment not an amendment? I am referring to the Chief Minister’s proposition. I know that I firmly believed, after the debate that we had at the end of last year, exactly where this should be going. Sadly, with this amendment in the main proposition, I find that is not the case. I have just almost finished completing a review on States efficiency and that encompasses a huge area of the way the States operates. While carrying out that review, it was very obvious that very many people were concerned about certain divisions that were occurring in this Assembly. When we debated this particular area of interest at the end of last year, it was very clear that this Assembly wished to have a balanced group of people sitting on the States Employment Board. To achieve that, they wanted the facility to elect people from the floor of this Chamber. Now, despite all the concerns that people have about the way this Assembly operates, I still have faith in the democratic ability of this Chamber to come to sensible decisions. The Chief Minister himself, when he was proposing this particular area, said he did not regard this as a deal-breaker. I do not regard this as a deal-breaker either. I think it is very important that we should have the facility to elect people to sit on this particular board. It will not make any major difference to the constitution of that board, as the Chief Minister has said, but it will give a perception that we as a body in this Assembly have some influence in what happens within that board. As the Chief Minister himself has said, he is in a position to nominate people for that role and we, as States Members, are in a position to either accept those nominations or propose somebody else from the floor. I regard that as a very democratic way forward in setting a balance in this Assembly. I would ask the Chief Minister to consider now accepting this non-deal-breaker amendment so we can move forward. **[Approbation]**

The Bailiff:

Does any other Member wish to speak on the amendment? The Deputy of St. Mary.

8.4.8 The Deputy of St. Mary:

Just briefly, a few points. They are slightly at a tangent from things that other people have said. The President pointed out that there was a political risk in bringing forward something against the wishes of the States, and other people have alluded to this. I will just quote the Chief Minister. He said: “We have found”, or the Council of Ministers or some similar subject: “a better way of delivering the wish of the States.” A better way of delivering the wish of the States, but the original debated was nuanced and even resulted in the Chief Minister himself bringing an amendment which is now the subject of a change brought by the Chief Minister himself. It is really quite extraordinary. At the time, the States were quite clear what the issue was. It was balance. It was how to ensure that there were different views reflected on the S.E.B., the States Employment

Board, and the States approved the amendment which the Chief Minister brought forward on the floor of the House. If Ministers can simply abolish the wish of the States when they feel like it, then what is the point of us sitting here, apart from, of course, the Ministers and Assistant Ministers? So why do they not just sit here on their own? A question, I suppose, I think ... I am not quite sure who **[Laughter]** ... **[Interruption]** ... and what the proposition is, but if the Chief Minister was to speak again, I would like him to explain why he brought that amendment in the first place. There is an additional point. The Chief Minister has said twice or maybe 3 times that the reason that he would wish to nominate Members for the S.E.B. is that Members need time to think. Well, this is complete nonsense because we would have time to think if the nominations came from other quarters, came from Members of the States. The final point is, of course, that the 2 people being nominated by States Members or the Chief Minister makes no difference to the control of the Executive which he rightly seeks to have on the States Employment Board. He is ultimately responsible. He would get the writs or whatever. He is liable. So he does need that ultimate voting control but he has that anyway, so that is completely irrelevant to this amendment. So I do urge Members, I really do not see what the problem is and I hope that we go with the Deputy of St. Martin.

8.4.9 Senator T.A. Le Sueur:

I think maybe to short-circuit this debate, I have listened to what the Deputy of St. Peter said, that this is not a deal-breaker. On that basis, I am prepared to accept the views that I have heard so far **[Approbation]** and accept the amendment of the Deputy of St. Martin. I think I can save us spending any further time on this particular matter.

The Bailiff:

Very well. Does any other Member wish to speak on the amendment? The Constable of St. Brelade.

8.4.10 Connétable M.K. Jackson of St. Brelade:

Briefly, as a member of the States Employment Board, I think it is important to make a small contribution. Since I have been a member, I am quite surprised how little interest has been taken by Members in the S.E.B., apart from the Deputy of St. Martin, with regard to suspensions which I think have been largely dictated by police investigations and I am pleased that his contribution has ensured that those have been much reduced. I am particularly concerned that interest is only stimulated when there is political capital to be gained and I would just ask Members to take on board that I consider it important that politics be removed as far as possible from the activities of the S.E.B. in that we are dealing with people's jobs, their incomes and their pensions, and members of S.E.B. act on professional advice and make up their own minds accordingly. That is just the simple point I would like Members to consider and it is, I think, a very sensitive position and I think consistency is something we ought to maintain. Thank you.

8.4.11 Deputy M. Tadier:

I just wanted to make an observation that we are in the middle of an efficiency review - I think it is just coming to an end - which has been led by the Deputy of St. Peter. I simply want to ask the Chief Minister does he not take tactical advice on which amendments he should or should not accept. It seems fairly obvious and this has happened several times in recent times certainly, as far as I can remember, where there have been amendments which do not really matter either way which even the Chief Minister has just told us this morning or this afternoon and it just simply served to waste about an hour or 2 hours of Assembly's time before he caves-in. So I would simply ask what are the Chief Minister's advisers doing and is this an area where efficiency could be made in States time?

The Bailiff:

Does any other Member wish to speak? Senator Ozouf.

8.4.12 Senator P.F.C. Ozouf:

Very briefly, I accept the Chief Minister has accepted this amendment and I have to say to Deputy Tadier, if I may, that it is right that these issues are ventilated within the Assembly and that there are opportunities for Members of different views to express those views. I want, if I may, to echo the views of the fellow member of S.E.B., the Constable of St. Brelade, and I am, like him, a new member of S.E.B. I have not been on the S.E.B. until this Assembly. I also am concerned about the politicisation of employee relations and I was almost confirmed in those views by a very important discussion that I held with one senior union representative. I will not name them, but one senior union representative who was also concerned about the politicisation of employee relations. Members may criticise, but that is at the heart of the reason why the S.E.B. has been very concerned about the consequences - perhaps the unintended consequences - of the Deputy of St. Martin, and why we attempted to avoid a situation where the S.E.B. was becoming politicised. I accept the Chief Minister's acceptance of this. I also fully accept that this Assembly is sensible in the way that it makes decisions and if the Assembly as a whole wants to vote members of the S.E.B., the real problem is the next issue, but I think the politicisation of our employee relations - and we should be listening to our staff and union representatives on this - is not something that we should say does not exist as a real problem.

The Bailiff:

Does any other Member wish to speak on the amendment? I call upon the Deputy of St. Martin to reply.

8.4.13 The Deputy of St. Martin:

I thank all those who spoke, in particular the Deputy of St. Peter. Very wise words. I am very grateful for them. I hope the Chief Minister and indeed Senator Ozouf will not be put off by the possibility that someone even like myself may be elected to the S.E.B. The wisdom does not lie in just Members of the Executive. There are one or 2 wise owls outside it.

[15:00]

Also, to Senator Ozouf, I am concerned; I agree with the Minister about the politicisation of employee relations but I can only say this has been a fault of the S.E.B. itself and one only has to look at the list that I got here on 9th March 2010 when I asked for a breakdown of the number of States employees who were suspended and the hardship and the misery that they were suffering because they were being suspended almost at a drop of a hat. I am not going to go back too far, but again I am grateful to the Connétable of St. Lawrence who started the ball rolling by asking these questions 2 or 3 years ago, but in 2006 we had 13 people suspended; 2007, 17 people suspended; 2008, 29 people suspended. What was the S.E.B. doing? It only became politicised when someone like myself and one or 2 other Members who supported me made it a political issue because, in 2009, bearing in mind my proposition came to the House about June time last year, there were 13 in 2009, but since August 2009, Members, I will tell you now, no one is suspended apart from the 3 who were suspended prior to August. So, in actual fact, the wisdom is not all with the S.E.B. It does lie with this House because this House has supported propositions put forward by Members. So again I am grateful to the Chief Minister for accepting the amendment. It was possibly a waste of time but nevertheless sometimes good to talk, and I think what is important today is the House is the master of itself, and I think that is the important thing. I would ask for the appel, Sir.

The Bailiff:

The appel is called for then in relation to the amendment of Deputy of St. Martin to regulation 3. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 39		CONTRE: 1		ABSTAIN: 3
Senator P.F. Routier		Senator T.J. Le Main		Senator T.A. Le Sueur

Senator B.E. Shenton				Senator P.F.C. Ozouf
Senator J.L. Perchard				Connétable of St. Brelade
Senator A. Breckon				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

Very well. Then we return to Regulation 3 as amended. Does any Member wish to speak on Regulation 3 as amended? All those in favour of adopting Regulation 3 as amended kindly show? Those against? Regulation 3 as amended is adopted.

The Bailiff:

We then come to Regulation 4, Chief Minister.

8.5 Senator T.A. Le Sueur (The Chief Minister):

Yes, I said in my introductory remarks this morning that this is really the one which gives me the more concern of the 2 amendments, but I think in explaining Regulation 4 I go back on the decision we made last November when we accepted the amendment to have a majority on the Employment Board, comprising of Ministers or Assistant Ministers, 3 of those against 2 non-Ministers or Assistant Ministers. That principle enabled the States Employment Board to maintain this position of accountability - to use that word again - to ensure that the policy decisions remained where they

should be. In looking at the issue of a quorum, it is quite clear that that principle should also be adopted and applied in respect of the actual meetings of that Employment Board. Just as there should be a majority of Members on the board who are Ministers or Assistant Ministers, so the majority of Members present at a meeting should be at least equal in number. There should be at least as many from the Ministerial benches as there are from the States Members. So I see this Regulation - Regulation 4 - as being simply an extension of the principle that we adopted some 6 months ago now and not in any way suggesting that those who are on the board who are not Ministers are incapable of making decisions, or would inevitably make the wrong decisions, but simply to extend the general principle that the majority ownership of the States Employment Board should remain with Ministers and Assistant Ministers. So I propose Regulation 4.

The Bailiff:

Is Regulation 4 seconded? **[Seconded]**

8.6 Draft Employment of States of Jersey Employees (Amendment No. 5) (Jersey) Regulations 201- (P.22/2010): Regulation 4 amendment (P.22/2010 Amd.)

The Bailiff:

Then there is an amendment to Regulation 4 lodged by the Deputy of St. Martin. I will ask the Greffier to read the amendment.

The Assistant Greffier of the States:

On page 8, Regulation 4(a): in the substituted Article 6(1)(b), delete the words “including at least 2 who are members under Article 5(1)(a) or (b).”

8.6.1 The Deputy of St. Martin:

This is again quite a simple one, but I will remind the Chief Minister that we did not debate this in the House last November because it was not on the board at all. What has resulted, I see, as it has now been agreed that there will be 5 members on the S.E.B., quite clearly if you have 5 a quorum will be 3. I think it was taken as read it would be 3. It was quite a surprise to me, apart from having the initial surprise about the U-turn on the nominated people, to see that the Minister was now asking - again, using the words of the Deputy of St. John and not hoping to be unkind to the Chief Minister about the control freak - but it looks as though we have got control again. Where is the trust for the Members? If they are going to go in to be a member of the S.E.B. and say: “Well, you are only there to make up the number because really you are not effective unless we have at least 2 Ministers a part of that 3.” I think that is being discourteous to the Members of this House who are going to be elected on to the S.E.B. Where is the trust from the Chief Minister and the S.E.B. upon us who are going to elect those 2 Members? I think that I am rather sad to see that this is here. Really, what we should be having is quite clearly if a quorum is 3, it is 3, or it is quorate when there are 3 members there; not whether there are only 2 or there are 2 of the Executive. So, in other words, we could have 2 non-members or 2 non-Executive members on the board with one member ... one of the Executives there and you could not go to the meeting even though you are quorate. I would again remind the Minister, because I did mention it earlier, about P.A.C. and I think Senator Shenton may like to support what I am saying; not having to support the vote, but support the principle of what I am saying, because I understand P.A.C. can only be quorate when there are elected members on there because those who are ... the other members of the P.A.C. are not elected. But I remind Members there is a difference because we are all Members of the House elected to the S.E.B. So I do not think the example that the Chief Minister is giving is really valid. So it is quite simple: all I am asking for is that if indeed there are 3 members there, irrespective of whether they are non-Executive, then it should be quorate. So it is quite simple. I ask Members to support what I am asking for. It will be quorate irrespective of the numbers ... well, the numbers will be 3, but irrespective whether they are Executive or non-Executive. I make the amendment.

The Bailiff:

Is the amendment seconded? **[Seconded]** Does any Member wish to speak on the amendment?

8.6.2 The Deputy of St. John:

I was surprised that the Chief Minister abstained in the previous amendment given that he told us that he would accept it. So he is accepting it with a heavy heart, I presume. That or he is speaking with a false tongue. Honestly, I am concerned that the Chief Minister will accept something and then he abstains from voting. He is sending out a message that: "It is okay, I will take it" but it is all heavy-hearted stuff and I do not like that. In this one, this is yet again pettiness and I sincerely hope that the Minister will accept this one knowing that Members on the floor, we are all elected from the people of Jersey. We have all got our heart in the right place. Some of us might be left, some might be right, some might be centre, some might be just off centre, left or right **[Laughter]** but at the end of the day we are all trying to do what is right for Jersey in this Chamber and we are representing our various constituents. Chief Minister, please let us have no pettiness on this one. Please take it that we are all here to do what is right for Jersey. I ask him, I ask the Chief Minister, to accept this amendment.

8.6.3 Deputy P.V.F. Le Claire:

I support the amendment put by the Deputy of St. Martin and congratulate him for keeping an eye on these matters. I also do agree that these issues should not be politicised, but nevertheless they become political when the States workers are forced with situations where they are looking at strike action, *et cetera*, and it inevitably does become politicised. Now, on this particular amendment, not changing that thought - I do believe it should not become politicised - this is not a political contribution in this instance; it is just I would like to seek clarification. This casting vote issue that has been around for a number of years where the Chief Minister has had the ability to have a quorum, let them kick it around a bit for a while, you take the 3 options that the officers give you: one terrible, one worse and then the one they want. Normally the debate occurs and then there is a deciding line as to who is going to support what. You get to those positions where the vote is taken and then in the past the Chief Minister has been able to use a casting vote. Now, in the wording of this it says: "Where the vote is tied it shall be deemed that the vote is lost." I just wonder how this Article will be affected by the change of the Deputy of St. Martin? Because does that mean the Chief Minister can use his casting vote to tie the decision? **[Aside]** Not with 3? So he has a vote, 2 others have a vote, and does he have a casting vote? No.

The Deputy of St. Martin:

Could I clarify the situation? Members may recall - maybe not Deputy Le Claire - I did bring a proposition to the States asking that the tied vote be done away with. In fact, I am pleased to say that States Members did support that, so there will no longer be a casting vote on a tied vote; if the proposition is on a tie it is not carried. So the tied vote no longer exists.

8.6.4 Deputy G.P. Southern:

There are 2 basic rules if you want to subvert what appears to be an apparently democratic process. The first is you set up a Committee of Inquiry and you set the terms of reference. If you set the terms of reference right, you would know before you start out what answer you are going to get. The other way, quite simply, is to fix the quorum, fix the vote. So play with the quorum numbers to get the result you want. Well spotted by the Deputy of St. Martin. He has been around a lot longer even than me and knows about these tricks and how to get where you want to get. So well spotted and the amendment is absolutely valid in terms of getting democratic process clear, visible and open.

8.6.5 Deputy J.A. Martin:

I am concerned about this. I exactly see where the Deputy is coming from, especially on the last vote the Chief Minister conceded that maybe they have gone a bit too far. So we will be electing the extra 2 members from the floor of this House. Obviously the whispers will go around the

whispering gallery and I am sure the board will have exactly who the Chief Minister decided they wanted on it. But I would like to answer the point from an Assistant Minister who has no mandate from this House. I was kindly asked by the last 2 Ministers for Health and Social Services to serve with them, but I do not know how anybody else feels in this House about it because it was never put to a vote. But these 2 people will be, but if you do not accept the amendment you are saying: “Well, they are equal, but not as equal in the round of things because they cannot make a decision.” Now, we have been told we are going to take the politics out of S.E.B. Well, sometimes politics will be in S.E.B., but I am sure that 2 people ... and it will be a lot of work. I can assure you for now I will not be putting my name forward for it. I think it is a lot of work and there are lots of laws to learn and there is lots of negotiating to be done. It really needs a full commitment. I would be one very sick Assistant Minister or elected person from this Chamber if I got to a meeting and old Joe Bloggs, Minister for X has not turned up and I am sent away again. I have done all my work, I have put my time aside in the diary, and I am not good enough to participate in the quorum of 3. Very sorry, this one again is another push too far.

[15:15]

People wonder why there is “them and us” or “them and us and in between”, because there is always this little push. I am really, really impressed with the Deputy of St. Martin. I had to read the first amendment 3 times before I could even see the difference because I really could not understand it. But when it hit you in the face it was only a few words, but very, very big words and this is even worse. Do not elect someone from this House you do not trust to sit on a board and participate, give time to, and then they cannot ... with 2 arms tied behind their back because somebody from the Executive, or unelected, like myself, an Assistant Minister dares to turn up to a meeting, an elected Member from this House on the board has not got any vote under this quorum. Absolutely ridiculous. I hope the Chief Minister can see the error of his ways like he did last time because I do not really want this debate to go on. Thank you.

8.6.6 Deputy M. Tadier:

First of all, I would like to congratulate the Deputy of St. John on calling the Chief Minister a liar and getting away with it [**Members: Oh!**] if indeed that is what the meaning of speaking with a ...

The Bailiff:

I did not hear him say that and it is unacceptable to call any other Member of this Assembly a liar.

Deputy M. Tadier:

Indeed and I certainly would not do that, although it did make me laugh. I wonder if speaking with a false tongue is something like wearing a false nose, but maybe the Deputy can tell me after. But I completely agree with what has been said. When Members of the S.E.B. are elected to the board they are done so by the majority of the Assembly. It is us here who elect the members of the S.E.B. and it is done so on a majority of the Assembly and therefore it is also done with the consent of the Assembly. So at this point, certainly in my eyes and I would hope in the eyes of all Members, everybody who is appointed to that board is equal and it is done so with the blessing of the majority of the House. There are already some of us in the Assembly who are not happy with the balance. Many of us would have preferred it to be 2 and 2. The Chief Minister was successful in getting the 3 Ministers and 2 non-Ministers on there and that is something we all have to deal with. So there is already a question of balance, but we are not re-debating that today; there is nothing we can do about this. So I think this really does go a step too far. But simply, on a practical level, I am sure anybody who has been on a committee - certainly on small committees - they know it is fairly difficult sometimes to get a meeting together with all of our heavy workloads. I think if we are going to put on excessive preconditions as to what a quorum can be, simply in practical terms it is not going to be good for getting meetings together, sometimes at very short notice. Certainly, I am sure the Constable of St. Mary will know from P.P.C. if you start to put in conditions for example

on P.P.C. saying that the Minister and the Assistant Minister have to be at every meeting, then I think she would acknowledge that there would be a great difficulty sometimes in getting those meetings together. So I would simply say, if nothing else, on a practical level let us reject this and support the amendment of the Deputy of St. Martin and let us try and move forward here and get a bit of consensus in the House.

8.6.7 Senator P.F.C. Ozouf:

It is sometimes difficult to respond to debates like this as a Minister because it does feel as though one is adding to a tension between Ministers and Scrutiny. At the moment we are hearing a lot of discussions about the formation of a U.K. Government. We are hearing calls and the need across all parties in the U.K. for, so to say, effective government. There is a concern in the U.K. about coalition government. There is a concern about minority government. You do not want a debate about the Executive and the States and the composition of the States, but I cannot help but noting that in our system we have a coalition of independents that is in a minority. In other places this would lead to chaos. This would not work in other places. It would not work because there is a need, as difficult as it is to say, for a separation of duties. In our system it works and we are making it work, but there is at the margin areas where it strays into areas where it will not work. The Deputy of St. Martin spoke earlier about the need for wisdom and he said: "There is wisdom outside the Executive." I think he is absolutely right; we need wisdom in both of the estates, of the composition of this estate, both in terms of the Executive and Scrutiny. We need hardworking people of wisdom, people who work hard in both sides. So I think to simply suggest that this is a debate about wisdom in the Executive is the wrong thing to say. My own view is that it is unwise at the margin to blur the responsibilities of the Executive and the Assembly as a whole. I think that there has been criticism by numerous Members in the past about watering-down Clothier. People pick and choose about the criticism of the watering-down of Clothier. But I would encourage Members to re-read Clothier, to see whether or not there are problems in the implementation of it. At the margin this is blurring the line too far. This is about accountability of Ministers who are, in their discharging of duties on S.E.B., sometimes making quite important - very important - executive decisions. I would say with the greatest of respect to those Members who have said this is about trickery of Ministers, it is not. It is about the appropriate segregation of duties; the appropriate separation. I understand the concern that Members have about S.E.B. There have been some enormously difficult issues that S.E.B. has had to deal with and we need to improve and we are improving. We desperately need to improve and modernise our employee relations. I can see some Members nodding about that. I think the fact that S.E.B. has not perhaps done for all sorts of reasons the things that perhaps it should have done in the past are reason why the Deputy of St. Martin does criticise issues such as suspensions, *et cetera*. Members vote accordingly in order to chastise perhaps the S.E.B. in discharging their duties. I understand the need for improvement. It is going to be fundamental to improve, repair, modernise employee relations. There may well be issues as Deputy Martin raises about the election of Assistant Ministers, but I would respectfully say that that is not an issue for today. This is about setting S.E.B. up appropriately with an appropriate segregation of duties and not, as I said earlier, blurring the lines to the extent which becomes unaccountable and I cannot support the amendment that the Deputy of St. Martin has said for that reason, but that does not in any way be seen as a message of undermining non-Executive members and this Assembly as a whole. It is about the politicisation of employee relations, of which this is a step too far.

Deputy J.A. Martin:

Can I have a clarification from the Minister? He is saying this is not about Assistant Ministers, but it clearly says under (b): "A Minister or Assistant Minister sitting on the board." The Assistant Minister is then only there to carry out the instructions of the Minister or are they there independent in their own right?

Senator P.F.C. Ozouf:

They are effectively Assistant Ministers and we cannot escape the fact that they are, in discharging their Assistant Minister duties, Members of the Executive. How they got there is not an issue for today, but they are there as Assistant Ministers that have been nominated by the Ministers and they are an executive functionary. That, it could be argued, blurs the line in terms of how they got there, but they are performing an executive function and preserves the segregation of duties.

8.6.8 Deputy T.M. Pitman:

Just a few words really; firstly, on the issue of the apparent politicisation of the S.E.B. I take on board what the Minister for Treasury and Resources says; however, he appears to infer that politicisation is somehow linked purely to those of us who would probably by nature support the ordinary working people. I think the Chief Minister and the Minister for Treasury and Resources need to take on board that of at least equal concern and probably far greater is if members of the I.O.D. (Institute of Directors) and Chamber of Commerce - people from the private sector - are listened to far too much with their views on reining-in public sector spending, interfering in places where they have no place, no part to play. The second thought is simply to echo what others have touched on, really, and that is if non-Executive members are to be treated, as it appears, as if they are somehow untrustworthy - and that is what the Chief Minister seems to be proposing to us - then I think all non-Executive members should be both angry and probably decline to even give such a ploy credibility. That must be the conclusion. Again, I think as Deputy Tadier touched on, why do we get these objections to amendments that really make commonsense? If there is not a hidden agenda I see no reason for not accepting what the Deputy of St. Martin puts before us. I certainly will be supporting him.

The Bailiff:

Does any other Member wish to speak? Senator Ferguson.

8.6.9 Senator S.C. Ferguson:

Thank you. I noticed earlier on today Deputy Pitman was talking about sound bites. Perhaps I could take him up on one: no part to play when they pay. The I.O.D., just as much as any other organisation, are entitled to an opinion because, after all, they contribute to the tax revenues of this Island. I think the difficulty with committees, and particularly when we are discussing committees and boards, is that not enough people here have sat on a real board. Now, in business if a meeting comes to a vote then it is a call for resignations all around and let us get back to reselection. Because if a meeting comes to a vote it really means that it is an impasse and the whole thing has fallen down. Usually you carry a meeting by the power of the argument. **[Interruption]** I will ignore the interjections. Now, the other thing is that the Chief Minister is accountable and if you have elected members who do not subscribe to the overall policy should they be able to overturn a policy? How can we then hold the Chief Minister accountable? You know, it is accountability without representation almost. I think people are making too much of this and I can certainly see grounds for the reason for the quorum. I should add perhaps that as far as the P.A.C. goes, the unelected members are not even able to vote so that in this case we are allowing them to vote. I am sorry, I do not agree with the amendment and I shall be voting against it.

8.6.10 Senator J.L. Perchard:

Just very briefly. I am confused. We are told by the Chief Minister that non-Ministerial members of the States Employment Board cannot be held accountable for the decisions of the board and this Assembly cannot hold them accountable. I think, on the face of it that sounds quite reasonable, that the Ministers will be held responsible for the actions of somebody who cannot be held accountable. But then when you drill down and you consider that an Assistant Minister or even a rogue Minister - and I understand there are a few of those **[Laughter]** - cannot be held accountable for the actions of the States Employment Board because there is no collective responsibility in our

government, I think we are talking a nonsense here. Deputy Hill's amendment is perfectly legitimate because not one of the members, other than the Chief Minister who chairs the States Employment Board, can in fact be held accountable because we do not have collective responsibility. Assistant Ministers ... and they do exercise their right of independence - even Ministers do. I suggest that Deputy Hill is not far off the mark here and I urge Members to support him.

The Bailiff:

Does any other Member wish to speak? Deputy of St. Mary.

8.6.11 The Deputy of St. Mary:

I just want briefly to bring to Members attention the practical problem here and I think people have alluded to it, but it was some time ago, which is if the 2 elected members from the floor - the non-Executives - turn up and there is one Minister then the meeting does not happen and then they just go away. Now, we are all very busy and I just see the sheer practical difficulty of making sure that 3 out of the 5 are there and having restrictions on that is just going to create an additional problem. As Senator Perchard said, the differing categories are bewildering and we had a wonderful Alice in Wonderland explanation from the Minister for Treasury and Resources about Ministers and Assistant Ministers and non-Executive people and how they are all different but all the same.

[15:30]

So, really, I think I go with this amendment because of the sheer practical problem; making sure that we get these meetings to happen. Of course, if we do not trust Members elected from this House to the board then good heavens!

8.6.12 Senator T.A. Le Sueur:

I want to make it quite clear; I have absolute faith that anyone who puts their names forward on the States Employment Board will act conscientiously and will, I am sure, do a very good job. I have equal faith that if I nominate someone for that job they will express their views clearly and, at the end of the day, we will come to what I believe will be a well-informed and correct decision. I agree with Senator Ferguson; in most cases that decision will be unanimous because the strength of the argument will be compelling. Senator Perchard made a couple of comments and put words into my mouth, which maybe he did not fully understand, but certainly from the point of view of the States Employment Board the Ministers or Assistant Ministers that serve on that board are nominated by myself, so if they do anything out of line it is my own silly fault for appointing them in the first place, or the Chief Minister's fault for appointing them in the first place. Where there are people appointed to the board over whose appointment I have no control then I am quite happy that they should be there, but the fact is that any decision made by the board which might happen to have been made by a majority of people not appointed by the Chief Minister, it makes it very difficult for the Chief Minister then to stand up and be accountable for decisions over which he had no authority. So while the board clearly has responsibility as a body corporate, I want to make it quite clear that this particular amendment, as far as the quorum is concerned, to me goes against the general principle of ensuring that we have that accountability - which we have spoken about - and that therefore just as there are 3 Ministers or Assistant Ministers against 2 non-Ministers, so that should be reflected in the quorum. It strikes me as being no more than a simple extension of the general policy we adopted last November.

The Bailiff:

Does any other Member wish to speak on the amendment? Very well, I call upon the Deputy of St. Martin to reply.

8.6.13 The Deputy of St. Martin:

I thank all those who have spoken, particularly those who have spoken for. The 3 who spoke against probably say: “Well, that is probably par for the course.” What I really am concerned about, I am very disappointed - and I think it was the Deputy of St. John that pointed it out - that the fact that we have taken a vote and the Chief Minister has conceded that really that his first amendment really would not stand up and he did not have the courage really to vote in support of it; he abstained alongside with 2 other members of the S.E.B. and one Member, Senator Le Main, voted against it. That is the bit I feel so sad about because I thought: “Here we are, we are all fellow Members, all trying to do our best for the Island” and the fact that if you are not a member of the Executive your vote does not count. I feel that is so sad really that we cannot be trusted. Because what is the point of going on to a board and finding out that your vote does not count? Because that is basically what this is all about. I think Deputy Martin- she always comes up with a good passionate argument - she is dead right. You try to go to a meeting and you find there is no point in turning up because your vote does not count. What you say may count, but your vote does not. This is all about being accountable. I cannot, again, understand how Members ... how many voters voted for the last amendment and now will oppose this one? Surely one goes with the other. I cannot understand it at all. So, all I am asking, the credibility of us as Members, if whoever goes on there ... and I would remind the S.E.B., those members who are on S.E.B. now, that your board will be made up of members who the House choose. I have made it clear that if indeed this amendment goes through I will stand, but I will not stand otherwise because I am not going to stand to go on a committee to have no voice, or to have a voice but to have no vote and will only be quorate when there are 2 Ministers. I come back to Senator Ferguson; I served on lots of boards and a very healthy board is one of those who can have a good argument and even agree to disagree, but then take the vote and move on. That is a healthy committee, not a committee made up of nodding dogs and poodles who are chosen by the Chief Minister. **[Approbation]** Of course, this is what will happen if we accept what the Chief Minister is asking for and I make it clear that the S.E.B. will have no credibility and I certainly will have no part of it myself. I would ask Members, in fact I would urge Members, to support my amendment and I ask for the appel.

The Bailiff:

The appel is asked for then in relation to the amendment of the Deputy of St. Martin in relation to Regulation 4. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 29		CONTRE: 14		ABSTAIN: 1
Senator B.E. Shenton		Senator T.A. Le Sueur		Connétable of St. Brelade
Senator J.L. Perchard		Senator P.F. Routier		
Senator A. Breckon		Senator P.F.C. Ozouf		
Connétable of St. Ouen		Senator T.J. Le Main		
Connétable of Trinity		Senator S.C. Ferguson		
Connétable of Grouville		Senator A.J.D. Maclean		
Connétable of St. John		Senator B.I. Le Marquand		
Connétable of St. Saviour		Connétable of St. Clement		
Connétable of St. Lawrence		Deputy of St. Ouen		
Connétable of St. Mary		Deputy J.A.N. Le Fondré (L)		
Deputy R.C. Duhamel (S)		Deputy of Trinity		
Deputy of St. Martin		Deputy I.J. Gorst (C)		
Deputy R.G. Le Hérisssier (S)		Deputy A.E. Jeune (B)		
Deputy J.A. Martin (H)		Deputy E.J. Noel (L)		
Deputy G.P. Southern (H)				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				

Deputy of St. John				
Deputy M. Tadier (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

Very well. So then we return to regulation 4 as amended. Does any Member wish to speak on Regulation 4 as amended? All those in favour of adopting Regulation 4 as amended kindly show? Those against? It is adopted. Then Chief Minister, do you wish to propose Regulations 5 and 6 together?

8.7 Senator T.A. Le Sueur:

I propose 5 and 6 together quite happily. Regulation 5 simply does away with the casting vote and Regulation 6 is a citation clause. I propose Regulations 5 and 6.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on those 2 Regulations? All those in favour of adopting Regulations 5 and 6? The appel is called for in relation to Regulations 5 and 6. Very well. I invite Members to return to their seats and the Greffier will open the voting in a moment. Very well, the voting is now open.

POUR: 40		CONTRE: 3		ABSTAIN: 1
Senator T.A. Le Sueur		Senator S.C. Ferguson		Senator P.F.C. Ozouf
Senator P.F. Routier		Deputy of St. Ouen		
Senator T.J. Le Main		Deputy M. Tadier (B)		
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				

Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

Very well. Do you propose the Regulations in Third Reading then, Chief Minister?

Senator T.A. Le Sueur:

Yes, Sir.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak in Third Reading?

The Deputy of St. John:

Can I say that this debate reminded me of an incident that happened between the States of Jersey and the States of Guernsey, when we adopted the original shipping arrangement for P&O to take over the shipping routes under the Transport Authority between both Islands. The States of Guernsey did not like the arrangement so they reappointed fellow States Members or directors of their Transport Board and fixed the vote. This is exactly how things were happening and I sincerely hope the States of Jersey are not going down that road because this is the way the government gets itself into trouble. I sincerely hope this is the last time we see the Chief Minister and his Council of Ministers bringing something like this to the States. Thank you.

The Bailiff:

Does any other Member wish to speak in Third Reading? Deputy Tadier.

8.7.1 Deputy M. Tadier:

I think these amendments have made an improvement to what is essentially a bad proposition in the first place, a bad law, whereby you have 3 from the Executive and 2 from the non-Executive. It is such a contrived position we find ourselves in now. We have agreed, as a States body, that we need to have a majority from the Executive for some inexplicable reason but yet, as a States body, we have decided that we do not want to enforce that majority of the Executive by putting a quorum rule in there which seems it is all very much a bit of a nonsense. I at least have to respect Senator Ozouf's position, purely in terms of logic, in the sense that he has acknowledged that he sees it as the Council of Ministers who are the employers and not the States Assembly. I hope I am not misquoting him by saying that but it would beg the question then: "Why bother having anybody from the non-Executive on that panel at all?" I am going to have to vote against this whole law, the whole thing I am afraid, because it is ridiculous. I did support the amendments because it made something which was bad slightly better. I think we need to do better as an Assembly and this is a complete muddle.

8.7.2 Deputy G.P. Southern:

I just hope, having reconstituted the States Employment Board with its new members elected from this House, that they do fulfil their role and take the role seriously because one of the issues that representatives from the mainland, national representatives, had with the States Employment Board, in particular around negotiating a pay deal or attempting to negotiate a pay deal with the States Employment Board, was that nobody who was a politician ever turned up to a single one of those meetings. No one with any authority to negotiate properly and say: "I think we can probably go that far but no further" bothered to turn up when large numbers of National Executive members came over to Jersey specifically to do that business and they felt completely insulted and isolated by the States Employment Board. **[Interruption]**

The Bailiff:

Can we just not have a discussion across the floor, please.

Deputy G.P. Southern:

What a sad day it is when we do not talk to representatives from the U.K., whether they are governments or other representatives from the U.K., who share our concerns and whose economies are so tightly tied to ours to refuse to talk to anyone from the mainland on those sort of grounds is to bury our head in the sand.

The Bailiff:

I am sorry but we are on Third Reading now. I think we are rather straying from the subject.

Deputy G.P. Southern:

Indeed, we did, by the intervention I believe. I do hope that this new body, as constituted, fulfils its duty and turns up when it is important to do so.

The Bailiff:

Very well. Deputy of St. Martin.

8.7.3 The Deputy of St. Martin:

Yes, just a couple of points to add. I can understand where Deputy Tadier comes from. He was one of the 4 that voted against it last time when we had the final vote and I say the same words again today, sometimes we have to hold our nose and vote for something because it is better than what we had before. What we have got today - I am grateful for the support I have got today - is better than what we had before. It is not perfect but at least now there will be a voice from the Chamber, from the non-Executive, that I think will strengthen the S.E.B. because I think there will be a better balance. I think this is what the Chief Minister really wanted in the first place, albeit he wanted to nominate his own people. But I think what we will now have is a board which will be representative of the House's choice but I make it clear, I will stand for one of the positions because I think with the work I have done I think I will be an asset to it, but again it will be open then to others to stand, for the Chief Minister to nominate those people he chooses and he knows that the 2 he wants may well get there but at least we will have some form of democracy here, albeit, and I can understand it, there is still a 3 to 2 but it is better than nothing. If I could ask you maybe, Deputy Tadier, to hold your nose and vote pour because at least we are better than where we were before. On the point of elections, it was noted that no arrangement had been made for an election and it was a matter that I did discuss with the Greffier - who I understand spoke with you - and if the proposition as indeed has been carried today, will go forward now in 2 weeks time I understand. Arrangements will be made for an election at the next sitting for those members because, at the moment, the S.E. B. will not be functional. It only becomes functional 7 days after the members are elected to the board. I gather that arrangements will be made for an election next sitting and I would ask Members to support what we have now got and maybe ask Deputy Tadier to hold his nose and for his support.

[15:45]

The Bailiff:

In the Third Reading, do you wish to speak, Constable?

The Connétable of St. Brelade:

If I can just briefly take issue with Deputy Southern's comments regarding involvement with political rallies and such like; that is exactly something I believe the S.E.B. should not be doing. **[Approbation]** Once again, politicising the whole Employment Board is quite wrong, in my view.

Deputy G.P. Southern:

Sir, if I may. I made no mention of any rallies. I talked about negotiating terms and conditions with representatives from the mainland and the fact is the political membership of S.E.B. did not turn out to one meeting.

The Bailiff:

Does any other Member wish to speak in Third Reading? Deputy Pitman.

8.7.4 Deputy T.M. Pitman:

Very briefly, just to say that I will support this now, holding my nose as the Deputy of St. Martin says. I just hope, with this increased panel, that we might reach a stage where people who write for the States Employment Board and the Chief Minister specifically - as I did on 9th February 2009 - I might get a response one day, even an acknowledgement would be nice.

8.7.5 Senator P.F. Routier:

Very briefly, I will be, obviously, supporting this in Third Reading. There was just a point which came up in the debate, which I think perhaps P.P.C. might take on board, as there seems to be some misunderstanding and clarification that needs to be made about the roles of the Executive and Ministers. At the beginning of a term of office we elect our Chief Minister and we elect Ministers and there does not seem to be an appreciation that they are given duties to carry out. They are the Executive and they do need to carry out those duties. Members just do not seem to appreciate the powers that are given to Ministers at the outset and we seem to be forgetting that. Secondly, I cannot let the remarks of Deputy Southern go by about the politicising of the S.E.B. I think if that is the aim of what is in his mind, of getting other people on to the S.E.B., I do urge caution when we are appointing people to the S.E.B. in the future.

Deputy M. Tadier:

That is clearly a misquote. It is a point of order, Sir, because ...

The Bailiff:

Deputy, I think you have already spoken ...

Deputy M. Tadier:

It is a point of order, Sir.

The Bailiff:

What ruling do you need from me?

Deputy M. Tadier:

I need ruling that Deputy Southern has been misquoted because I certainly did not hear any ...

The Bailiff:

That is not a point of order. Does any other Member wish to speak in the Third Reading?

Deputy G.P. Southern:

Sir, may I seek a point of clarification then from the Assistant Minister opposite who just said I advocated the politicisation of the S.E.B. No, I did not. All I advocated was that S.E.B. political members turn up to meetings.

The Bailiff:

Do you wish to reply, Chief Minister?

8.7.6 Senator T.A. Le Sueur:

I think that Deputy Tadier has a fair comment when he says that we are still not quite right as far as the S.E.B. is concerned. I said at the start of the debate that I think there is still some work to be done to get S.E.B. working as it should be. I hope that the new members, when they are appointed, can assist in that process and I think in time we may - as indeed with many aspects of Ministerial government - need to have a review of the way in which the S.E.B. operates but for the meantime I believe this is a step forward. I look forward to working with 2 non-Executive members in the future at S.E.B. and I hope that we will get a good balanced feeling. In the meantime I maintain the Bill in Third Reading.

The Bailiff:

All those in favour of adopting the Bill in Third Reading? The appel is called for on the Bill in Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 39		CONTRE: 2		ABSTAIN: 2
Senator T.A. Le Sueur		Senator T.J. Le Main		Senator P.F.C. Ozouf
Senator P.F. Routier		Deputy of St. Ouen		Deputy M. Tadier (B)
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				

Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

Very well. There is one other matter I should inform Members of. Chief Minister, do I understand you wish to withdraw Projet 54, which is to be replaced by another one?

Senator T.A. Le Sueur:

That is correct. One of the people I had nominated in Projet 54 has indicated a possible desire to stand in the forthcoming by-election and, on that basis, I do not think it is appropriate that his name should continue to be put forward for the position at this time.

The Bailiff:

Very well. The Chief Minister has lodged Projet 60, which is a replacement Projet, which is entitled Public Employees Contributory Retirement Scheme Committee of Management: Membership.

Senator T.A. Le Sueur:

I will, at the appropriate time, ask for that to be debated in place of Projet 54.

9. States Net Revenue Expenditure 2011 and 2012: Reduction (P.29/2010)

The Bailiff:

Very well. The next matter on the Order Paper is the States Net Revenue Expenditure 2011 and 2012: reduction - Projet 29 - lodged by the Public Accounts Committee and I will ask the Greffier to read the proposition.

The Assistant Greffier of the States:

The States are asked to decide whether they are of opinion (a) to refer to their Act dated 5th October 2009 in which they approved the Annual Business Plan 2010 and, *inter alia*, approved the indicative total net revenue expenditure for the States funded bodies, as set out in part 3 of the report Summary Table C as amended for the period 2011 to 2014, and requested the Chief Minister to present Annual Business Plans to the States within these indicative total amounts; and (b) to request the Chief Minister to prepare and lodge for approval draft Annual Business Plans limiting total net revenue expenditure for the States funded bodies, calculated on the basis shown in the financial forecasts (namely after the net revenue expenditure allocation has been adjusted for the repayment of capital debt) to a sum not exceeding (1) £580,450,000 in respect of 2011 and (2) £551,430,000 in respect of 2012.

9.1 Senator B.E. Shenton (Chairman, Public Accounts Committee):

This proposition is brought by the Public Accounts Committee, a committee set up of politicians and members of the public. I think the reason that we have brought this proposition to the Chamber today is there is genuine concern among the Public Accounts Committee that not enough is being done to make the States and the public sector an efficient spending machine where money is not wasted and the real concern that the future fiscal deficits will ultimately lead to much higher taxation for the members of the public. I think it was always said that we would, as an Assembly,

as a body, make sure that we have got the public sector efficiency the public so necessarily desire. What we saw after the fundamental spending review is quite a large increase in government spending over the last 5 years. There is no doubt that if you spend more money than you actually are receiving in it does cause short-term problems. If you do it over a period of time the problems become quite dire and quite drastic. We have seen in Ireland and in Greece and in other areas what the effects of overspending are. The Public Accounts Committee were a little bit concerned that the States Assembly and the Executive were very good at the sound bites with regard to them saying that they will control spending but not particularly good at making sure it does come under control and that difficult choices are made. We have, to be honest with you, seen a slight improvement over recent months. The Comptroller and Auditor General produced a very damning report about financial efficiencies within the States and the way the Treasury was run. It was always the idea of Ministerial government that the Treasurer should act almost in a non-political role, as a hand on the tiller, to make sure spending did not get out of control and departments were run within their means. Unfortunately, since 2005 and the advent of Ministerial government, the Treasury never really got hold of this role and, as a result, there was no one particularly with their hand on the tiller to make sure that spending did not increase. As politicians you do need someone independent to keep spending under control because, believe me, keeping spending under control is not popular with the majority of the public that tend to want all the services that they have had in the past and tend to want even more services in the future, without necessarily thinking how it should be paid for. It is very easy in life to think that someone else will pay, that you can have improved services and there will be someone else somewhere, some multi-millionaire or some large corporation, that will pay for it all for you. But ultimately, at the end of the day when the pack of cards comes tumbling down, it is not the multi-millionaires and the corporations that pay. It is the people on benefits that pay. It is the people on low incomes that pay and it is the people of Jersey who pay because, at the end of the day, it is them that - as we have seen in Greece and Ireland - will get their benefits cut and will get their taxes increased. We quoted from Charles Dickens in the report, David Copperfield (Mr. Micawber): "Income 20 shillings a week, expenditure 20 shillings and sixpence; result misery. Income 20 shillings a week, expenditure 19 shillings and sixpence; result happiness." This is what we have to bear in mind. We are, for the first time - certainly in my memory - going to be running fiscal deficits. The solution to those fiscal deficits, by some Members, seems to be: "Let us keep our fingers crossed. Let us hope that the boom times return and let us hope that by the time the boom times return we have got enough money left to keep us going." The Fiscal Policy Panel urged the States not to increase spending going forward. They urged prudence and caution and they urged us to undertake the sort of hard medicine that we need to make sure that we do not have to take much deeper medicine in the future. What we are asking for is for the expenditure to go down to the levels in 2011 that we thought the levels of expenditure were going to be in 2011 way back in 2008. In other words, only a few years ago we thought that we could get away with spending what the figure is that we are putting forward, without any significant cut in services and without any significant loss in efficiencies. What we are taking off the top, basically, is the added expenditure that we have added to the last few years, the last few years when we have been in the Chamber. Furthermore, the Public Accounts Committee feel that this reduction in expenditure should be done over 2 years rather than 3, although it does obviously concede that this will be much harder to achieve and cause more pain in certain areas but the fiscal deficit is with us today and tomorrow and it is something that does need to be addressed and even if we do address it there is, in our opinion, no doubt that further tax increases would also be necessary. We were disappointed, although not surprised, that the Council of Ministers did not support our proposition. What we are really worried about is that efficiency savings and other savings that the States make going forward will be spent - spent on the public services - and we want to make sure that this does not happen. We are of the opinion, I believe, that higher taxation is almost inevitable but what we want to do is we want to lower that burden and certainly we want to lower that burden on the hard-working people of Jersey. I was watching CNBC last week and they were talking about the Greek situation. Greece has got a socialist government that has run into

enormous financial difficulties, although I should say that their fiscal deficit is probably in line with the U.K. It is just the U.K. get away with it because they are bigger.

[16:00]

The overwhelming response of the population was: “How did we get here? We are where we are but how on earth did we get here?” and they were blaming the government of previous years for not taking the action needed to sort out the fiscal situation. It got to the point where they had to go cap in hand or otherwise go into bankruptcy. What they have had to do is in fact put in place a pay freeze until 2014, a cut in salaries, a cut in allowances, raise the retirement age, raise taxation and G.S.T. or V.A.T. (Value Added Tax) to 23 per cent and increase all other taxes by 10 per cent. That is because they would not take the action in the past, probably because it was politically unpopular and, as a result, they are in a much greater mess today than they should have been. Similarly in Ireland, we have seen cuts in the public sector pay because of an unsustainable public position and let us not kid ourselves about the U.K. The U.K. have got incredible problems. This economic focus report from Capital Economics says: “Whatever the outcome of the 2000 general election (because I do not think we still know) it is likely to mark the beginning of a new phase for the U.K. economy. After the great moderation and the great implosion, the next Parliament, and perhaps the one after that, looks set to be defined by the great squeeze.” We have our neighbours, the U.K. - the mainland as some people tend to call it although I personally, as a Jerseyman, do not like the expression - are in deep financial trouble and yet we seem to believe that the boom times are just around the corner. We can carry on spending as we have done in the past, when we had money coming out of our ears and the boom times will bail us out. This is highly unlikely and it is putting the economy... chancing it for luck, when in fact we should be more prudent. The response of the Council of Ministers, if I can just find the paper ... and I do believe that there is commitment from the Minister for Treasury and Resources to try and bring forward savings, going forward, and most of his Ministers. Firstly, they are holding out a comprehensive spending review which is a view which is shared by the Liberal Democrats in their mandate as how they would solve the U.K. problems. It is not the review that is important, it is what the review brings and whether the actual recommendations can be carried out. I think where the P.A.C. did have some concern was in the Emerging Issues Report, produced by the Comptroller and Auditor General a few years ago. Here we had savings that had been identified, some of them by the Chief Officers themselves. The question was asked: “How would you save money in your department?” and then working with the C. & A.G. (Comptroller and Auditor General) they came up with the answer. Then, when asked to implement those savings, they came out with all manners of reasons why those savings could not be implemented. You have to question the commitment and you also have to question whether the public and the politicians really understand the need for those savings. The fact is we are a wealthy Island. There is no doubt about it. We do not have any borrowings. We do have a strategic reserve but will we still be a wealthy Island in 3 or 5 years’ time and that is the question that this House has to address. Secondly, the Council of Ministers say that they will grow the economy by improving productivity and driving new business. This will only be achieved if we do see an improvement in the global economy and, in particular, in our economic neighbours. Given the depths of the problems in the U.K., given the depths of problems in Europe, any recovery is likely to be fairly weak and certainly we are unlikely to see the re-emergence of the boom times. I work in the finance industry and certainly I am not seeing the recovery. There is some recovery there but I am not seeing the strong recovery that we had in the past. I think 30 years ago, when I started off in the finance industry, Jersey had probably 8 or 9 or 10 real competitive advantages as a offshore finance centre and these have been eroded over the years to the point where our competitive advantage is actually quite weak. We are seeing banks close. We are seeing trust companies close. We are seeing trust companies moving elsewhere citing over-regulation. Certainly, if the tax system changes, we may well see some more. The Council of Ministers state that we will have need to consider tax increases. I do not think we need to consider tax increases, I think tax

increases are inevitable but the size of the tax increases tomorrow are very much dependent on the actions of this States Assembly today. We do not want to get into the Greek situation where they are asking the previous politicians why they took no action. In terms of the economic cycle we are the previous politicians and we need to take action. It is going to be tough to take action and it is not going to be popular and we need to have everyone working with us. We need to make sure that people do not get paranoid, that they are being picked out or that we are picking on the lower paid or we are picking on the medium paid or we are picking on the higher paid. People have to justify their jobs and they have to justify their earnings because taxpayers' money is being used to pay their wages. This is not an attack on the unions, it is not an attack on the civil servants, it is just management - prudent financial management - that we have to undertake. The Council of Ministers gave a list of benefits and so on that may need to be cut if this proposition goes through and said that this was not shroud-waving. I think there was an element of shroud-waving because it will be interesting to see how the same degree of cut can be achieved over 3 years, without any of the cuts mentioned, whereas they cannot be achieved without shroud-waving over 2 years. The trouble with Jersey is it has been too successful. In the good years we perhaps got a little bit too fat. We took on services and paid people salaries that were perhaps a little bit too high but at least, unlike the U.K. during the good years, we had the financial sense to put some money aside. May I just say I do find it slightly laughable, the amount of consultants we get from the U.K. to tell us how to run our Island when they seem totally incapable of running their own. We put this forward as a P.A.C., as a committee. It is financial management. It is not particularly political; we have a relatively broad church on P.A.C. It is not saying where the cuts should come from, that is not the job of P.A.C. All it is saying is before we get the tax increases, which are inevitable, we must make sure that our expenditure is at the right level. We must not be in the position where in 4 or 5 years' time, when the economy is in a hell of a mess, that we turn back and say: "What on earth were the States Assembly doing in 2010?" I put forward the proposition. Without the support of the Council of Ministers it will be interesting to see how long the debate is but I believe, and the P.A.C. believes, that it is the right thing to do at this time and hopefully we can all work together on this because, believe me, the financial problems that we have are shared among all 53 of us. It is not us and them, it is all of us. I put forward the proposition.

The Bailiff:

Is the proposition seconded? [**Seconded**]

9.1.1 Senator P.F.C. Ozouf:

I would like to start by welcoming this important debate by the Public Accounts Committee. While debates on bicycle regulations and other issues are important for many Members, I know that many Islanders have expressed concerns that the States, over the last few months, does not appear to be debating the really important central issues of politics and the balance; that is the balance between tax and spending, particularly how we balance our tax and spending in the light of the economic downturn experienced over the last 2 years. For that reason I welcome the debate and the P.A.C.'s interest and clear commitment and having a shared view of the need to check the level of spending and reduce it. It could be interpreted, by some of the comments that no doubt will be made in this debate, that Jersey is in some sort of financial difficulty. Our public finances are strong, indeed they are stronger than most. We are not in the deep financial trouble of Greece or any other place. In fact our management of our public finances have received endorsement by international agencies and most recently by Mr. Michael Foot who commented on the economy. However, we have not been unaffected by the downturn. We are incurring reduced income and we are being affected by that and that is an important part of the structural deficit. We are on income... I have to say with the latest figures that I have in a better place than most other places. Senator Shenton spoke about spending increases and in fact he probably, with the benefit of hindsight, is right. I suspect that this Assembly might not have sanctioned the bolder increases in public spending that were passed and sanctioned by this Assembly during the period of the heady boom in 2007 and, perhaps, in 2008.

He was, I think, part of the Council of Ministers who increased spending so he has to take some responsibility, as we all do, for the so-called “fattening” of the public sector. But I would say that it is not right to characterise, as I do not think he was, but just for the avoidance of doubt I will say that it is not right to characterise the increase in public spending as money wasted. There has been necessary and called for investment in the public services, in the health service, in early years, in other places. But with the benefit of hindsight, we might have funded those increases in other ways. We might not have sanctioned such large increases if we knew then what we know now. I also should say that the deficits that we are currently facing are not, as some may also say in this debate, as a result of Zero/Ten. That would be to, effectively, rewrite history. The increased deficit is due as a result purely of a downturn in the economy and bolder spending increases that were not planned. The Zero/Ten issue was dealt with in the fiscal strategy and we balanced our books and if the downturn had not happened, we would not be having this debate. It is right to say that the deficit that we are facing is small compared to other places but they are, however, real. The deficit this year and next year can, of course, be afforded relatively easily by withdrawing money from the Stabilisation Fund and, of course, unlike most other places, we are putting in place a fiscal stimulus from cash. However, I would say that with the relatively low levels of taxation at all personal levels, to plug the deficit by tax increases alone will be, as Senator Shenton quite rightly says, very challenging and, I believe, unacceptable for the community. What I have to say to Members in this debate today and perhaps those who have not had the benefit of the presentations in the C.S.R. (Comprehensive Spending Review) workshops, is that the full extent of the deficit that is expected over the next few years is probably larger than simply the figures cast in the reports by the P.A.C.

[16:15]

It is not the structural deficit, and it is probably not the only issue that this Assembly faces. I am determined over the next few months to deal with all of the issues concerning our public finances. I am determined that we put our public finances on a sound, long-term footing. I believe that sound public finances are one of the principal reasons why this Island has been successful at balancing on an annual basis income and expenditure, not incurring debt, at the same time funding the appropriate level of services. But there are, I need to say to Members, 3 issues over and above the structural deficit which I need to tackle with Members’ assistance. In the Business Plan later this year, I want to propose a contingency. Every organisation, household, government, has unexpected expenses during the year. Over the last few years, effectively, this Assembly has done away with a contingency and that is the reason why my predecessor and I have had to come to this Assembly with requests under Article 11(8) of the Public Finances (Jersey) Law for increased funding in the year. In future, I believe that it would be far more prudent to hold a central contingency voted on an annual basis and to have, of course, strict rules for it to be drawn down but to agree that on an annual basis. That is one issue which I need to say to Members is over and above the structural deficit that has been currently discussed. In addition, there is a need to put adequate capital funding for maintaining our infrastructure. Members will know that with free access to capital, departments have taken the easy option in the past of cutting areas such as maintenance and other areas such as training, too. Property Holdings have never had a realistic maintenance budget to maintain States property. There is, of course, a great deal to do in the better utilisation of States assets but because Property Holdings is insufficiently funded there is additional funding that is going to have to be found. The third issue is to fund court and cases costs. Our prosecution arrangements need to have the adequate resources to prosecute transgressors and to maintain our high standards of financial regulation. I need to say to the Assembly that court and case costs have been funded by the Criminal Asset Confiscation Fund in the past. I am hopeful that seizures into this fund will occur in the future, but, as the C. & A.G. has said, costs have to be properly budgeted for and they are currently not. Finally, without wanting to depress Members too much, there are issues about new funding that is probably going to be required in areas such as the health service. Quite apart from dealing with ageing society, we need to put proper arrangements in place for long-term care. All

Ministers have challenges in their budgets, some more than most, and they all, as Senator Shenton said, have demands for increased services are always that somebody else should pay for. All of this means, and the reason why I have laboured some of these points, is to say to Members that the gap in income and expenditure, if we are to be absolutely true to what we have done in the past, is significantly higher than £50 million, probably more in the long term in the region of £80 million to £100 million in terms of a gap. Now, before Members will say that this is something new, none of the issues that I have raised are new. I am not saying that there is a £100 million black hole and I am not saying there is a likelihood, irrespective of this debate, of £100 million worth of tax rises on their way. There has to be, of course, a balance to respond to the issues; a balance between savings, economic growth and the consideration of tax rises. We do have transparency in terms of our public finances. Perhaps, again, unlike other places there are no hidden problems. We have the F.P.P. (Fiscal Policy Panel). We are having debates such as this which would not happen, I do not think, in the extent and the detail that happens in other places and we have, I think, a good track record when we are honest in setting out the full extent of the issue, the challenge. We have a good track record in solving it. I am not saying that all is well on the spending front. After, I think it is 530 days in the Treasury - and I said that I was going to concentrate on spending - I do believe that there are significant areas for improvement. There is an interim Finance Director in post and we are implementing the restructuring of the Treasury, and I am grateful for the support and the positive comments that the P.A.C. Chairman makes in relation to our attempts, sometimes unpopular, in terms of strengthening financial management. We are looking to substantially strengthen the Treasury including income tax, resources, property and procurement. These departments, properly resources, properly run, are fundamentally important to delivering savings. I have to also say, though, that there is a cost to this and just as the Minister for Health and Social Services was answering questions this morning about the cost of strengthening health management, something necessary, the additional investment in Treasury and Resources, as accepted and recommended by the C. & A.G., is there for Members to know about. But it is fundamental to improve and strengthen financial management and controls, something I do not believe has been significantly strong enough in the past, in the future. So I believe that we can make better use of taxpayers' money. We can collect more and get better returns from States investments and, in some areas, from taxpayers. I am 100 per cent committed to the Comprehensive Spending Reviews and I fully accept that there are lessons in the past from previous Fundamental Spending Reviews. The question is how quickly and how sustainable we can achieve cuts and over what period of time. The C.S.R. has set an objective to save 10 per cent across the States of Jersey over a 3-year period; 2 per cent next year, a further 3 per cent in 2012 and a further 5 per cent in 2013. These are bold and in some cases there will be fairly substantial reorganisations of States services, probably a bigger change and a bigger transformation than we have ever seen in the last few decades. They will not be delivered painlessly. They will not include cuts in some services. They will not also be delivered simply by efficiencies, the mythical efficiencies that sometimes people believe and sometimes even organisations, and I will be at one with some J.D.A. members in terms of some of the mythical issues that are sometimes are said by organisation such as the I.O.D. and Chamber. It will not be possible to deliver a 10 per cent cut without a substantial change in the delivery of services and it will not be possible without some changes to manpower levels. It will also not be possible without incurring some necessary restructuring costs in terms of restructuring costs in terms of I.T. (information technology) systems, reinforcing H.R. (human resources) and, indeed, in redeployment and, in some cases, some voluntary redundancy costs. I see some Members wincing at the restructuring costs but that is something real and necessary if we are to achieve long-term objectives and something that is not reflected in the proposition of the P.A.C. I support the P.A.C.'s drive and determination for cost cutting. I believe that there are opportunities across the organisation for efficiencies and re-prioritisation. What I do not believe is advisable or recommended is to impose upon the Council of Ministers a request which is undeliverable for deeper cuts in 2011. There has been some debate and this may well be an issue that will be discussed during the course of this debate about the extent to which the States should be

withdrawing money from the economy and at what time. Because of the relatively low spend of G.D.P. (Gross Domestic Product) *per capita* that Jersey has, the withdrawal of money into the economy is, perhaps, more muted in Jersey and any reduction would be more muted. However, there is an understandable issue about withdrawing money from the economy during the period that the economy is expected to be showing stronger green shoots of recovery which I hope will be the case towards the end of this year and in 2011. I am not sure whether Senator Shenton is confident in Jersey's future. I am. I am very confident about Jersey's future and I am confident about the future of the financial services industry. However, I do think that there should be care taken in the withdrawal of money, particularly from States expenditure, too quickly. I do not want to be too critical of the P.A.C. but I would also say that there are issues in the proposition which might not necessarily reduce States spending. For example, if we were to take the proposition as worded, the Council of Ministers could deliver the net expenditure cut by, for example, introducing user-pays charges. That would be entirely appropriate in terms of reducing net expenditure. There are issues of user pays which are going to have to be dealt with. There are issues about the States of Jersey funding gambling administration, there are issues about the unfairness of the public sewer network - the haves and the have-nots. There are issues about drainage charges *et cetera* but these need to be looked at carefully and user-pays charges, for avoidance of doubt, are not an opportunity for departments to put forward for their 2 per cent but they may well be an addition to the 2 per cent that is being asked this year. I am determined to deliver the Comprehensive Spending Review and I also need to say to Members that in concert with the ... perhaps that is the wrong word "concert", but in concert with the Comprehensive Spending Review is going to be Fiscal Strategy Review which will begun to be consulted upon after the completion of the Senatorial by-election. I say that because there will be a need to share with the public some of the issues about tax rises and we are going to have to ... if we are dealing with the full extent of putting our public finances on a long-term footing, we are going to have to have an intelligent, honest debate with the public as, I think, Senator Shenton said about tax rises. There are going to have to be some consideration to tax rises in the budget later on this year. The debate for the Business Plan to be held in September is for a 2 per cent cut over the summer period and, no doubt, in the debate in September there will be an opportunity for Members to improve, to replace, to recommend different proposals for the 2 per cent. That will happen in September and then the Council of Ministers will propose the further cuts in spending for 2012 and 2013 as a result of the budget. That budget debate at the end of the year will probably be one of the most difficult and important debates that the States has had for some time. It will need to deal with the cuts in spending of up to £50 million and it will also need to deal with the issues of taxes, of how to fund a health service that we all wish to have in the future and it will need to have consideration as the Fiscal Strategy Review paper will talk about over the summer period about changes to employment taxes, perhaps health insurance charges and, also, perhaps changes that will need to be considered on G.S.T. I think that it is important that this Assembly grapples with all these issues in the 2 debates that we will be having both in the Business Plan and in the budget later on this year. I believe that 10 per cent is deliverable. In my view it is going to be necessary. This is not, however, to be characterised as a great squeeze as, perhaps, is going to be apparent from the United Kingdom over the next few months. It is something that is manageable and, I have to say, that I think that spending should be agreed as part of the Business Plan debate, when we have a substantially complete document, 100 pages or more of detail. We should not be agreeing overall net expenditure numbers on the basis of simply a 3 or 4 or 5-page report and proposition. For that reason I do not believe that this has been justified in terms of the level of detail, that it has been justified in terms of being deliverable is why I cannot support the proposition of the P.A.C. But nothing in my vote against this proposition should give an indication of an unwillingness to deal with spending. On the contrary, there is a determination to deliver spending cuts. There is also a unity among the Council of Ministers which do have difficult discussions to deliver, I think, the 2 per cent and the long-term savings, and all Ministers are working co-operatively and working well for the avoidance of any doubt in terms of delivering and finding solutions to delivering their services for less or identifying lower priority services.

[16:30]

I am, however, to say to Members that it is wrong to over-promise and then under-deliver in terms of timing. I believe that is what the Public Accounts Committee is asking us to do today and for that reason I urge members to reject the proposition.

Deputy T. Pitman:

Could I seek clarification from the Minister? He was speaking quite quickly and I do agree with what he was saying about taxation but did I hear him say we need to have a hard and honest debate including progressive taxation?

Senator P.F.C. Ozouf:

I do not think I said that. I said that we needed ... that is not to say that I do not agree with that but I do not believe that I used the word “progressive taxes”. I will say that there is an issue about the Fiscal Strategy Review which will debate all of the issues of taxation and Deputy Pitman and others will have their say.

Deputy T Pitman:

So the Minister meant to say that? Thank you.

9.1.2 Deputy S. Pitman:

I believe I will be repeating some of what the Minister has already been saying but as I spent many hours writing my speech, I will say it. With reference to the proposition on page 5, the P.A.C. say: “The P.A.C. believes that the 5 per cent reduction from current anticipated levels is achievable in 2011 with a further 5 per cent reduction in 2012. It believes that these reductions are achievable without significant impact on front-line services.” It says this but it provides no information to support this and, in fact, in another paragraph it says: “The P.A.C. is not giving advice in respect of how this reduction in expenditure is to be split between departments. That is largely political.” The Comprehensive Spending Review will outline where cuts can be made in front-line services and their impacts as the Minister for Treasury and Resources has promised this House, and it will also outline proposals for raising tax revenues. So I think this Assembly should wait for this to be undertaken before we blindly apply further reductions in expenditure.

9.1.3 Deputy R.G. Le Hérisier:

There is no doubt that P.A.C. has put this forward, I imagine, as a form of shock therapy because there is, obviously, a view abroad among the public that the States cannot basically cut and that it is politically impossible and I will, in fact, dwell with that issue. I do agree with Deputy Shona Pitman in the sense that steady we should go, so to speak. But also in the sense that I do think that the P.A.C.’s proposals are, essentially, thinly disguised political proposals and if you read through the spending review and it is excellent in a way but a lot of it is very tentative, a lot of it is making proposals in the dark and not much of it, it has to be said, is based on a strong analysis of the situation, I am afraid. There is some very good stuff there but it is a question of having thrown everything into the mix and hoping that some of it will emerge at the other end rather than saying: “These are the areas where the States is inefficient” or: “This is why the States finds it difficult to make changes” or whatever. It is as if somebody went ... I hesitate to say it, but it is as if somebody went to the pub one evening and had real moan about the States and said: “These are the 100 things we really dislike about that organisation, could you put them down on the back of an envelope?” I am afraid that is where ... now, the Chairman is doubtless going to say this was based on some very good work from the C. & A.G. but it is at the political barrier where it falters because a lot of it ... and it is our fault to this extent, that I do not deny for one minute, a lot of it will falter because it simply cannot be dealt with under this kind of political system we have. We, as States, simply at the moment either because we lack the will or because we lack the structure or whatever, there are a lot of these decisions that we cannot make. Take, for example, the decision about the structure of

secondary education. The last time that was encountered in the early 1990s, it was a total bloodbath because what happened, as we well know, the vested interests from all quarters emerged from the woods and there were almighty fights and the result was a total checkmating of the situation. You could not move forward. You simply could not move forward. The situation was totally checkmated. This has happened in other areas, obviously, in the States - as I mentioned - education. We look at so-called overspending. We look at primary education. We know again the imperative in primary education which is mentioned, I think, in the P.A.C. report. The imperative is that every Parish has to have its primary school so, therefore, you can only cut back, basically, in the urban area if you are going to cut back like the move that led to d'Auverne, for example. So again, political pressures will stop that move. I am not saying they are impossible. I am not saying that at all but I think we have to face up to the fact that they are enormously difficult and we, in a sense, are the problem in that regard. We are the problem. Aside of the fact the public will say, as a few have said to me: "Well, if you are so good at suggesting cut backs, why do you not suggest cutbacks in the size of the States Assembly?" That is a fairly standard one and I have got no problem with that. I think, also, while the 2 Members and the Chairman of the P.A.C. might say: "This is the C. & A.G.'s report," and they are quite right, I would still argue what he is saying, and he says it very elegantly as he always does, these are possible areas but he takes no cognisance of the kind of political obstacles that there are in putting the changes through. To that extent, I would much prefer ... and this is a strange situation to be in, I think the Minister for Treasury and Resources has put forward a programme, he has put forward an evidence-based programme through the C.S.R., for example, but even that will lead to all sorts of arguments. I do not doubt that the savings school will argue against the more taxation school and so forth. I do not doubt there will be massive arguments but at least it is the beginning of an evidence-based programme. We will see how quickly administering mild shock therapy to the economy, or to the public service side of it, will have an impact on this economy and as other states ... and Senator Shenton made a great play of Greece, and he said: "If only the politicians had told us." Well, I am afraid it is partly to do with the fact the people of Greece knew that if they were retiring at 53 ... for example, if they were getting special allowances for using computers in the public service, if there was about a 30 per cent non pick-up of taxation revenue, they must have realised that something major was going wrong with the economy. So I am not sure we have reached that dire situation as portrayed by the Chairman of P.A.C. and that somewhat depressing that he gave us about gloom and doom that is around the corner. So just to cut to the chase. I am very worried about this because I do think it is a hit list and although I have the greatest respect for the C. & A.G., I think there are ways of using the assumptions, there are ways of using his evidence that do not necessarily have to translate into 99 quick cost-cutting initiatives which can be done overnight. It just does not work like that. I think the Minister for Treasury and Resources has, I have to say, a sensible programme and although I think his economic optimism might be slightly over-egged, it has to be said, because I think we will get more of a throw-back from the U.K. situation than he, perhaps, is stating. On those grounds I will be opposing the proposition.

9.1.4 Deputy P.V.F. Le Claire:

It is very interesting that Jersey is now engaged in this kind of a debate at the same time as the rest of the world is focusing on what can only be described as a remarkable set of circumstances within Europe. We have now a buzz word that we have all become familiar with in the last 2 weeks or so. The word is "contagion" and, really, that word has for a long time been known by ourselves perhaps as confidence and whether or not one has confidence in the economy. Greece, we have seen has being bailed out, there have been huge implications. People have found that they are not only going to get pay reductions and no pay increases but they are going to have to work longer, their pensions are going to be affected and their services are going to be affected and they are going to be borrowing and paying back heavily over the next few years. Spain is in a position that it does not want to be in. Portugal is probably going to find the same position and the U.K., once it finds its feet, as Senator Shenton points out, is also going to find that in the next few years it is in a

serious situation as well. So Jersey has done quite well over the years but this is not something that we can say is our ... I would disagree with Senator Shenton. Senator Walker was for years telling us that we should have started to address this. When I first got into the States in 1999, he was saying in practically every budget that he brought to the States: "We need to be setting aside more money. We need to stop spending in the way that we are." But, conversely, unfortunately, the spending side of this conglomerate - or this coalition as it was described earlier by Senator Ozouf, the spending side of this Parliament - and the social elements of this Parliament which made up committees of that day did wish to progress the social elements. And because we have had a number of social elements that we have needed to progress, we have needed to spend and, unfortunately, I do not think we have ever taxed adequately the industry that is now, unfortunately, in a managed decline. The finance industry, whether one wants to admit it or not, is in a state of decline. It may not be as serious in Jersey as it is in other places but it is certainly something that we are trying to manage because it is our only game. It is the only game in town. So rather than lecture Members about what I think they should know about what I think, I am just going to express how I feel about the situation so Members will not be offended by what I am saying. I think this proposition is a vote of no confidence in the plan to tackle our fiscal deficit. Now, I did, contrary to the shaking heads, attend a meeting of the Comprehensive Spending Review at the scrutiny level and it was explained to me over a long period of time by the Deputy Chief Officer what the position was and it is nothing new, really. The predictions have always been there but one of the current flaws is the planning process where we try to do everything on an annual basis. Senator Ozouf speaks about the court case costs and the need to have a robust, proactive and modern functioning prosecution service, but on the other hand we need to also have a proper, well-funded legal aid system. So we are talking about more money in areas that are essential. We looked at the £110 million to £115 million we spent on the incinerator because we did not look after the one we had in the first instance and recycle things and we look to what is coming down the road there. A £250 million liquid waste strategy looming on the horizon. It is going to dwarf the incinerator. £250 million. We have lost the alcohol and tobacco increases this year out of the budget which not only seriously affected the income of the Treasury but also damaged, badly, the tobacco strategy which was causing harm to the community and will cost us more money. So Members are all for middle Jersey when the rally call comes but I would say I am not for middle Jersey. I am for Jersey. Interestingly, answers to questions tabled by the Minister for Treasury and Resources to the Deputy of St. Mary highlighted on 20 April the pay awards that cost us £42 million in 2009 and were approximately £70 million over the period that the Deputy was asking the questions of. Yet when I, as an independent Member try to get involved, try to understand the situation and try to put questions on the table which will help us all understand the situation, where that £70 million is going, 5 Ministers and the answers that were given to me. I am sorry I defy any Minister to tell me how it was they all came to use exactly the same words in 5 different answers if they were not given the answers by the same people.

[16:45]

I am, unfortunately, not going to be able to support Senator Shenton because I think it is a shot across the bow, really, of the Council of Ministers. I think Senator Ozouf is going to do a good job if he is given an opportunity to. I think he has done a good job. I have confidence in him even if Members do not have confidence in me. I know that they take my word sometimes lightly but they do realise that I am a genuine person and I do not give credit where it is not due. If I thought he was failing I would certainly say so and I have done so in the past in areas where he was. I think it is about confidence and I think it is about giving the Council of Ministers the opportunity to work through what is going to be a difficult period of time for us all. We are going to need to introduce new taxes, probably 6 per cent on the G.S.T. We are going to need to introduce new taxes in relation to liquid waste. We are going to need to look hard at how we replace the finance industry and I would ask Members, especially Senators in this important debate, to put away their

BlackBerries for 5 minutes and listen to what I am saying because I am asking those Ministers in particular to diversify. I came back from Majorca ... I have never seen so many large boats in my life and I came back to Jersey and I passed Jersey's boat show and it really struck me hard because the year before I thought Jersey's boat show was the be-all and end-all. This year I realised it was nothing more than a village fair and that is not being discourteous to the boat show or the people that attended it. It is merely a matter of fact that in a finance industry such as Jersey's we have very, very, very little in way of boats when you look at other jurisdictions. So if we were to lose the finance industry and we were to lose some of those boats and the businesses that go with them we would be left with very little, and that is the message about the finance industry, is it not? If we lose the finance industry we are going to be left with very, very, very little but I think if we start to adopt propositions such as the P.A.C. has brought - and that is why I am not able to support them - if we adopt them I think it does send out a signal that we are not certain about how we are managing things. I think we have to send a robust signal back with respect to the C.A.G. and the Public Accounts Committee: "We have got a plan, we are going to walk in the deep end for a little while and we may go under for awhile but we have got the right direction in mind and we are going to come out the other end." So, I think it is time for Members really to understand it is not about middle Jersey, it is not about rich Jersey, it is not about poor Jersey, it is about Jersey and we need to make sure, we need to diversify and we need to stay the course. We need to stay the course and for once, act unanimously and back the Minister for Treasury and Resources because it is going to affect everybody.

9.1.5 Deputy G.P. Southern:

It is becoming a pleasant habit, it seems to me, to get to my feet in this Chamber and agree, as I so rarely have in the past, with Senator Ozouf. But today, for once, while I may disagree on some of the detail and some of the priorities that we share, we are united against an initiative coming from behind the Minister, which I believe is a wrong initiative. Perhaps the business editor of the *J.E.P.* Peter Body, summed it up most succinctly in one of his articles, when he suggested that to cut over 3 years is a risk enough ... in the scale which is proposed is a risky enough process, but to attempt to do those cuts in 2 to an enormously complex arrangement, whether it is in private business or whether it is a States functions, is very, very dangerous indeed. I believe he described it as: "Outright butchery" and that is certainly what I believe it to be. I share, along with Deputy Le Hérisier his version of the C.A.G. Report, which has been floating around for a number of years now, which was clearly prefaced with the statement: "Members must be aware and the public must be aware that this is an accountant's eye view" certainly, and has serious political implications. Some of these of the issues that he proposed were fairly straightforward and might have been delivered quite simply but many of the others were enormously emotive and political. At one stage he talked about, for example, closing down a primary school in the light of falling rolls. He talked elsewhere about: "Well let us cut £100,000 from the Youth Service budget." Thank God he did not with the youth employment in the position it is today, but again, tremendously politically-laden decisions. He clearly distanced himself saying: "I am not suggesting that any of these are do-able, I am saying from an accountant's point of view, you could do this." Politically, very, very difficult indeed. I am going to talk some figures at people and people I hope will then bear with me on that because so far the only figures I think we have heard are 2, 5 and 10 per cent. We need to know what that means. I believe that 10 per cent cuts do indeed represent major reductions in public service along with major reductions in the public sector work force, and I believe the emphasis certainly of this proposition, and indeed of the Minister for Treasury and Resources, on cuts first before examining the potential of progressive tax increases - but certainly tax increases - is a mistake. I believe, in terms of the timing and the priorities involved, the whole thing must be seen as a whole. If we fail to do that then we risk serious consequences indeed. Why do we risk serious consequences? Because it is laid out clearly in a very simple statement by David Blancheflower, respected economist and former member of the Bank of England's Monetary Policy Committee: "Lesson one in a deep recession is you do not cut public spending until you are into the boom

phase.” Do not cut public spending until you are into the boom phase and you know you are in the boom phase and you have got the figures to prove it, that the recovery is starting. Then you can consider cuts, before that you do not because what you risk then is extending the recession and even going to double-dip recession making the situation far, far worse than it was previously. Because what you do if you stop services, (a) you damage the vulnerable who rely on those services but (b) you will end up employing fewer people and therefore your tax take goes down and your Social Security payments, your Income Support payments, go through the ceiling, and that way you risk damaging the economy. So, I have reservations about a 10 per cent cut over 3 years, I cannot contemplate what a 10 per cent cut, a major cut like £50 million on a £500 million budget, is going to do to our economy and certainly our public services. I start from the position shared by many politicians and others that Jersey’s public services are a vital bedrock in sustaining the local economy and the community, both in good times and now during what we are told is the worst economic recession in living memory. They ensure essential investment in infrastructure and support for businesses. For every £1 spent in the public sector, 64 pence ends up in the private sector. That is the reality of what we are talking about. They can mitigate the worst social and economic consequences of this downturn but as public services come under increasing pressure to cut costs and jobs I believe that the view that spending cuts are the only option, certainly the prioritised option, needs to be robustly challenged. For Jersey to emerge successfully from the current recession in a strong position for the future we need to strengthen and sustain our public services. So, let us talk briefly about the size of the recession. The Minister for Treasury and Resources said: “Actually, we are not as badly off as most places, we are in a quite healthy position.” A significant marker there is, and I know we are aware, we are fed through the national media, through the world media, about the depth of this awful recession but we have been relatively lightly touched by it. Because if we compare ourselves with the U.K., the U.K. is now talking about 12 per cent of its G.D.P. as a budget deficit, 12 per cent. In the U.S. (United States) it is 9 per cent, France 6 per cent, Japan 8 per cent. Significant figures. Look at our deficit, projected deficit, and we are talking about, what, 1.6 per cent. So, it is very easy to say: “Oh, there is a recession on, let us do something about it, we must cut public spending, we must cut it rapidly.” The reality is we are relatively lightly touched. That is not to deny that for those that are made redundant or those who are losing their jobs that it is severe and it is significant but nonetheless you cannot hold both positions as the Minister for Treasury and Resources attempts. It is relatively light, we are not as badly off as everyone else but we can make 10 per cent cuts, which are going to be significant. That is seriously damaging to our public services. The second assumption is of course that we are massively inefficient and a high spending society. Of course we are not, in the public sector, and let us have a look at some figures. Just briefly, I will not keep you too long, I hope. Government’s expenditure as a percentage of G.N.I. (Gross National Income) in comparison with other places, general government expenditure: Jersey 26 percent; O.E.C.D. (Organisation for Economic Co-operation and Development) average 44 per cent; United Kingdom 43 per cent, and - bear this in mind, Luxembourg, which has a G.N.I., G.D.P. close to ours so it is directly comparable - Luxembourg 51 per cent. So, 26 per cent overall spend compared to 51 per cent. On education: Jersey 3.3 per cent; O.E.C.D. 5.3 per cent; U.K. 5.1 per cent; Luxembourg 3.8 per cent. 3.3 per cent - 3.8 per cent, low spend. Public health expenditure: Jersey 5.1 per cent; O.E.C.D. average 6.4 per cent; Luxembourg 8.6 per cent, again low spend in Jersey. General social benefits: Jersey 6.9 per cent; O.E.C.D. 13 per cent; United Kingdom 13 per cent; Luxembourg 17.3 per cent, again low spend. Low spend and efficient. Let us take a look, comparison with the Isle of Man and Guernsey, let us compare with our rivals. Net government expenditure as percentage of G.N.I.: Isle of Man 33 per cent; Guernsey 22 per cent; Jersey 17 per cent. Low spend, efficient delivery of services, and we have good public services, for 17 per cent spend. How do we do that? Because we have got some excellent employees. Isle of Man, net government per head of population: let us do a different comparison and it is similar; Isle of Man £7,700 per head; Guernsey £6,300, Jersey £6,800, comparable but not excessive. Let us look carefully, government payroll per head of population, are we grossly over-manned? Isle of Man 10 per cent; Guernsey 8.7 per cent; Jersey

7.1 per cent. Already low relative employment ... do not interrupt me please **[Interruption]**
Percentages of government payroll, number of people employed per head of population.

[17:00]

Deputy R.G. Le Hérissier:

Just a matter of clarification, would it not be better to state that figure as a percentage of the working population?

Deputy G.P. Southern:

That is the figure I have. It was presented; it is not original research. **[Laughter]** I nick it from where I can find it but that is the way it presented, 10 per cent, 8.7 per cent, 7.1 per cent but it nonetheless illustrates efficient, slim machinery that is low spend. We are undoubtedly still one of the low taxation regimes anywhere in the world. There is no doubt that Jersey is still a wealthy jurisdiction. Average pay is among the highest in the world, marginal personal tax rates for the highest earners are low for a country with fully developed public services. We have been for many years, and still are, a low tax low spend jurisdiction. The time has come surely to abandon the concept that we can continue to apply the same low tax business model to the Jersey economy. Tax increases, progressive tax increases, which will affect the better off will not be popular but will be necessary and preferable to slashing those services on which the poorest and the vulnerable rely. The time has come, and we are committed to it in our Strategic Plan, to start to address the gap between the rich and the poor and that means progressive taxation as one of the considerations. It seems to me that this concentration on cuts is one of the problems we have to overcome, and to concentrate on cuts over 2 years instead of 3 would be, I believe, folly. The Minister has put forward a schedule, which I believe does not allow this House to look at the whole position. If we are to examine 2 per cent cuts and their impact in the next month, and we have not seen any of them yet, we surely need to know what the end result of 10 per cent cuts look like to know where we are headed. If you cannot see the whole of where we are going how can you make those first cuts and say: "These seem to be the right balance or the right areas to cut" when you do not know where you are headed? Secondly, in terms of the extent of those cuts, how can you make a rational decision if you do not know what the tax alternatives might be? So, in order to make any rational debate about this, in the Business Plan we would need to have all of those factors. What will we have come the Business Plan? We will have the 2 per cent figures and we will have those, I hope, shortly. Already they are 2 weeks, 3 weeks late, behind schedule, we know there is always slippage, but in debating the Business Plan we need to know what the whole package is. We will not know what the package is, that is not being even discussed until September, October. We will not know, although we might know some of the suggestions, how far we have got down the consultation process on what may or may not be acceptable tax rises but the Minister ... So, the timing is all wrong. The timing is all wrong, we will not know those until we meet the budget right at the end of the year when we will be asked to agree again the sort of tax changes that we might want to see developing. Yet the Minister at least twice and probably 3 times in his speech used the word "balance", we need a balance between what we do between tax changes, cuts and economic growth. Now, I believe firmly that the balance struck by this proposition is completely and utterly wrong. I also believe that the Minister's emphasis on cuts first, and blind cuts to 2 per cent to be considered this year in the time scale which he is suggesting and with his priorities, may also be the wrong result. What he does to reinforce his argument that we would steam ahead at the moment is that he uses partial figures like the change in government spending over the last 5 years, and this is a classic he has produced: "Government spending in the last 5 years has gone up by 30 per cent." He ignores what has been happening in the economy over those 5 years, and for those of you who do not recognise it, we have been going through a boom phase in those 5 years. So that G.V.A. (Gross Value Added) has gone up, in current year values, by 37 per cent. In real terms that means Gross Value Added up 18 per cent in real terms. R.P.I. (Retail Price Index) in that interval has

gone up by 21 per cent. Finance sector profits, they went up by 30.5 per cent over the same period. We were doing very well indeed, certainly the banks were. Income Tax revenues went up by 21 per cent over that period and again, just to reinforce the point I made earlier, public sector payroll, the number of people we employ, in those 5 years went up by 160, 2.4 per cent increase over 5 years. So again, not rampant growth in the numbers of people we are employing but relatively moderate growth in the number of teachers, nurses, specialists we are employing. When he talks about tax changes he again has referred back to the C.A.G. who produced recently, in response to the Corporate Services Panel request, a set of figures that said we faced the prospect of G.S.T. rates up to 12 per cent by 2014. Of course that figure is totally spurious and irrelevant. It makes 2 assumptions which nobody, The Minister, Senator Shenton or even myself in their right minds, would make. It says: "Let us suppose that the States takes no steps to reduce increases in spending to below 6 per cent annually" as if anybody is going to suggest that: "and that no other taxes are raised to meet any potential deficits." Again, let us look at the whole range and see what the balance is, surely we would be doing that? So, 2 unrealistic assumptions lead to: "Ah, if you are not careful, and you make these cuts, you will end up with G.S.T. at 12 per cent and it will be your fault, you will get the blame." That is the scene being put towards us. So, in summary, what is being proposed today is complete folly, completely wrong. This House must reject that call for headlong cuts of that order, £50 million, 10 per cent cuts. They will mean serious cuts in services and serious numbers of people in the public sector made redundant and we should avoid that. Why? Because we risk extending the recession and delaying the return to better years. Furthermore, we must insist if we possibly can, that as we go on through this debate about the Comprehensive Spending Review and about the Fiscal Strategy Review that we get the fullest possible range of information so that we can make rational choices knowing something of where we are heading. So, we need to know what those 10 per cent cuts mean. It is not impossible, my understanding is that the Health Department have taken that sort of attitude: "Let us have a look at what we are doing, let us look at the worst possible, let us look at a 10 per cent and then scale it back," and Education have done something similar, they have looked at some fairly serious measures. They have got, what is it, 13, 16 reviews on board, 16 perhaps ... 10, I knew it was double figures, 10 reviews on board looking at worst possible scenarios and saying: "What is reasonable, what must we defend, where can we afford to make changes?" As we say: "In serious days but not impossible days." Coming back to the balance just briefly, balance between savings, between growth and tax rises and the Minister quite usefully said: "Let us put this in a wider context, there are other issues coming up." Contingency Fund, well I am glad he has finally come round to it because I have been saying that for 5 years. When we scrapped the Contingency Fund I said that was a mistake we should always have a little contingency pot but at last it looks like that will be revived. It has been gone 6 years; I think it was scrapped in Senator Walker's time, and I objected at the time. Or it may have been the transfer to Senator Le Sueur; I am sure he can remind us about that. He then talked about capital funding and infrastructure, property services. We have long known about that, serious demands of infrastructure whether it is sewers, whether it is roads, whether it is the state of our buildings, serious money that needs to be raised. A third one was court and case costs but, for example, Deputy Le Claire highlighted another issue around legal issues about legal aid. There are all sorts of things that need funding; that is why we have to bite the bullet this year and talk about serious changes to the way we structure our taxation. We can no longer afford the low tax, low spend business model that we have been running the Island on for the last 5 years, it is time to abandon that. We must talk seriously to the population about a different model, one which involves properly funding because we have been getting away with it. Just look at the state of our housing and what has happened to that over the past 15 years, we need to re-assess that basic funding. We are already a low spend regime, I do not believe we can afford any longer to be a low tax regime. We must examine that most carefully; we must do it in a rational way. I call upon Members to vote against this proposition.

9.1.6 Senator S.C. Ferguson:

I would remind Deputy Southern that it was the Public Accounts Committee under my chairmanship, which highlighted the maintenance deficit. It also highlighted the fact that if the States had kept to its expenditure limits employees would have had to pay 14 per cent less tax. There was one comment the Deputy made, which I am fascinated by. If 64 pence of every £1 spent in the public sector ends up in the private sector where does the other 36 pence go? But that is just me playing with numbers. The whole point is that it is not just the deficit that the European countries, Greece and the U.K. are coping with, it is the level of debt; a fact which the mainstream media often ignores and a problem which we do not have. I am glad Deputy Southern mentioned the fundamental philosophical decision, big government high taxes or small government low taxes. Yes, financial management is part of this but we need to make the fundamental philosophical decision whether we maintain the traditional old Jersey approach rather than the Brownian approach. In his report, despite what Deputy Le Hérissier said, in the Emerging Issues Report, the Comptroller and Auditor General was quite clear as to the areas, which would demand a priority in our review of expenditure.

[17:15]

These were the cost-cutting issues, Human Resources, Property, I.T. and Procurement, and implicit in all this is the question of what activities the States are engaged in, which will be better done in the private sector. If these areas are thoroughly reviewed then I am not sure that we can get this fairly draconian 5 per cent in the first year. What is needed is more than a massive cut in expenditure; we are looking at a whole culture change. When I worked in industry, 10p of the company's money had the same value as £1 of my own. Think about it. This was a culture, which was inculcated by the founders and perpetuated by the employees because they could see that it worked. During the Depression when a lot of companies were laying people off **[Interruption]** but amidst the Depression and so forth in the 20s, 30s and the vagaries of takeovers in the 60s, this company emerged totally unscathed. This is the sort of culture we need to disseminate in our public services. We have front-line services who do take pride in their work but they are very often frustrated by multiple layers of management who do not understand the job and do not listen. A quick 5 per cent cut this year probably means that the managers will take the easy route and cut front-line services. This is not what we want. We want a lean, mean public services; a modern system, not an old-fashioned hierarchical system with 8 or 9 layers of management but one with around 3 or 4 layers at most. A system, which encourages direct cross-departmental working rather than communication up to the senior managers across and down to the front line; a system without restrictive practices and without the concept of turf protection; a system, which will ensure that medical consultants have better equipment rather than instituting an eighth layer of management. This is a big culture change and it will require more skill and subtlety than the immediate bludgeon suggested by the P.A.C., with all respect to them. Yes, there are some projects that I would like to see, some of them are being undertaken at the moment but I would like a review of activities undertaken by the States, which we should not be engaged in, proper review of management staffing and conditions of employment, the review of I.T., proper backing to procurement, the office charging mechanism and office strategy. I see the Minister for Treasury and Resources' head shaking and nodding in agreement with most of those and I understand that most of those projects are on the way but they are not 3-month projects, these take longer. If we go for this higher 5 per cent this year, 5 per cent next year, we will divert attention from these projects. I applaud the efforts being made by the Minister for Treasury and Resources but I must remind him that to the public mind, cutting expenditure means a lower figure for net revenue and expenditure in the Business Plan than there was last year. There will be an element of invest to save but this should be clearly defined and should be transparent, and remember if we do not cut States expenditure we cannot in all conscience meet our deficit by just increasing taxes. For these reasons, hawkish though I generally am on expenditure, I cannot support this proposition.

The Bailiff:

Does any other Member wish to speak? Deputy Noel.

9.1.7 Deputy E.J. Noel of St. Lawrence:

Much of what I was going to say has already been said but I would just like to add that this debate is almost irrelevant in terms of the real outcome. Whether P.A.C. is successful or not in their proposition, the reality is that we simply cannot deliver a reduction of public spending of 5 per cent in 2011. Some Members may be surprised by my view on this but above all else I am a realist. A 2 per cent reduction in 2011 will be a challenge but an achievable one. It will allow us time, which is required, to deliver 3 per cent and 5 per cent in 2012 and 2013. This is especially true in Health and Social Services. We need time to re-engineer the services that we provide, to reduce overall spending by 10 per cent by the end of 2013. We have to reduce our spending and we cannot afford to fail in the delivery of a reduction of 10 per cent by the end of 2013. I believe a 5 per cent reduction in 2011 will fail to be delivered and so I cannot support P.A.C. in this instance. I believe that the mood of the House is quite clear and I humbly ask P.A.C. to withdraw their proposition.

9.1.8 The Deputy of St. Ouen:

As an ex-member of P.A.C., I am really hopeful that the Chairman of the P.A.C. and indeed the P.A.C. themselves have some other motive apart from the one that is described in this proposition because obviously if they have not then they really have not learnt from the past failures of this government to deal with expenditure as identified by not only the P.A.C. but the Comptroller and Auditor General, and I refer the President of P.A.C. to the document of £35 million savings that the Comptroller and Auditor General wrote and reviewed. Why I mention that is that decisions were made - some would suggest arbitrary decisions were made - to cut expenditure by, in those days, a particular Council of Ministers supported by the States. The result was very little in overall expenditure cuts but a number of costs were passed on to the users. In other areas there were certain small reductions but in overall terms it was relatively ineffective, and more importantly most of the money that was "saved" was re-invested to support services which required additional funding. So, I ask the President of the P.A.C. when he sums up, where is his evidence? Where is his evidence to support this proposal? How has he come to a sum of £50 million as an overall saving? Why should it not be £60 million, £80 million, £30 million, £40 million, shall we toss a coin? I ask where is the analysis of the spending pressures that he knows about and this Assembly has been aware about for some time? Even the Minister for Treasury and Resources within the last hour speaks about improvements in financial management and control, we will get on to that in a minute, but also he flags-up the fact that his department have identified spending pressures, which need to be addressed and he is looking for some more money. Which is only right because certainly since I have become a member of the Council of Ministers it is my intention to carry on in the same vein that I have been going on for the last 7 years, and that is to acknowledge spending pressures but equally to ensure that we are, and are able, to deliver services in a fair and efficient and effective manner but we need to know what those services are. It is all very well for the Chairman of P.A.C. to go: "We are going to knock of £50 million in 2 years and by the way it is nothing to do with us we will just leave it to the Council of Ministers." Thank you; thank you. Yet in the debate before we had all this Assembly supporting what? The non-Executive Members of this Assembly want to get involved in the States Employment Board, and where does most of that expenditure lie? I will tell you what; it is in labour. So, if we are serious about cutting money, where do you think it is going to come from? We are going to have to cut our labour bill. So, everybody, wake up smell the coffee because this is fact. This delivery of savings, absolutely. Are they easy to find? Not necessarily. Can they be permanent? Yes, but you have got to look and then come back to the fact, who sat down and considered what services we want to provide and what we can get rid of or stop? Not get rid of, stop. Where has that analysis happened? I know it is happening to an extent within the Council of Ministers but we have yet to have that debate. Well, surely that is the debate we need to start with. What do we want? What do the public want?

This is not a business. I have run a business and I can make decisions within my own business to cut my costs because who do I rely upon? One person only; me. I make the decision, it happens. Slightly different as I have found out, certainly since being in this Assembly **[Laughter]** and especially the last year. It is one thing to set out, to deliver and deal with matters but as an individual I cannot deliver on that, on those issues. I require not only the support of my Council of Ministers but I equally need to find the support of this Assembly who reflects, what? The view of the public. Now, when do they come in to this picture? When? Tell me. I know when they come in, it is when we have the proper debate, when we start properly identifying the savings that the departments and the Ministers have been working on, and the alternatives for tax and the other options because believe you me, when it comes to Education, I will tell you this for something else, 85 per cent of my budget is spent on Education delivered by an excellent group of teachers and support staff. So tell me, do we really want to reduce Education by 10 per cent? Maybe it is possible, I have instigated the reviews - I hasten to add, I instigated them way before anyone came up with the bright idea to institute a Comprehensive Spending Review, which I do support - but what are those review designed to do? Why are they not designed to look at the major areas of spending, bring forward the evidence to support proposals for change that we can properly discuss? That takes time. It does not take 5 minutes downstairs on a computer to churn out a proposition such as this. I will not be supporting it. **[Approbation]**

Deputy of St. Martin:

I propose the adjournment, Sir.

The Bailiff:

The adjournment is proposed then. Very well the Assembly will adjourn until 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:28]