

STATES OF JERSEY

OFFICIAL REPORT

FRIDAY, 19th SEPTEMBER 2008

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The Roll was called and the Dean led the Assembly in Prayer.

COMMUNICATIONS BY THE PRESIDING OFFICER

PUBLIC BUSINESS – resumption

1. Annual Business Plan 2009 (P.113/2008): fourth amendment (P.113/2008 Amd. (4)) - amendment of Senator F.E. Cohen to paragraph (b) - continued

The Bailiff:

The debate continues on the amendment of Senator Cohen and I call on Senator Le Sueur.

Deputy S. Power of St. Brelade:

On a point of order, could I ask the Minister for Treasury and Resources to give way for a second? Looking at the list of amendments, may I make my comments to you but addressed to the Chairman of P.P.C. (Privileges and Procedures Committee)? We have managed to agree on 17 amendments out of 41 in the last 3 days. That is just an average of over 5 a day. We have 24 to go. Unless we deal with this in another way, I would ask through you, Sir, for the Chairman of P.P.C. to accept this suggestion: that we work late tonight and that, if necessary, we work 8.00 a.m. to 8.00 p.m. next Monday and Tuesday.

The Bailiff:

Perhaps I could ask the Chairman of the Privileges and Procedures Committee to give that consideration and if he agrees then he will, no doubt, make a statement after the adjournment at lunchtime.

Senator F.H. Walker (The Chief Minister):

May I just make the point that many Members would not be able to work late tonight because quite a number of us have a commitment which we cannot break. If it is a question of working any other time that is fine, but it cannot be tonight.

1.1 Senator T.A. Le Sueur (The Minister for Treasury and Resources):

Listening to the arguments from Senator Cohen last evening, they sounded quite plausible until you start to analyse them a bit more. The Senator suggests that environmental taxes are designed to end up with little or no revenue yield because behaviours will change and he cites plastic bags as an example. On that sort of analysis, his suggestion that V.E.D. (vehicle emissions duty) would also end up with no yield because no one would ever buy an environmentally unfriendly car any more, that did not happen when we had V.R.D. (vehicle registration duty) and I do not think that would happen if we have V.E.D. It may sound a bit trite but you cannot really compare a new car with a plastic bag. He also claims that it would mean a purchaser of a new car would be faced with an additional tax burden. Can I remind the Senator and can I remind Members generally that when G.S.T. (Goods and Services Tax) came in we removed V.R.D. When G.S.T. came in, virtually everything went up in price apart from new cars. They came down with the removal of V.R.D. So I find it ironic when we are proposing measures to deal with the high increases in food and fuel prices we are talking about food and fuel going up and new car prices coming down due to States policy. These amendments, as I say, are largely aimed at alleviating the huge rises in food and fuel costs. So, are we suggesting that the less well off, who are struggling with fuel costs, shall suffer but those that can afford a new car should benefit? It does not sound quite right to me. As for the argument that G.S.T. will raise £2 million, yes, it will. We have already taken that G.S.T. into account and we have spent it already and we can only spend it once. The thrust of this amendment seems to be introducing environmental benefits now, pay later. It strikes me a bit like the sign you see in some shop windows: "Buy Now, Pay Later." It sounds appealing but we all know the problems when payback is due. So, Senator Cohen uses an old trick, if you like. Let us have more consultation. Consultation sounds great. We have had one round of consultation already and what were the 2 options? First option was V.E.D. and the second option was additional fuel duty. I am not aware of any new options having come to light since then and I have to assume that those are

still the only 2 options on the table. In that previous consultation exercise, when the choice was between an annual emissions tax and an increase in fuel duty, the preference among the relatively few who responded was for an increase in fuel duty; an increase on the consumption of fuel. I do not know if anybody bothered to calculate the amount of fuel duty that we would have to raise in order to meet these £5 million worth, ultimately, of environmental benefits. I asked Customs officers last night and the answer is 9.9 pence a litre, effectively 10 pence a litre, 50 pence a gallon. That is how much fuel duty we would have to raise if we wanted to meet the costs of environmental benefits that way. Who would pay that extra duty? Who would pay that tax? Well, certainly those who have the gas-guzzlers, they would. But so would the poor, innocent motorists who could not afford a new gas guzzler, who are struggling with their current car. Those are the people who would have to pay for the environment benefit in the future. Part of the package, and I stress it is a package, that the Council of Ministers came forward with was an agreement to freeze any increase in the fuel duty in this year's budget. It was part of a package. But if V.E.D. does not come in, if V.E.D. is not part of that package, then I can no longer guarantee that there would be no increase in fuel duty because you cannot just cherry pick. So, I wonder, perhaps Senator Cohen is thinking we can wait a little bit longer and see what happens. I spoke yesterday about Mr. McCawber hoping that something will turn up. Maybe we have the same again here. The Senator also seems to think there is no environmental impact in buying a new car; the impact came in using it. That is correct. Or at least it would be correct if having bought that new car you simply left it in your garage. But the reality is that if you have spent however many thousands of pounds buying a new car, the chances are you are going to want to drive it and when you do, if you are driving an environmentally unfriendly, high-emission vehicle, you will be paying that duty. If, on the other hand, you buy an environmentally friendly, low-emission vehicle, you can do that at no cost whatsoever, or very little. So, it would, I agree, be equally fair to tax that gas-guzzler on the fuel consumed, but what I do find unfair is that in pursuing that policy, the low income driver who cannot afford a new car is also being penalised. So, finally, I have to come back to Senator Cohen's policy for future years. I know this amendment only talks about 2009 but it is clear from the amendments that not only does Senator Cohen not want the V.E.D. now, he does not want it later, and that means that he either wants to pay for the environmental benefits by a rise in fuel duty or he wants the States to run at a deficit. I have spoken about deficits yesterday and I cannot support, I cannot condone, the States running at a deficit. That is unsustainable. But equally, I do not want to raise fuel duty by such a significant amount. So, I am forced to the conclusion that either we do not pursue these environmental benefits or, as I am recommending, that we introduce V.E.D. to help pay for them. I do not want to miss this chance to bring in some environmental benefits and so I have no alternative but to reject the Senator's amendment and I urge Members to do likewise. May I also raise the default on Senator Ozouf?

The Bailiff:

You have finished your speech? Yes, you propose the default on Senator Ozouf be raised. Those in favour? Against? The default is raised.

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

I always enjoy listening to Minister for Treasury and Resources. He is relatively entertaining but he has a limited stock of points that he touches on and points to make and it is just wonderful this morning hearing him say: "Well, you cannot cherry pick this," the old cliché, you cannot beat it. What did he do with Clothier? I wonder what his record was on not cherry picking Clothier. It is wonderful to hear the Minister for Treasury and Resources rubbish consultation processes. The man who knows because he has done them until they are coming out of everybody's ears and usually his consultations, too, come out with the idea that he first thought of in the first place. It is interesting, this morning on Radio 4 I was listening to national news and, apparently, there is an outbreak of complete and utter disgust with consultation processes in the U.K. (United Kingdom). In the U.K., citizens are saying: "Stop consulting with us because we know it is not real. It does

not mean anything. We waste our time filling these forms in and then you go and do what you thought of in the first place.” That is exactly what the Minister did on G.S.T. and the alternatives. He says, repeatedly: “We consulted widely on it and this was the least bad alternative.” It has become fact now. It is not related to what happened but it has become a fact. Repeat it often enough and it becomes a fact. So, the relatively few who responded to the Minister’s consultation then come in for a knocking. Difficult one, this. Here are the Ministers split again on what is the best way forward. So, what are the principles? The principles are that vehicle emissions duty will go some way to putting off people buying cars with high emissions and could be made to work. It is environmentally sensible. The problem is, I think, political. In order to make a new tax now, we have to persuade people that it can be made to work. So, can we be sure that the revenues raised will be used for environmentally sound purposes? This comes back to an issue that I have been asking the Minister for Treasury and Resources about for years. The fact is that under the States of Jersey Finance Law, we cannot hypothecate. All the money raised goes into one pot. There is not a little pot on the mantelpiece in which you can put the spare change at the end of the week in labelled “environmental duty” or “environmental spending”. I just asked the Minister and he was very straight forward about it. “Of course, it is not hypothecated. It just happens to balance,” was his answer. Now, to persuade people to take a new tax now at a time when they know what G.S.T. has done, they know what prices are doing, the likely answer is they are going to say: “On your bike ... provided it is not taxed. On your bike. No, thank you,” unless you can persuade them that it is in a good cause and that good cause will be benefited. I am afraid - I think the Minister for Planning and Environment uses this as part of his argument - that we cannot guarantee that money is going to green issues. I think he is right there. He is right. Because the Minister for Treasury and Resources can give no guarantee that that is what is going to happen. So it is very difficult to persuade the public at this stage to do that no matter how good the principle is. However, when the Minister for Planning and Environment talks about the issue of the Ford Galaxy, the 7-seater, saying: “Well, you are going to be paying 1,000 on your Ford Galaxy 7-seater,” he takes another classic argument, the extreme ... how many people are buying 7-seaters, by the way? And need 7-seater? And of those, how many of those can afford the 7-seater? I do not believe his argument holds real water there because he is taking the extreme. The reality is that vehicle emission duty will distinguish between a high emitter and a low emitter and there will be a cost differential and people will be forced to think green: “Do I want to emit more emissions or less? It is going to cost me.” So, there will be a change and it can be effective. So, V.E.D., the central argument, V.E.D. can be made to work but there is a flaw. Can we guarantee that it is going to green issues and will do something else to help the environment? No, we cannot. So, as is often the case with stuff that comes from the Council of Ministers, some mixed messages and some very confused and un-joined up thinking. For the moment, I do not think we have anything right on this issue and that makes me tend towards holding back and not voting for anything.

1.3 Deputy C.J. Scott Warren of St. Saviour:

I do not support a vehicle emissions duty at this time. In July last year the Chief Minister and Minister for Treasury and Resources gave assurance there would be no new taxes until 2012 at the earliest. Some years ago, road tax was replaced by an additional duty on fuel. Then G.S.T. has recently been added and it would be interesting to know the amount that is the basic cost of fuel, or petrol. This House chucked out V.R.D., quite rightly in my opinion, and I fear that if we now agree to introduce vehicle emissions duty, after the G.S.T. debate of last week was unsuccessful and the fact we have only introduced G.S.T. within the last year, we will be known as the “tax, tax and tax againers”. To be honest, there is a good argument that it could support people having environmentally friendly cars, and obviously I understand that argument, but there is also a danger that some people will decide instead to keep their old banger for longer. I think there is only a certain amount of tax that people will accept at one time. We have taxed people enough recently, and so I will be supporting the amendment.

1.4 Deputy R.C. Duhamel of St. Saviour:

Deputy Southern was right to pick holes in what the Minister for Treasury and Resources had come up with and I would like to pick another hole, if I may, in his speech. It was quite a clever speech. For those who have not bothered to read the report appended to Senator Cohen's proposition, because Senator Cohen on page 5, under 10, says that: "The environmental issues are highly laudable and I am fully supportive of the expenditure. However, I believe they should be funded, at least initially, by increasing cash limits." That is the issue. Time and time again we have heard Ministers from departments telling this House that they do not have enough money in their budgets to do the things that the House wishes them to do. So, what do we do? The response is to suggest that we come forward with made-up taxes which do not particularly work and will not be particularly popular in order to rob Peter to pay Paul. It is the wrong way around. What we should be doing, and this is quite clear in what the Senator proposes, there should be a request to allow the cash limits to be increased so that there is an element of ring-fenced money for environmental issues across the board to be determined by the Minister for Planning and Environment as to how they are spent, and that is the best way of dealing with the problem. To go down the road of saying: "Right, if you can afford to buy a posh car and to offset the carbon by running it on the wrong fuel, then that is acceptable," and you put the money in a pot to try and encourage those who cannot afford a similar vehicle to do something more environmentally acceptable, is not really the right way to be dealing with the concept of environmental taxes. That is why I think we are having these difficulties. I had to smile a little bit about running the budget at a deficit comment from the Minister for Treasury and Resources. If we look at it, yesterday we agreed £570,000 for the Chief Minister's Department plus another £200,000 for the Chief Minister's Department. We have other proposals coming forward, another £4.5 million supplementation, and here we are saying: "Look, the Minister for Planning and Environment has come up with a better way of dealing with things but we want to give him his head. We have to fudge the issue, go for environmental taxes which will not be popular," as I said before, "and use that as an excuse not to make any progress in the area." It is fundamentally flawed, fundamentally wrong, and I think we should get our act together and just increase the cash limits and have done with it. I shall be supporting the Senator in what he wishes to do and I hope other Members will do the same.

1.5 Deputy A.E. Pryke of Trinity:

Over the last weeks environmental concerns and issues have been debated in this House and I think we have all supported that. But, obviously, we have all said: "It comes at a price." Here we are trying to achieve it by a new tax. If we are really serious about the environment and putting the importance of the environment high across all departments and on this political agenda - and with my new political role as Leader of Environment Issues I hope to do that [**Approbation**] - then it needs to be put on the same level as other States expenditure and not treated any differently. Any environmental levy has to be a good thing but it must be done as a positive action, not a negative one, and, very importantly, taking the public with you every step of the way. It will be more effective and it will be long lasting. Take the initiative of the plastic bags. That was so successful, the public was right behind it and they do not mind paying 5 pence if they forget to take a bag with them when they go shopping. All that goes towards environmental issues. But here the Council of Ministers are asking for a new tax, taking new cars which are now more environmentally friendly, and they are more environmentally friendly because we, the public, have demanded it. Where has the consultation been over this new tax? The Minister for Treasury and Resources said he would liaise with the motor trade but there are also other industries, farming, and I look forward to Senator Ozouf's comments about that. Has there been any discussion with them? I think not. Last year the department went out to consultation. Yes, it was slightly different but the principle was the same. An annual tax on emissions to replace vehicle registration duty and the Minister for Treasury and Resources said there was a poor response, but I disagree with him. There were over 130 responses plus a series of meetings with women's institutes, motor traders, Age Concern, environmental forum, Chamber of Commerce, et cetera. Is that a poor response? I do not think so. The result of

that was 42 per cent favoured an increase in motor fuel duty and, interestingly, all respondents were supportive of proposals that environmental tax revenue be spent on environmental efficiency. If we are really serious and believe in keeping Jersey special, then let us start by showing some leadership by putting money from general funds and in the same mainline policies, education, housing, transport; we need to be up at that level not second class. Then we can look at other ways of having some environmental tax but we must start by showing some sort of leadership. At this point, I would like to congratulate the J.E.C. (Jersey Electric Company) on their grant of £500,000 for supporting environmental issues providing it is matched by government. For it to work, we must have the public on our side first and send out this very important message that we want environmental issues and concerns with no strings attached. I fully support this amendment.

1.6 Deputy J.B. Fox of St. Helier:

I shall fully support this amendment because I do not think we have the right time and the right place for what is being proposed at the moment. I can understand where the Minister for Treasury and Resources is coming from, but I do not think this is the moment in time when we should be doing it. I have been asking for years, along with other people, that green taxes should be ring-fenced. When we put up taxes on fuel, which was originally designed in taking away the tax on the car and putting it on fuel, it was designed to improve the environment. We are moving to a stage now where Europe is talking about imposing restrictions on the environment for those that do not have M.O.T.s (Ministry of Transport Test) or equivalent and we end up where people are keeping cars longer and, let us face it, some of our many road checks clearly show that we are removing cars off our roads at an alarming rate on some occasions with appalling accidents waiting to happen and, of course, some do happen in some vehicles when you can see the road from sitting in the driver's seat. It is things like that that really bring it to us that we need to do something in a co-ordinated and a cohesive way. This is not it. The question of the big vehicles coming in and being taxed, I do not have a problem with that. But let us do it in a way that it is an orderly fashion that people who want very expensive, high guzzling cars, especially to go away on the Continent or anywhere else, they would expect to pay more here. But when it comes to the family car, the 7-seater, I do not agree with Deputy Southern. There are a lot of people with 7-seater cars that have families. We also must not forget the disabled people that need big vehicles for wheelchairs and things like that. We also have the infirm that need extra equipment or need to visit their relatives and they need to carry their special requirements with them and, often, they will have a bigger car than they might normally have or their families will. So there are a lot of things that need to be brought into it. With time constraints, I am sure a lot of people are going to cover lots of areas so I will leave it at that. I shall not be voting it at this moment in time.

1.7 Senator J.L. Perchard:

The last speaker spoke about the support for the amendment. He made no mention of the fact that this amendment will approve, if agreed, an extra £ 1 million of spending from general reserve towards supporting the environmental initiatives. Is he aware?

Deputy J.B. Fox:

Yes, I am fully aware of what it is. The problem is it has a downside to it because it has not been thought through properly.

1.8 Senator P.F.C. Ozouf:

Can I first of all start by saying that I fully support the package of environmental measures that the Minister and the Council of Ministers put forward. It is absolutely right that we are making an investment in recycling, in energy conservation, efficiency, et cetera. I cannot support the amendment but I vigorously support the underlying amendment. I want to say to Members that I understand the real concern of Members. Sir, if I may ask, I am going to refer to a chart in my speech, if I can ask the usher to ...?

The Bailiff:

Yes, of course.

Senator P.F.C. Ozouf:

Thank you. I fully understand Members' real nervousness about increasing taxation. I understand the slight that perhaps has been made about these environmental costs being somehow different; somehow we need to put a tax in order to pay for those environmental measures. I regret that and I think that certainly is not the intention. It would never have been my intention to send that signal out. The Minister is absolutely right to say: "We are not bringing in a tax for the nursery provision, for the discrimination or for the things that we debate tomorrow." I would like to try and convince Members that this issue of V.R.D. can be treated entirely separately and Members should treat it entirely separately. I have great faith in Members. Over the last 3 and 6 years, Members of this Assembly have had very good debates about indirect taxation. We have made decisions based upon very good research. We have also, when we have been discussing new taxation, heard some siren calls for not doing various different things on taxation. Some of those issues are, of course, very difficult to communicate. We had 6 years ago the proposal to withdraw mortgage interest tax relief. There were siren calls - and I am going to come back to this in a second - that there would be somehow an apocalypse in the housing market when we withdrew mortgage interest tax relief. Of course, the research that we carried out at the time indicated that it was the right, difficult decision and that policy has worked and the Treasury is better off and our public finances are better off and the housing market has been unaffected. We have done a great deal of work on indirect taxation. We had a debate. I gave Senator Norman quite a hard time in relation to some of his ideas on indirect taxation. I explained that there are sometimes unintended consequences of very benevolent decisions that policy makers and the States makes in indirect taxation. I explained the difficulty and there is a direct link with this about the taxation on tobacco and alcohol. Just because we do not have duties or indirect taxation, it does not mean the consumer prices are any less off. The real question that we need to ask ourselves is, is the indirect taxation of V.R.D. the problem with cars? I see some Members are looking curiously at the graph that I have sent around and I want to explain it. I do not know whether or not Members have seen this graph. This graph was one of the graphs that was done in the U.K./Jersey Price Comparison, where we compared a number of items, the Statistics Unit did. I say "we" but it was the Statistics Unit that did a comparison of a number of goods across the Island: alcohol, tobacco, food prices, et cetera. This was one of the most striking, one of the most inexplicable graphs. I think we can explain it but inexplicable in terms of its variance. I am sorry it is not colour but it is in order and I will just take Members through it. The graph shows motor vehicles, and this is the cost of buying cars in Jersey. It tracks it from the year 2000, indexed at 100 in 2000. The bottom number is the U.K. figure. Car prices in the U.K. have fallen and they have fallen by about 23 per cent in the period June to June 2008. The graph above it is the Jersey, excluding V.R.D. and G.S.T., and the one above that is G.S.T. I have labelled in another place this chart with a particular name. I will not raise that in the Assembly but we know about the concentration of car retailing in Jersey and that is a factor. There is an inexplicable difference of price of new cars in Jersey and that is the data which proves it. Car prices in Jersey are substantially higher and inexplicably higher and V.R.D. is not the issue. V.R.D., as Members will see, was only ever a slight factor in the difference. The real issue is underlying car prices being much higher. This Assembly has made difficult decisions when faced with data in other markets. When we have had debates about fuel duty, we have known that fuel duty is not the issue which is driving fuel. The margin, taking out duty and tax in Jersey, used to be 23 pence per litre in Jersey compared to 3 pence in the UK. Duty rates on fuel have risen and that margin has fallen. In other areas we have tobacco. We have tobacco prices taking out the duty rate and the V.A.T. and G.S.T. figure, the underlying packet of cigarettes in Jersey is 92 pence in the U.K. and it is 1.90 in Jersey. This Assembly makes well-intentioned policies about taxation and we genuinely think and Members genuinely think that they are helping consumers and they are making consumers better off. But they are not because there is a market issue below that. There are some

markets and, yes, I receive a hard time in doing it and by goodness me did we not have a hard time in doing the G.S.T. inclusive pricing approach. We said that if you put G.S.T. on at the till, businesses will charge it and they will charge it over and above the U.K. inclusive V.A.T. (Value Added Tax) prices of which our community does not benefit. We have seen a very significant proportion of retailers in Jersey absorbing G.S.T. So, it is the difficult issue that I must say to Members about car prices and the effect of V.R.D. I will just say 2 things. I think that this Assembly was unsure of its decision when removing V.R.D. entirely. I think there was genuinely among some Members a lack of clarity. I do not think this Assembly - I have spoken to a number of Members and some Members may disagree - but I do not think this Assembly intended or fully thought through the consequence of taking away the imposition of V.R.D. at the time. It is not right to say that there was never an intention to put G.S.T. on top of all of the duties. There was never any intention to do away with duty rates on tobacco and alcohol and those other areas. As is the case with V.A.T. and G.S.T. around the world they are on top of the duty rates and V.R.D. was an indirect tax on import. What the Minister for Treasury and Resources is proposing is, effectively, the reintroduction of V.R.D. at a lower level and a more environmentally based approach, and if Members are not happy with the detail of that then, of course, we can deal with any issues to make it more environmentally friendly. We can tweak it more it towards family cars. We can deal with some of the issues that Members have raised. The Deputy of Trinity raised the issue of the agricultural sector. As my recollection is, I do not deal directly with the agricultural issues as my Assistant Ministers do that dossier, but I am pretty sure that arrangements were that the agricultural industry would be rebated for V.R.D. and if V.R.D. is reintroduced I am sure that we will come to the same arrangement in order to deal with the special case of agriculture as the Deputy of Trinity quite rightly points out. The reality is ... and Members need to really reflect on this graph. Is the introduction of a V.R.D. going to benefit consumers? Should we not be sending the message, as we have done very successfully in some of our other areas in terms of petrol duty, in terms of tobacco and in terms of some of our other policies which have worked and which have not affected consumers, should we not be sending out the message and should the Assembly not be giving me the support in order to deal with the car market in Jersey and doing more on this issue? I have to stand in this Assembly and say: "That graph is a problem." It is not a problem of duty and indirect taxation or G.S.T. in this Island. Members must look really carefully at this. This is a really big difference of a car which would be £6,000. The difference is dramatic and I do not believe that a family hatchback of a car can be more expensive in Jersey because of costs that are £1,000 or £1,500 more. There is something wrong with the market and V.R.D. should be absorbed. Members also, I think, need to take some comfort that on the lower level of cars in Jersey ... and did V.R.D. cause the chaos that was suggested? Well, certainly, the retailers were big movers around anti-V.R.D. and I wonder why? I wonder why the retailers and the good old Motor Trades Federation have written to us and said why they are so opposed to it. I just ask Members to reflect on that. Our job is to look after the public finances of Jersey. It is our job to make markets work well and Members have clear evidence, very clear evidence, that there is an issue of the car market that our Statistics Unit has provided, and I understand the issue of family cars but there are family cars in the low c.c. (cubic centimetre) groups which, in the E category, mean a V.R.D. payment, a reduced payment, based upon the schedules more environmentally based. I have to say also with the greatest of respect to the Minister for Planning and Environment and the Assistant Minister, I think the consultation was done not on the single import duty charge, I think it was an annual charge. I understand the concern that people would have about paying an annual charge and, certainly, faced with an option of an annual charge versus petrol I would probably go with the petrol, but that is a separate issue. This is the separate issue of the importation at the point at which the purchase is made and do Members really think that our community and buyers of cars, in their negotiation of a new car, buying a 2,000 c.c. car worth thousands of pounds would be saying that it is not appropriate for, effectively, a £300 payment, which is the reintroduction of what was there and was working and was collecting before. I do not want to say the Assembly made a mistake but I think the Assembly needs to revisit. If Members are going to accuse me of revisiting decisions,

well, we have revisited decisions on a number of occasions. This is an opportunity to revisit that decision. We introduced V.R.D. It did not have the catastrophic complications for the car market. Retailers' margins were squeezed and the buyers of cars were not those that were, necessarily, affected. I ask Members to look at this chart and to search their consciences. Who are we taxing here? Is it the consumers of cars or is it the retailers of cars?

1.9 Connétable T.J. du Feu of St. Peter:

We have what I would describe at best a very well set out shopping list. I think the intention of anyone who is looking at a shopping list, they see what do they absolutely need and what is a nice-to-have option. I believe on this shopping list as presented in the general overall amendment, there are a number of items on here that are nice to have if you can afford it. Clearly, this is not the climate to start bringing in additional taxes. I accept that there is a reimbursement policy which is going to be put into place which is going to reap benefits in the longer term, but at this stage it is clearly not the timing to impose further taxes on the public of this Island [**Approbation**]. This is, indeed, the worst possible time and if, in their enthusiasm to promote such requests, if that only had not been channelled so much towards some of these items but more towards a land development tax directed at a number of the vast areas of land which we have seen swallowed up with development and yet to see in the Island amidst the new proposals for our waterfront, I am sure that is the area that should have been shown the vigour and the enthusiasm which clearly has gone behind this proposal. I believe that the public of this Island at this moment and for the reasonable foreseeable future are completely taxed out and they do not want any more and we have to put a stop to this nonsense once and for all.

1.10 Senator M.E. Vibert:

Interesting stamping of feet. Not imposing further tax on the public of the Island. Of course, this is exactly what this does not do. It does not impose it on the public of the Island. The vast majority of people would not be hit by this tax, or this duty, at all. When Members are being so vociferous, I would really like to bring them back to the reality of who would be affected by this duty. I regret the 2 things have been brought together because I fully support and I am a very strong supporter of the environmental part of this, of what we need to do in terms of insulation and other environmental initiatives, but I am also a supporter for environmental reasons of this duty because I think it is an environmental good. It is trying to change people's behaviour for the benefit of the environment. With all these sort of barn storming speeches about taxes, let us think - and Senator Ozouf alluded to it and mentioned it - who would this tax, this duty, this one-off duty affect? Will it affect everybody? No. It will affect garages. In fact, one garage or group of garages in particular because there is a near monopolistic situation in Jersey for large gas-guzzling expensive cars. As Senator Ozouf has demonstrated in bringing forth this graph from the Statistics Unit, they are over-priced already. So, who will it be hitting? Perhaps that retailer will have to be a bit more realistic in their pricing and absorb this extra one-off duty on a new car. If they did not, and I think it very unlikely that they would not, who would it be hitting? Would it be hitting all the public? No. It would be hitting people who made a choice to buy a large, expensive, gas-guzzling new vehicle and they would not even have to do that. They could avoid the duty completely by buying a slightly smaller engine, more environmentally friendly car. So, it is not the public we are talking about. It is a targeted tax and it is a targeted tax or duty to bring about an environmental good. Mention has been made of 7-seaters for large families. I only had 2 sons but we used to take people to scouts and give lifts and we had a 7-seater, quite a small one. But at that time, can I assure you, we did not buy it new. We could not afford to buy it new and most families when they are buying a 7-seater and they have a young family, unless they are very, very well off indeed, will buy a second-hand vehicle. So, just think if we do this who we are protecting. The other thing is, do we seriously want, as we do through duties on alcohol and tobacco in particular, to try to help people to change their attitudes, to not do things which are bad for them and bad for the environment? Because this duty would, I hope, discourage people from buying large, gas-guzzling cars and if it

just makes one person change their mind, if it just makes one person or 10 people, it means there would be the importation into Jersey of one less large, more polluting vehicle and would that not be an environmental good? Of course, those vehicles, as soon as they are bought and imported, become used vehicles and go down the chain, so it is leading to the situation where there would be fewer large gas-guzzling cars in the Island. Again, an environmental good. I support the environment side and that is the carrot, but I think we should have a little stick as well, and that is to say to the garage retailers and to anybody who wants to buy a very large, gas-guzzling car brand new that you may have to pay a little bit more to protect the environment if you are going to do it. I believe the arguments against have not been very strong so far, I am afraid, and I urge people to think deeply about this. If you want to protect the environment, let us do the environment package and, at the same time, let us try to discourage people from importing larger, more environmentally damaging cars into the Island.

1.11 Deputy S. Power:

Like a lot of Members have said, this is not a time for more taxes. However, if you examine the 2 amendments, the Treasury one and Senator Cohen's, I think this is where I do part company with the Minister for Planning and Environment and his assistant and I will be supporting the Minister for Treasury and Resources. I am of the view that those people on the Island who do drive small cars and have made an effort to drive small-engined cars and cars that emit less than 120 grams of CO₂ (carbon dioxide) per kilometre; cars like the small Fiat Panda, the Citroen C1, the Toyota Aygo and a whole range of small Asian cars, these cars do emit very small amounts of CO₂. I cannot accept that the Minister for Treasury and Resources has said that we would have to raise about 19 pence a litre and nearly 50 pence a gallon to run with Senator Cohen's amendment. I cannot accept that. However, I am happy to accept that we can bring down the cost of motoring to these people who make the effort of driving a small engine car. If the Minister for Treasury and Resources can reflect that in his banding, then I would be very, very happy with that. I also feel that the Transport and Technical Services Department have a role to play in this and I do hope the Minister does speak shortly on this because the T.T.S. (Transport and Technical Services) Department has already introduced a scheme to heavily discount, I think it is by 50 per cent, pay and display cards for small-engined cars. While that is applicable to cars that emit 100 or less grams of CO₂ per kilometre, I hope that he revisits the banding on that because I think that is too low. There are a number of issues to do with this, but I do believe the banding has to happen above 120 grams of CO₂ per kilometre, that the Minister for Treasury and Resources does reflect that most family cars are 4-cylinder cars and they do tend to emit less than 200 grams of CO₂, but those cars that emit 250, 300, 350 and the large 6-cylinder, 8-cylinder, and 10-cylinder cars do pay a price for the pleasure of driving those large-engined cars. So, I will be supporting the Minister for Treasury and Resources in opposing this amendment.

1.12 Deputy J. Gallichan of St. Mary:

I do not know about all other Members but there are some very confusing messages going out during this debate, and the general point I would make is that there seems to be a fundamental misunderstanding of how the majority of people in Jersey choose a car, how they use a car and what influences there are on the way they are forced to decide. For example, do they buy a new car or a used car or whatever? I would just like to say a couple of things. Firstly of all, the Minister for Treasury and Resources mentioned the V.R.D. and said it had not seemed to make or I do not think it made too much of a difference to people buying a car or how it worked, but the V.R.D. was a very, very blunt instrument. It made no differentiation between diesel or petrol cars. Obviously, we should not look at that when we are looking forward to see whether we would make a new tax because it really was not a very effective tool at all on which to base anything. Senator Vibert made some quite sweeping statements, really, about who this would target if we do not accept this amendment because he seemed to be saying - he did not say in so many words - but he seemed to think that only the rich people would suffer because the normal, average family, those who need a

bigger car, would not buy a new one. Well, I think that is probably completely untrue because these days, if you are looking at this from the environmental impact, new cars will always have better emission figures than second-hand and well-used cars because everybody knows that as things wear and as they become older there is a built-in inefficiency which comes along. It is wear and tear. We are becoming older as human beings; we are not as efficient as we once were. It is the same for cars. But families, for example, the young family, people have a small car perhaps when they first start out. They have one child or 2 children; they need to increase the size of their car. Should we penalise them? I know from experience that I had to buy a different kind of car when I had my children because my children's seats could not be safely accommodated. I wanted to benefit from the best safety technology to protect my children in the event of an accident. That was a huge consideration to me. I found out if I bought a second-hand car, I would have to be probably paying fairly hefty servicing, whereas I could get a 2-year service interval on the car that I chose. I received free servicing for the first 2 years. In many cases when I was looking at choosing a car, I could benefit from a 5 or a 7-year warranty. Now, I was not receiving that with a second-hand car. So we should not criticise people and assume that people on average incomes will not make that effort to save and buy that new car and, therefore, suffer the duty because for many people that is the best option. I completely reject the fact that only the more affluent sections of society would be liable to this. I also would say that the cars with the lowest emission figures do not come cheap. They are generally much more expensive so there is a call to be made between what you as a family can aspire to do for the environment and what you as a family can only achieve by your limited budget. I know that from experience because I looked when I replaced my car. My car is 8 years old but my old one was 15 years old. I do not do it very often and I make a long and hard bit of market research before I do anything. I test drove a hybrid car because I was very impressed by it, but I simply could not afford to buy it so my intentions were right. Then I went for a very efficient diesel engine car that matched my family's requirements. My particular problem is I only have 2 children but both my children are drummers so I need a car that will accommodate a drum kit; sometimes even 2. They do not come easy, believe me. I looked at what I thought was the best deal. In fact, on the market research figures I chose the most efficient diesel engine available in Europe and it was brilliant but the garage could not sell it to me. Why could they not sell it to me? Because it is only that efficient because of what they call the F.A.P. (anti-particulate filter) which does not function unless that car is regularly used at more than 50 miles an hour. People in this Island do not have the range of choice that is available on the mainland. I have asked just informally how our figures would probably be based. As I understand it, we are not looking at making local emissions testing here. We will probably take manufacturers' figures, I would imagine, on the urban cycle but those figures do not always correspond to what will be achievable in Jersey. I think there is a bit of bureaucracy being built in here because we will end up having to measure these figures for Jersey roads. There are an awful lot of technological advances out there that require a higher speed limit on regular occasions to clean out the filters. Although I do not have the technical know-how to say that hand on heart here, but I believe the same can be said of some catalytic converters that there is a particular temperature that is not achieved necessarily on start-stop journeys which we have here. I am concerned that if we reject this amendment and the vehicle emissions duty comes in, we will be having another one of these blunt taxes. I would also like to say that - this is again a personal observation - when V.R.D. was in - it is interesting, Senator Ozouf; it is a shame he is not here - I knew exactly what I was doing when I pressed that button on the day of the V.R.D. debate. When V.R.D. was in operation here, am I the only person who noticed the increasing number of Guernsey registered cars, the increasing number of vehicles that had U.K. registration that were here for not just the occasional visit? I have even seen company cars blazoned up with the local logo and the local phone numbers but U.K. plates. I am sure people were finding ways around it. But the other thing I would like to say is later on today we will see again a case where this House is looking at a situation in the Island where there is inequality which has been caused by perhaps a not thoroughly thought out policy adopted years ago. I am talking there about Early Years. But let us just think about this. This is a word of

warning to Senator Cohen that even if I support his amendment, which I am very much minded to do, to look again very carefully at any future measures he might think of bringing because even if we went for a fuel surcharge duty, who is suffering here? Deputy de Faye yesterday acknowledged - which I was amazed to hear - that it is not necessarily possible to live here without a car if you have certain needs. There are reasons why you would need a car. We are not all wealthy enough to have a car for Jersey and a car for the family holiday. The average family here - and I do speak from experience - for a lot of young families especially, part of the adventure and part of the leisure that we build in, they aspire to a holiday. For a lot of them it would be loading up the family in the car and going to either visit perhaps relatives in the U.K. or France or doing a camping trip or something; just average simple pleasures. They cannot afford one car that meets the family requirements there when they have all the children in the car at one time and another car for commuting here. Most people just do not run for those 2 kinds of transport. Where there are wide sections of the community that are still not served by an adequate bus service, despite the good intentions of the Minister for Transport and Technical Services, I am sure, but we have to face it that the topography of this Island and the dispersal figures out of the urban areas mean that you cannot all have a bus within 5 or 10 minutes' walk. Where there are large sections of the population who already finance through their taxes a public transport service, you cannot really penalise them for not being able to use it. I think, Sir, I would just like to conclude this has not been thought out adequately. I am minded to support the amendment, but I just may not go with anything because I just do not think the work has been done.

1.13 Senator J.L Perchard:

While the proposition at first glance is seductive, Sir, I just want to remind Members that we are in no doubt at all what we are agreeing to if we approve this amendment. Of course we will be agreeing not to introduce Vehicle Registration Duty next year and we will also be agreeing to fund environmental initiatives to the tune of £1 million extra spending from either reserves or surpluses. We are conservatively predicted next year to make a surplus of £67 million, our last big surplus before Zero/Ten kicks in. I suggest that it is possible to find this extra £1 million given that situation, but it is an ongoing £1 million, of course. It is year on, year on.

Senator P.F.C. Cohen (The Minister for Economic Development):

Sir, if the Senator would give way, my proposal is not that. My proposal is that only in the first year is it covered by raising cash limits and that there would be a consultation exercise with the public to determine the best method of environmental taxation and it would be brought forward next year for implementation the following year.

Senator J.L. Perchard:

Sir, that is not my interpretation of the amendment. My interpretation of the amendment is quite clear that the amendment ... and I shall read: "Net revenue expenditure of the Planning Environment Department shall be increased by £1 million to fund the first phase of an extensive package of environmental initiatives." Now the Treasury are saying that will be funded by vehicle emissions duty. The Minister in his amendment is saying he wants it funded not by vehicle emissions duty; it has to come from surpluses or reserve, Sir. Am I not correct? Okay, Members will decide for themselves. It is quite clear to me that there is no alternative source of revenue. I do not think the time is right to increase the cost of motoring for Islanders. Fuel prices are at an all time high. G.S.T. is now being charged on cars, new and second-hand. The obvious increase that Vehicle Registration Duty would have on new cars, despite what my learned friend to my left has just told you, would have a knock-on effect with second-hand cars. Naturally it would. A car that is one year old will be affected by the price of a new car that has G.S.T. on it so there will be a knock-on effect all the way down the second-hand market. It is not the right time to be increasing the cost of motoring. It is not time to be putting costs up for Islanders. We have just hit our people with G.S.T. It makes no sense to start taxing now, particularly in times when we are predicting a surplus. Why tax people and squirrel it away? We have a substantial fund in the Car Park Trading

Fund which should have been used for environmental initiatives, which should have been used for Deputy de Faye's bus service. It should have been used for supporting cheaper transport for Islanders. But, no, we have squirreled that away as well. This is prudent if you like, mean if you like, but unnecessary certainly. I suggest to Members that it is not the right time to be increasing taxation on Islanders and I do not think it is the right time to be increasing our gross revenue spending by £1 million on environmental initiatives.

1.14 Deputy G.W.J de Faye of St. Helier:

Sir, it was only a short while ago where perhaps in a fit of pique I accused some of my colleagues on the Council of Ministers of being spineless. I regret to say this seems to be some sort of creeping disease. I have to tell Members that I am astonished at what heavy weather we are making of a very simple proposition. Let us start off with a few salient points. Vehicle exhaust emissions are not good for you. Let us just repeat that. Vehicle exhaust emissions are not good for you. They are bad for your health. They also contribute to polluting the atmosphere and will have their own effect ultimately on global warming. Let us just put vehicle exhaust emissions and their consequences at the forefront of our thinking on this amendment. I do not intend to go through what I think is an excellent package of measures which undoubtedly requires funding. Thank goodness that at last the thinking is beginning to turn around and we are talking about insulating people's homes and not chucking more logs on the fire when the windows are open. We have been pursuing that ludicrous state of affairs and will continue to just add on to winter fuel allowances when we have not been doing the job properly in the first place. At least here is some room for change. I hope we do not need to spend any time in deciding how excellent the packages are. But, no, the real story is we are all getting a bit wobbly because it is close to the elections. That is the real story and that is an attitude that I have to advise Members is not in the public interest or in the interests of the Island; losing your bottle because there are a few weeks to go to whether people are going to have you back again or not. "No new taxes," said Deputy Scott Warren: "We have said that we will introduce no new taxes." You are quite right, Deputy Scott Warren, quite right. What you have forgotten though, Deputy, is that environmental taxes were already included in the tax package. This is no surprise and if it is to any States Member, you have not been doing your reading. You have been letting your voters down and you do not know what you are talking about. Environmental taxes are part of the tax package. Yet another disappointment this morning, our new champions of the environment, the Minister for Planning and Environment and his newly christened [Laughter] within hours champion of the environment, the Tsarina for the environment [Laughter]. I regret to say I find their approach extremely disappointing, calling for leadership on this issue and utterly failing to give it. Utterly failing. Falling at the first hurdle that presents itself. Like so many, all sorts of excuses being given as to why we cannot do this: "The timing is wrong." The timing is always wrong, is it not? Always wrong especially if we have to do something like introduce a tax. Then the timing is horribly wrong. Horribly wrong. Of course it is not ring fenced. If we had to worry about ring fencing anything we would get nowhere because nothing is ring fenced. Those are the finance rules but those Members who complain about lack of ring fencing, when did they introduce the proposition to change how everything works? They have not. All mouth, no trousers. It is not ring fenced. Let us be quite clear about this because I am getting increasingly frustrated about hearing sob stories about purchasing on the second-hand market and how many people and things I can pack into the boot. This is not affecting all the public. This is not even affecting all car owners. This is a tiny measure that affects purchasers of brand new vehicles. That is who it is going to affect. Let us think about that. This is going to hit a small number of people who can afford to buy new cars. That is who it is going to hit and that makes it a user-pay tax. It is a user-pay tax that is going to make people think about their purchase on an environmental basis. Here is, in fact, the key failure of Senator Cohen's amendment. Senator Cohen I am afraid has not summoned the courage to take this head on as I believe that champions of the environment should. No, Senator Cohen wants to muddy the waters, spread the load a bit. So let us do this on cash limits. That way for a year or 2 or possibly longer we can get everybody

to pay, everybody to pay for people who cannot make honest environmental choices about their vehicles. That is wrong. That is wrong and it is the wrong approach to take. That is the key reason why we have to dispense with Senator Cohen's amendment. He is seeking to spread the load to people who are not involved in the purchasing of new cars at all. He is spreading the load to people who have no cars. He is spreading the load to people who catch our buses. No, Senator, stand up and be counted together with your Assistant Minister and target the big issue. The issue is what is coming out of the exhaust pipe. That is the issue. The issue is what is making people think about what is coming out of the exhaust pipe? An emissions tax on a new car will make purchasers think. This is what this is all about. I am very pleased to hear Deputy Power's suggestion as it was already in my mind. I am happy to look to review the current position of scratch card discounts. Currently 50 per cent discount for all electric vehicles, all vehicles in emissions band A, and also any hybrid vehicles with electrical power in band B. I will certainly take his suggestion away as encouragement for my own thoughts and see if we can match band for band discount parking for vehicles with 120 grams or less. And why not? Because, Members, this is about being positive. This is about grasping the nettle. This is about doing something in a targeted way. No shilly-shallying. Get on, do the job, user-pays tax, properly targeted; targeted at new car purchasers and targeted at an issue that is an important environmental issue. As I hope I clearly outlined, the failure of Senator Cohen's amendment is that it is attempting to spread the load. We should extract more tax from the people who are effectively causing the problem. Let us not be shy about saying we would need more tax. There are far too many people who think the excellent services that are provided by the government of this Island somehow run on fresh air. They certainly do not. We need to get money in to pay to do things. In this particular case we have an excellent vehicle to get money in to create progressive environmental change. I say to Members for I hope very obvious reasons: do not support this amendment but do support the main proposition.

1.15 Deputy C.J. Scott Warren:

Sir, could I ask for a point of clarification from the last Member? Whether the Minister could clarify why he is saying to Members that it will hit the pockets of people buying new cars when another Member of the Council of Ministers has just told me outside of the Chamber that it will not affect consumers at all?

Deputy G.W.J. de Faye:

I think the answer to that is fairly clear. The tax will affect purchase of new vehicles. It is a one-off tax. But it will not affect consumers in general because there is an extended second-hand market. Irrespective of what your requirements are, unless you insist on buying the brand new product you have the entire local car market and vehicle market at your disposal.

1.16 Deputy A.J.H. Maclean of St. Helier:

Despite the emissions coming from the previous speaker, which as usual were full of bluster and brawn and extremely amusing, I am afraid I find myself firmly in the camp of Senator Cohen **[Approbation]** who is clearly very popular stamping his own feet **[Laughter]**. I think with Senator Cohen and this particular proposition, he has in my view hit the right balance. The element that I was not particularly keen on was the raising of cash limits for reasons which I have been keen to point out in the past. But what I note from this proposition is the fact that the cash limits that he is referring to are relating to 2009 and he is looking for further solutions after that point. It is not an ongoing, recurring increase in cash limits. For that I think it presents us with a commonsense approach. I think that is what we need to be doing. I am particularly concerned with the raft of amendments coming from the Council of Ministers **[Approbation]**; the £11 million of increased spending, not that the particular points are necessarily an issue as far as I am concerned. There are some very good points within the amendments that are raised; Early Years and so on. You can hardly argue with most of them. What concerns me more than anything else is the timing of it. Why is it coming on the hoof? Why is it being presented at the last minute? Is this lastminutegov.com? We should be really planning in advance for a lot of these particular spending

pressures. I was concerned by some points raised by the Minister for Treasury and Resources. He made, for example, a veiled threat about no vehicle emission duty, then he cannot guarantee freezing fuel duty, fuel duty which I can remind Members is already extremely high in Jersey. Really to make a veiled threat of that type at this point I think is disingenuous to say the least. The Minister for Treasury and Resources disappointingly referred to the fact in his opinion that there were only 2 options here. We have an opportunity for a vehicle emission duty. We have the opportunity to raise fuel duty. But Senator Cohen's proposition before us today is a third option. It is a viable third option. We should not forget - and I do not think there is any doubt in this House - that most Members are fully supportive of environmental issues. Members of the public expect us to be. Members of the public indeed want us to support environmental issues. It is absolutely the right thing to be doing. It is just a question of how we go about doing it. I think a point that I would like to really major on for the remainder of my speech is, firstly, to raise the point about G.S.T. and the increased taxation that we have already had. G.S.T. as we have already heard over the last couple of weeks is going to raise an additional £5 million or so. We do not know the exact amount but certainly millions of pounds extra additional revenue from G.S.T. It is not the most loved tax, as Members well know, but we have additional revenue there. What better cause to put it towards than environmental causes. It makes perfect sense and that is why the proposition Senator Cohen is presenting is one that I am going to support. I would like to also, if I may, touch on the agricultural industry. Many Members may not be aware but it is an area that I also have some responsibility for due to the conflict of the Minister in this particular area. I know Members would be well aware of the concerns that the agricultural industry had over V.R.D. on tractors, which was extremely expensive. An average tractor is £25,000. It is not your average price of your family saloon. £25,000. They need to be changed every 4 or 5 years. It is several thousand pounds to replace these tractors. In an agricultural industry which is under pressure, an agricultural industry part of our diversified economy that we need to support, do we really want to be producing more taxes to agriculture now that is going to put more pressure on that industry? They are producing food locally. We want locally produced food at competitive prices. If we increase taxes that affect the industry it makes them less viable. I do not think that is a sensible move. I should point out - and the Minister did touch on this - that in fact there was a scheme in place to help farmers with V.R.D. as it stood. There was a rebate scheme. By 2007 that had been reduced to 50 per cent. If V.R.D. had remained in place by 2009 that particular scheme there was no more funding available. It would have had to come from additional sources. So we need the funding in place. If Members are minded to not support the proposition from Senator Cohen then we would need to be looking for ways in which we can support the agricultural industry should this be an additional burden upon them. The money is frankly not there. It is a cost that Members need to consider. That is why I am fully supportive of Senator Cohen's proposition and I would urge Members to join me with that. This is not the timing for more tax. This is the time to keep Jersey special. It is a time for positive and constructive leadership and I believe that we should say what we mean and mean what we say. I think there are Ministers who have said there is going to be no more tax until 2012. If that is what has been said, we should stick to what we have said. We should keep our word and I would urge Members to support Senator Cohen.

1.17 Deputy K.C. Lewis of St. Saviour:

This is a completely unnecessary tax, Sir. People do not need to be told to buy smaller cars. They are doing that already. It is called the cost of fuel. I do not know how many times I have to say this, Sir. People keep saying it is double taxed. It is not. It is triple taxed. We have the impôts duty. We have the road tax. We have G.S.T. Fuel is already too expensive in Jersey. Can we remember - it was not that long ago - when V.R.D. was first introduced in Jersey, how many garages closed down and how many jobs were lost? Large vehicles are coming down in price. People do not need to be forced to buy smaller cars. Take a look at most garages that sell second-hand cars. They do not sell the large cars any more. Those that do, the prices are marked down so

low you can pick up a very new 4x4 for just a few thousand pounds, top of the range. As I say, this is a completely unnecessary tax and I will be supporting the proposition.

1.18 Deputy J.G. Reed of St. Ouen:

I like our Minister for Economic Development, Senator Ozouf, but I think he has to get out of the Statistics Unit and get into the real world. He shows us graphs and tries to identify the rates of change between the U.K. and Jersey. I would suggest this graph shows something totally different. This shows the buoyant economy that the Island lives in and the ability to go out and buy vehicles, and equally the lack of competition. I would say to Senator Ozouf - and I accept it is difficult - we have heard it for too long saying we have a problem we need to deal with. If we have the Competition Regulatory Authority in place, let us see them deal with competition for vehicles, competition for fuel, competition for cigarettes and everything else that we keep hearing about, but we see nothing happen. I would also like to say that this graph shows the whole reason why as Islanders we should be able to take advantage of lower prices elsewhere apart from on the Island, if this shows that we can go to the U.K. and buy one. But, no, because the proposal in front of us is that the tax will not only be on new vehicles - and I come to that in a minute - but on hire cars and imported second-hand vehicles. I do not know what a new vehicle purchased in France or Ireland or the U.K. or Belgium or wherever you want to purchase it from will be classed, whether it be new or second-hand, but those cars will obviously seem to be captured in this tax. Then I come on to the next point. Do not be misled. Everybody is saying new cars. No, read what it says in the slight and small bit of information we have provided. I will read it: "The tax will be on the registration of new vehicles"- not new cars, not big 4x4 gas guzzlers but all new vehicles - "plus at a reduced rate on hire cars and imported second-hand vehicles." That captures everything. That captures commercial vans, lorries, trucks, the whole shooting match, J.C.B.s (J.C. Bamford), tractors. You name it, this is going to capture it. This is exactly what we said no to 5 months ago. Go back, think about it, sort it out and come back with some proper ways of dealing with and encouraging environmental initiatives. But, no, it is dragged out of the bottom drawer yet again, put in front of us and told "sign here". Worse still, Senator Ozouf has the cheek to say: "Approve it and we will deal with the detail later." Is this good government? Is this what the Council of Ministers is all about? Is this what we have come down to? I think it is pathetic. I am sorry but I really feel that it needs to be said: absolutely and utterly pathetic. What about the J.E.C. (Jersey Electricity Company)? Is this not a wonderful offer? We are told here that a voluntary donation from the J.E.C. will be handed to us at £500,000. That sounds good. Only thing, hang on a minute. Who does the J.E.C. belong to? What does the J.E.C. pay to this government each year? Annual dividends. So we are not going to gain anything because we will just have the annual dividend and £500,000 is going to be converted to environmental initiatives. What a lot of rubbish [**Laughter**]. Do you think that we are stupid as States Members, because I think the Council of Ministers - and I mean this - have to properly wake up. Do not think that we are a bunch of idiots. Do not come with nonsense such as this to this House and expect that we are going to support it because we are not [**approbation**].

1.19 Deputy G.C.L. Baudains of St. Clement:

How do you follow that? I would just like to step back a few moments and remind us of what Deputy de Faye asked. He asked us several times what is coming out of the exhaust pipe. [**Laughter**] I do suggest something not that very much different from what we are hearing from Ministers this morning. What a lot of claptrap, especially from those who do not drive, Sir, in contrast, I have to say, to the speeches made by Deputy Maclean and just now by the Deputy of St. Ouen. Of course the Deputy of St. Mary is also absolutely correct in her analysis of vehicle emissions. It is a very complex subject and the analysis of emissions in Jersey is not straightforward at all. It does not correlate with the U.K., Europe or anywhere else. I am grateful - as is, I believe, the Deputy of St. Ouen - to Senator Ozouf for circulating his graph. Sadly, Sir, it did remind me of a widely reported comment on television some years ago which related to a

snooker match. It went something along the lines of: "For those with a black and white television, the pink ball is behind the brown" [Laughter] because the Senator's assistance was neither clear nor relevant. I disagree with his analysis of having a tax on a tax as well as many of his other comments. I will come back to the tax on a tax and on top of Deputy Lewis' tax as well in a moment. I also disagree with Senator Vibert who appeared to believe this tax would not affect the public but would be absorbed by retailers. I suggest, Sir, that if I did understand it correctly he forgets motorists in Jersey are a captive customer. The tax and spend philosophy that appears to be emerging from Ministers today, Sir, does alarm me. I do find it amazing how easily all the promises to the electorate to spend less evaporates so easily in this Chamber. I agree, therefore, wholeheartedly with Senator Cohen's amendment. We seem to forget the damage that V.R.D. did to the motor trade which in turn affected the price of cars and, therefore, the customer. It did in fact encourage people to hang on to their older cars. I have to say a matter raised by the Deputy of St. Ouen, I was concerned about the misleading comments of some Ministers when they kept talking about new cars because this does include imported cars, whether they are new or second-hand. There has been for many years a large market in people buying nearly new imported second-hand cars; more environmentally friendly than the older car that they have but, of course, at a substantial reduction in price. That market collapsed with the introduction of V.R.D. Of course, when V.R.D. was taken off it was agreed it would be replaced by another tax. I repeat, another tax; not 2 taxes. In other words, G.S.T. and another tax as we are being asked now. As Senator Cohen rightly said, having a tax on a tax is probably immoral. These last few days, Sir, we have been committing taxpayers' money. I believe it is time we had greater regard for the hard-pressed taxpayers and gave them a bit of a break. As I said before, I was concerned with Senator Le Sueur's comments that related to new cars. As the Deputy of St. Ouen correctly said it applies not only, as I said a moment ago, to second-hand cars but it includes commercial vehicles as well, which of course adds to the cost of business in Jersey and helps to make Jersey overall less competitive. Of course, commercial vehicles do not come cheaply. When you are talking of a tax that is in percentage terms and you are talking of a second-hand lorry with a Hiab on the back that costs £100,000, you are talking about a lot of tax. Somebody pays for that and that somebody is the customer. I am not sure but I believe - certainly G.S.T. - the new tax will also apply to classic vehicles which were exempt under V.R.D.; vehicles over 20 years of age. If you have a classic car or vehicle of any sort which may only do 20 or 40 miles a year, why should you have to pay the same amount of tax as somebody who is driving every day? I totally support Senator Cohen in attempting to reverse the idiocy of the Council of Ministers.

1.20 Senator S. Syvret:

There have been some quite impressive sounding speeches this morning from a number of Members, but the one so far that I was most impressed with was the speech of Deputy Maclean. He struck me as being like one of those radio presenters who is charged with the task of making a link between 2 totally unrelated slots and unrelated pieces of programming and seeing just how inventively they can do it. So we start, here we are talking about car taxes, things of that nature, and it came tortuously around to how we must really support the Island's farmers and how much agriculture is important and all of that kind of thing. Very impressive. A great link. He should apply for a job on Radio 4. I am going to be opposing both the amendment and this part of the proposition. The fact is that sometimes government requires leadership and it requires doing things that are not popular. We are all guilty of it or most of us; I am certainly. Jersey is overrun with vehicles to a point that is utter madness in a community of this size. I would just like to quote a précis from a report produced by the Environment and Forecasting Institute in Heidelberg, Germany. This looked at the cradle to grave impact of motoring. I will quote: "A new report from the respected Environment and Forecasting Institute in Heidelberg, Germany, puts the car right back at the centre of the transport debate and raises fundamental questions about a society increasingly adapting itself to the car. The German analysts take a medium sized car and assume that it is driven for 13,000 kilometres a year for 10 years. They then compute its financial,

environmental and health impact from cradle to grave. Long before the car has got to the showroom they find it has produced significant amounts of damage to air, water and land ecosystems. Each car produced in Germany, where environmental standards are amongst the world's highest, produces 25,000 kilograms of waste, 422 million cubic metres of polluted air in the extraction of raw materials alone, say the Heidelberg researchers. The transport of these raw materials to Germany and around the country to factories produces a further 425 million cubic metres of polluted air and 12 litres of crude oil in the ocean world for each car. The production of the car itself adds a further 15,000 kilograms of waste and 75 million cubic metres of polluted air. Calculations of the impact of a car in use make a generous assumption that the car has a 3-way catalytic converter and uses 10 litres of lead free petrol for every 100 kilometres over 10 years. On that basis the Heidelberg researchers believe that one car will produce 44.3 tonnes of carbon dioxide, 4.8 kilograms of sulphur dioxide, 46.8 kilograms of nitrogen dioxide, 325 kilograms of carbon monoxide and 36 kilograms of hydrocarbons. Each car is moreover responsible for 1,016 million cubic metres of polluted air and a number of abrasion products from tyres, brakes and road surfaces: 17,500 grams of road surface abrasion products, 750 grams of tyre abrasion products, 150 grams of brake abrasion products." The report goes on: "The sum of these different life cycle stages produces some insight into the penalties society must face if they become car dependent (which we have). In total, each car produces 59.7 tonnes of carbon dioxide and 2,040 million cubic metres of polluted air. Each car, say the Germans, produces 26.5 tonnes of rubbish to add to the enormous problems of disposal and landfill management faced by most local authorities. The Heidelberg researchers say that over its lifetime each car is responsible for 820 hours of life lost through a road traffic accident fatality and 2,800 of life damaged by a road traffic accident. Statistically they suggest one individual in every 100 will be killed in a road traffic accident and 2 out of every 3 injured. Translated into vehicle numbers this means every 450 cars are responsible for one fatality, every 100 cars are responsible for one handicapped person, every 7 cars are responsible for one injured person and into production data, every 50 minutes a new car is produced will kill somebody and every 50 seconds a new car is produced will injure somebody." Land use data, and this is something that is of particular interest to us in this tiny Island of Jersey: "Land use data are also brought into the equation to show that Germany's cars, if one includes driving and parking requirements, commandeer 3,700 square kilometres of land, 60 per cent more than is allocated to housing. Every German car is responsible for 200 square metres of tarmac and concrete." That number is broken down. The total impact, Sir, I will not read all of it out. I will just conclude: "The car is thus revealed as an environmental, fiscal and social disaster that would not pass any value for money test. More importantly, the car can now be seen as a disaster in itself. It is ownership as well as use that is the problem with the car and a car used sensitively, if that is possible, is still a problem for energy, pollution, space and waste. The balance sheet's bottom line is enormous societal deficits and penalties and an assumption that we will all continue to pay the bill." Sir, in fact in many respects a lot of the assertions that have been made in respect of Senator Cohen's proposition amendment which would have us believe that it is better environmentally to encourage people to buy new cars as opposed to hold on to the second-hand cars is very, very often wrong. If there is a problem of 15-year-old cars billowing out pollution and becoming inefficient and dangerous, the way to address that is to introduce an M.O.T. or something of that nature. But the plain fact is on a cradle to grave energy and environmental resource basis, if you have a car and your prime concern is protecting the environment, the best thing you can do is keep it and not buy another one. The fact is Jersey is addicted to the car to a quite absurd degree in an environment as small and as limited as ours. The environmental and societal impacts of car use are colossal. We need policies - none of which are on the table today - to start saying to this community: "Look, the time has come when we collectively have to grasp the nettle about this." The time has come for political leadership and for that reason I will not be supporting the amendment, nor indeed the substantive proposition.

1.21 Senator F.H. Walker:

Sir, there is complete agreement between Senator Cohen and other Ministers on the environmental objectives that lie behind the Council of Ministers' amendment and his own amendment to that amendment. There is complete agreement that we need to do a great deal more to protect and improve the environment of Jersey. The choice that Senator Cohen's amendment puts to the House today is how we pay for it. That is the simple choice that his amendment puts to the House. Do we pay for it by V.E.D. or do we pay for it by adding to States expenditure? That is really what all this is about. It is that simple. On the one hand we have V.E.D. On the other hand we have increasing cash limits. I have been more than a bit surprised to hear one or 2 speakers in this debate who have in other debates - this week and previously - spoken very, very strongly against increasing States expenditure, stand up to say that is the choice they are going to make today because that is your choice. That is the choice that Members have. Either that or Members are saying they are opposed to the environmental initiatives that the vehicle emissions duty is planned to fund: helping the less well off with home insulation, new recycling initiatives, capping bus fares and extending the bus network. Those are the 3 choices: support V.E.D., add to States expenditure or do not do those environmental initiatives which I think at one time or another every single Member in this House has said they support. There is no free ride here. Opposing V.E.D. does not mean that the taxpayer will not pay for those environmental initiatives. Deputy de Faye was quite right in that respect. It is a choice between who pays. Is it effectively the well off who buy the high emission, generally speaking, high cost, high value vehicles or is it the taxpayer generally? I see Senator Cohen shaking his head when I say that, but of course we are talking mainly about Senator Cohen's friends here, I guess, buying the **[Laughter]** ...

Senator F.E. Cohen:

I regard the Chief Minister as my friend, Sir.

Senator F.H. Walker:

And that will endure this debate whatever the outcome, I must say. Sir, we have heard one or 2 speakers say that the promise was no new taxes until 2015. That is not the case. The promise very clearly was no new taxes until 2015 except for environmental taxes. That is a matter of States record. I am afraid the motor traders have distorted that assurance and sadly that has been picked up by one or 2 Members. Sir, V.E.D. is aimed at what are commonly known as gas guzzlers. Low emission cars which are generally speaking low cost cars, generally speaking those cars bought by the less well off in our community, will be little if any affected by the proposal to introduce V.E.D. We are told that the effects of Senator Cohen's amendment would be to add to cash limits in 2009 only. It would add to cash limits in 2009 but what happens then? What happens then? Basically then there are 4 choices, I think. Either it continues to add to cash limits with no equivalent income or a tax such as V.E.D. is introduced or other taxes against the promise by the Minister for Treasury and Resources and accepted by this House are raised or impôts duty has to increase by something like 10 pence a litre. That would apply to every single driver of every single vehicle in Jersey including the less well off, including low cost vehicles. Basically the choice is do we tax gas guzzlers, generally speaking bought by the better off, or do we tax every motorist, which includes of course the less well off? This might seem popular to oppose this tax - and I can understand that - but there is no free ride here. If we want to do the environmental initiatives which this House has signed up to in all sorts of ways or said it would sign up to in all sorts of ways, somebody will have to pay. V.E.D. is without question in my view the fairest way forward. It is also a green tax and it is totally consistent with our long-term environmental aims. It would cut back on emissions. It is a tax to protect our health in that respect. It is a tax to protect our environment. I know I got lost with the multi-million cubic litres or whatever of pollution that vehicles apparently throw out in Senator Syvret's speech; the points he was making are absolutely right. This is a tax which is aimed at reducing emissions. Surely that is something we need to give great consideration to. It is also a tax which would have the effect of reducing fuel consumption because the gas guzzlers are the ones that would pay. It is the gas guzzlers who use the most fuel so we would be again meeting

our green targets by reducing fuel consumption, totally consistent with our long term aims to reduce traffic congestion and the effects of traffic congestion. I forecast that is going to be one of the biggest problems the States will have to address in the next few years: reduces energy consumption and leads the way to the long-term environmental objective which I believe Jersey can achieve of being an example to the world of how to be a green community, introducing electric vehicles - hybrid vehicles - and keeping petrol driven vehicles down as far as possible to low emission, smaller cars and so on. If we are going to achieve those objectives we need a mix of incentives and disincentives. That is exactly what V.E.D. and other measures do. There are incentives to people to buy low emission vehicles. There are incentives for electric vehicles. There are incentives for hybrid vehicles. This would introduce a disincentive against high emission, gas guzzlers; absolutely consistent with the long-term green environmental aims. The motor traders were bound to oppose this. Of course they were. My only surprise is they took so long to do it. It would have been quite remarkable if they had not. What also surprises me is the lack of public backlash against this proposed tax [**Approbation**]. There has been very, very little. Of course the motor traders have led the way but look at the graph. The graph has been interpreted in all sorts of ways and very entertainingly by the deputy of St. Ouen. But look at the graph. V.R.D. and G.S.T. have made virtually no difference to the rising cost of cars in Jersey at all. The principal rising cost has been margins to the retailer. Maybe they need those margins, I do not know. But V.R.D. and G.S.T. have made precious little difference and V.E.D. will make even less difference. Even less difference because it is aimed at specific vehicles, aimed at high price, high emission vehicles. It will have little or no - I repeat little or no - impact on low price cars. V.E.D. will be linked to grants for home insulation. We saw Mrs. Minihane a couple of nights ago in the *J.E.P. (Jersey Evening Post)* saying pensioners have a choice of heat or eat.

The Bailiff:

I do not think Members of the public should be named, Chief Minister.

Senator F.H. Walker:

I beg your pardon, Sir. The Chairman of the Age Concern, Sir, said it was a choice between heat or eat. The House decided not to take G.S.T. off food. There is an alternative proposition before the House later in this session. But V.E.D. is linked to grants on home insulation to the less well off to help them overcome the huge increases in fuel costs that they have and, of course, everyone has to endure. It is aimed at supporting recycling initiatives which Member after Member after Member have said are so important and have criticised the Minister for Transport and Technical Services for not delivering quicker. It is aimed at capping bus fares. It is aimed at improving the bus network which again Member after Member after Member have said we have to do. All of these objectives are what V.E.D. is aimed at achieving. Deputy Southern raised the question will it be spent on those environmental initiatives. The answer is, yes, that is part of the proposition. That would be the commitment that the tax raised from these funds added to the contribution from the J.E.C. would be spent on those environmental initiatives at no additional cost to the States. I go back, Sir, to where I started. The choice here is V.E.D. or adding to cash limits. Longer term the choice will be V.E.D., cash limits, something like a 10 pence per litre increase in fuel duty or not pursuing our environmental initiatives. I have absolutely no doubt that V.E.D. is the fairest, most equitable way forward. Sir, with sadness because of the fact that it is Senator Cohen who is bringing the amendment, I must urge Members strongly to oppose it.

1.22 Deputy J.A.N. Le Fondré of St. Lawrence:

Yes, I do find myself slightly torn on this matter. I have to say I disagree with much of what Senator Cohen said last night except for one rather important thing which I do agree with him, that this is not the right time as far as I am concerned. That I think is fundamentally what it comes down to. Equally, Sir, I agree with much of what Senator Le Sueur said and I get very nervous about raising cash limits, yet more unfunded expenditure. What is a million or 2 between friends? I did and always have supported the principle of environmental taxes. I was quite disappointed

when the package was not brought forward. Ultimately, Sir, the position I am in is I am going to agree with Senator Cohen, it is not the right time. I am going to support the amendment but I consider environmental taxes should be brought to us in a package, not in a piecemeal basis and, therefore, I will not be supporting the main amendment either, Sir. Just for brevity, I will not be supporting part 9 either, Sir.

1.23 Deputy S.C. Ferguson of St. Brelade:

The Chief Minister talked of 4 choices. There is a fifth choice. Most people will, when acquiring a new car, be looking towards economy and sales of fuel effective cars will rise. Normal economics, if a resource becomes expensive people will look to alternatives or cheaper ways of using it. I am really rather afraid that this is a tax with a green shroud. I repeat, natural economic forces, people will make the natural, reasonable choice and buy fuel effective cars. The F.P.P. (Fiscal Policy Panel) said: "No new taxes" and also said: "No more significant expenditure"; there is a thought for you. But another thing that bothers me, and I think probably the Deputy of St. Ouen mentioned this, can the Minister for Treasury and Resources confirm hand on heart that this proposed tax can be hypothecated? It has not been possible before; it has not happened before as far as I can remember. Perhaps he would explain. Thank you, Sir.

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

Like Deputy Le Fondré of St. Lawrence I have been very torn by it, but probably one of the saddest things that has occurred this morning is that the Minister for Planning and Environment's speech was made by Senator Walker. I thought that was one of the saddest things that has happened. He made a spirited speech, the sort of speech I would have expected from Senator Cohen for the Chairman of the Environment Scrutiny Panel. He made that speech and I think that is terribly sad, basically, Sir, because this has all got in the miasma of electioneering and we are all being pulled hither and thither, we are all trying to be nice and we are all trying to keep the big picture in mind, and it is not possible, generally speaking, to square that circle, so we are all performing these political acrobatics in various ways. I have been lobbied by the garage trade and there is no doubt one of the things that brought it down last time, Sir, was the fact it was very poorly targeted and it did affect all segments of the car market. I do feel this time it is better targeted. I have been appalled at the way we have taken this, as I was by yesterday's debate on the expansion of the Chief Minister's Office. On that point, Sir, I would like to say how saddened I was by the position of the Constables who I thought were the prudent "housewives", Sir, colloquially speaking, of the States, who took a tough line on expenditure and who, sadly, caved in very publicly. I have been very saddened by the way these cash limits, despite promise after promise to the public, we are prepared quite casually to breach cash limits. In terms of a very well meaning, okay, ad hoc measure - yes, it is not put in a proper context necessarily, we agree with that - but it was up to the Environment Department to have brought, in my view, a paper forward arguing the pros and cons of how environmental taxes work or do not work as the case may be. Yes, it has not been put into that proper context, but nevertheless, Sir, it does get away from this "drip, drip" approach, which of course is going to become a flood when we look at the next amendments; this "drip, drip" approach to these awfully flexible cash limits, Sir, which were not meant to be flexible but which for electioneering purposes have become flexible. So, my view is, Sir, at the risk of offending my friends in the garage trade I feel the targeting of this is sensible and I will go for the original proposal and vote against this, Sir, and express my extreme disappointment. I will be going on and on about this until I feel, Sir, that our very hard working but not necessarily at the moment I feel sufficiently strident and assertive Members on the environmental side really start taking this case seriously. I just find it unbelievable that the Minister for Planning and Environment is pushing this particular case.

1.25 Deputy A. Breckon of St. Saviour:

I will be fairly brief. I would just like to turn the clock back a bit. I am sure many Members can remember standing in the Chelsea Hotel in the last 3 days of January over the years; we have all

met there - well, most have anyway - and that was part of the taxation or the fundraising on the use of the motorcar. Of course, we absorbed that into fuel and that is still there and has indeed increased, but I would like to just remind Members, Sir, of what the Planning and Environment Department did. It was about the end of 2006, I think, there was a consultation exercise, and what they were asking, Sir, at the time was a discussion paper was released by the Planning and Environment Department and it intended to penalise - or the intention was if it was approved - gas-guzzlers heavily by introducing a vehicle emission duty. It was proposed that, if accepted, the new duty would be introduced and vehicle registration duty would be abolished, and of course, as we know, one happened but the other did not, but there was the G.S.T. element as well which was not definite at the time. It was said, Sir, that the vehicle emission duty would raise £7 million in what was proposed in the consultation document as opposed to £4 million that was being raised by vehicle registration duty. So, perhaps it was a fundraising exercise and what would happen with the balance was not clear at that time. There was no talk about insulating properties or whatever it may be and there was a list, Sir, attaching to that and it went down as far as a basic Peugeot one litre where the annual charge would equate to about £40 and at the top of the range there was a 4.4 litre Range Rover where it would be about £215. That is what went out to public consultation and the public did not endear themselves to that at all, and I think that is what the Minister for Planning and Environment has picked up certainly as an individual Member, and he did say: "Well, okay, then we will forget that for now and it will come forward perhaps in future as a range of wider measures on perhaps environmental taxes and part of the process may be to change people's habits, say like carrier bags," although we have not had to do that. Again, Sir, some of this was based on the emissions and there was technical detail attached to that and also some suggestions about what people might do about reducing that. But something I would just like to say to Members, about a fortnight ago I was coming along a certain road and there was a person on a pushbike and there was a certain amount of frustration. There were a couple of vans, a couple of lorries and about 20 other vehicles and nobody could get past because of this particular road. I know it is something that the Deputy of Grouville has looked at about creating a cycle track. It might not be related to this, but nobody has mentioned it and the pollution that was being caused by the bloke on the bike was unbelievable, which nobody could get past. Everybody was doing 8 or 9 mile an hour and people were getting a bit het up about it. Now, nobody has mentioned that in pollutants and if you slow it down and churn it out then there was all sorts of garbage coming out of these lorries and whatever else. I know we have a system that checks that, but it was not in operation that day. So, if we are serious about some of this then we should get some people off the road and on to cycle tracks and that is another way of doing it, but again nobody has mentioned that, I do not think, apart from the Deputy of Grouville has been doing a great deal of work on it. So, I think, Sir, my summary of this would be it is the wrong time to do this. We have not done the other measures and if we are sincere about the emissions then there are other things that we should be doing. I think this is being used as an opportunist way by the Council of Ministers to raise some money and it is the wrong way of doing it. It is outside the normal budget process and I hope Members, Sir, will support the amendment.

1.26 Connétable G.F. Butcher of St. John:

I will be brief. Many of you know that I opposed this tax the last time it was debated in here. A couple of speakers recently - Deputy Le Hérissier and the Chief Minister in particular - said it was fair and equitable and Deputy Le Hérissier said that he thought it was targeted properly. I would suggest that one of those 2 has not spent any time at sea on a calm day, on a summer's day when you can see the pollution out there and that is caused by large luxury yachts; not motorcars, large luxury yachts. I think if you are going to bring in an environmental tax it should be much wider based than is being done. Thank you, Sir.

The Bailiff:

I call upon Senator Cohen to reply.

1.27 Senator F.E. Cohen:

I would like to firstly thank all Members who have spoken, those who support my amendment and those who do not. There were not any questions raised of me that I can remember, so I think it is probably best to concentrate on the principles surrounding my amendment and deal with a few key points that were raised by Members. I thoroughly and wholeheartedly support environmental initiatives and this is not designed in any way to dampen enthusiasm for environmental initiatives, but I believe that any environmental tax must satisfy 2 criteria. The first is that it must be applied to environmental initiatives; we think we can do that, but hypothecation has been questioned today, but most importantly that it must tax a genuinely environmentally negative action. There can be no doubt that buying a new car in itself is not an environmentally negative action. In fact, the proposal compounds the problem by offering a discount of up to 60 per cent on the proposed vehicle emissions duty for the importation of second-hand cars which by definition must necessarily be less fuel efficient and less emission sensitive than a brand new latest high-tech car. The amendments were proposed to be funded by this tax, unlike all the other amendments of the Council of Ministers which are proposed to be funded by raising cash limits, and I ask why is that? Why are we subordinating the interests of the environment to all the other amendments proposed by the Council of Ministers? Does it mean that we are not serious about environmental initiatives? No, I do not think it does mean that, but it does mean that we are saying we are serious about environmental initiatives but we are only prepared to do them if we can find some soft target so that we can fund them through a soft target. Environmental tax, for it to be successful - and this was extensively discussed at my environmental think tank which comprises some of the leading environmentalists in the Island - must be a partnership with the community and it begins with offering environmental benefits to the public by some mechanism of pump-priming and then when they have seen the benefits for the community that the environmental benefits can deliver you then find a mechanism of providing a funding source. It is very much a "chicken and egg" situation, but if it is to be successful the evidence in other jurisdictions is that you achieve the best results with some pump-priming cash and that is what I am asking for. I am not asking for this to be funded in perpetuity by raising cash limits. I am asking for a little period of grace; a period of one year where we can implement environmental initiatives and come forward with a proper public consultation programme to determine what mechanism of funding the public wishes to pursue with the benefit of having seen the environmental benefits being delivered to our community. When we consulted with the public in 2007 on vehicle emissions duty, admittedly at that stage as an annual tax the public's response was overwhelming and it was not just a small consultation response. Deputy Southern is mistaken in his contention that it was a small public consultation response. It was, in fact, a very wide public consultation response because many of those who responded represented significant sections of the community and the view was that if we were to go forward with an environmental tax at that stage it should be a small fuel duty. Some of the figures that have been bandied around today are absolutely extraordinary because I had some figures constructed by the Environment Department who were responsible for the initial analysis, of course, and they show that a broad hydrocarbon tax at 2 pence per litre will raise £2.2 million; that is sufficient to get us going. I certainly would not propose in any consultation programme anything significantly in excess of that figure and, of course, it would be up to the public to respond and to let us know which of the various options they wish to pursue or, indeed, whether they wished not to continue with environmental benefits; of course that is always a choice. G.S.T. on new cars does raise £2 million and that is based on the existing model of purchase, and we cannot be specific about how much G.S.T. will raise to within £2 million and we can notionally, therefore, regard that in the first year that G.S.T. to some extent is funding the environmental initiatives. I would wish to make it clear that the Environmental Think Tank did write to the Minister for Treasury and Resources fully supporting my position and fully supporting the concept that we should begin with pump-priming cash and seek to fund it next year. Senator Ozouf says they would; well, they would not necessarily have done so because members of the Environmental Think Tank comprise leading

industrialists, leading former civil servants and leading environmentalists and they may very well have taken the approach that it should have been user pays from the start, but they were emphatic in their view. So, I propose that we have a full consultation in 2009 to seek to raise sufficient funds to cover the cost of the environmental initiatives from that point on. Reading through my notes on the various speakers, I think it is important to answer one or 2 of the issues raised, particularly those raised by Deputy de Faye. Well, Deputy de Faye would say what he said because his department will benefit the most from these environmental initiatives and he wishes to support his department. Quite why he tried to evolve that into a criticism of the newly appointed Assistant Minister with special responsibilities for environment rather passed me by. She can hardly be expected to do very much in her first day in relation to an amendment that has been tabled for some time and he simply wants the money. Well, fair enough, but there is a second side to wanting the money and that is that we have to keep a relationship with the community. There is a moral contract with the community not to introduce environmental tax. That is what I as Minister for Planning and Environment promised on behalf of the Council of Ministers and I promised that we would not do it before further consultation. What is the purpose of holding a consultation exercise in 2007 with a very clear result if we then turn around only a year later and say: "Oh, well, forget all that, we will simply go ahead with our own programme because we think it is right and we are not prepared to consult again." There was an implicit undertaking to consult again with the public before the introduction of environmental taxes. We saw some interesting figures bandied around. We saw the motor vehicles rates have changed; a very interesting document. We have 2 views of it; one from Senator Ozouf, one from the Deputy of St. Ouen. They are, of course, diametrically opposed, but both arguments are irrelevant to the moral contract that we have with the community and it is a clear moral contract and it is one that I gave on behalf of the Council of Ministers. So, in summary, all I am seeking is covering the first year's initiatives through raising cash limits and then coming forward with a proper consultation exercise next year to conclude a mechanism for the following year to fund this through a form of environmental tax that at that stage will be supported by the public. I therefore commend the amendment to the House and I urge Members to vote in favour and I call for the appel.

The Bailiff:

I ask the Greffier to open the voting which is for or against the amendment of Senator Cohen.

POUR: 28		CONTRE: 18		ABSTAIN: 0
Senator L. Norman		Senator S. Syvret		
Senator T.J. Le Main		Senator F.H. Walker		
Senator F.E. Cohen		Senator W. Kinnard		
Connétable of St. Mary		Senator T.A. Le Sueur		
Connétable of St. Peter		Senator P.F. Routier		
Connétable of St. Clement		Senator M.E. Vibert		
Connétable of St. Lawrence		Senator P.F.C. Ozouf		
Connétable of St. Brelade		Senator J.L. Perchard		
Connétable of St. Martin		Connétable of St. Ouen		
Connétable of St. John		Connétable of St. Helier		

Connétable of St. Saviour		Deputy P.N. Troy (B)		
Deputy R.C. Duhamel (S)		Deputy R.G. Le Hérissier (S)		
Deputy A. Breckon (S)		Deputy G.P. Southern (H)		
Deputy of St. Martin		Deputy S.C. Ferguson (B)		
Deputy G.C.L. Baudains (C)		Deputy J.A. Hilton (H)		
Deputy C.J. Scott Warren (S)		Deputy G.W.J. de Faye (H)		
Deputy J.B. Fox (H)		Deputy S.S.P.A. Power (B)		
Deputy J.A. Martin (H)		Deputy S. Pitman (H)		
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy of St. Mary				

2. Annual Business Plan 2009 (P.113/2008): fourth amendment (P.113/2008 Amd. (4))

The Bailiff:

The debate now returns to the amendment of the Council of Ministers as amended by the amendment of Senator Cohen. Does any other Member wish to speak on that amendment? Well, I call upon the Minister for Treasury and Resources to respond.

2.1 Senator T.A. Le Sueur:

Yes, Sir, it falls to me to propose an amendment which I just opposed. However, I recognise the wishes of the House, although I do sense some undercurrents of people using that as a preliminary to the main debate. I do not have much more to add to what Senator Cohen said in his summing up except to say that this idea of consultation next year and an outcome thereafter I welcome, so long as it is not just an excuse for putting off the “evil day.” It is all very easy to say: “Well, it will come right in 12 months’ time.” That is to me a soft opt out where at this time where we are facing uncertain economic times we do not want a soft opt out, we want a hard, clear, decisive approach. So, Sir, I just hope that that consultation process does react in an outcome which ultimately supports that which the Senator put forward because otherwise we will end up with the “worst of all worlds.” So, with those few remarks, Sir, and with slight misgivings I propose the amendment of the Council of Ministers in its form amended by Senator Cohen.

The Bailiff:

I take it no other Member wishes to speak? That was the summing up. Well, I ask the Greffier to open the voting which is for or against the amendment of the Council of Ministers.

POUR: 25		CONTRE: 18		ABSTAIN: 0
Senator F.H. Walker		Senator S. Syvret		
Senator W. Kinnard		Senator L. Norman		
Senator T.A. Le Sueur		Senator J.L. Perchard		
Senator P.F. Routier		Connétable of St. Ouen		
Senator M.E. Vibert		Connétable of St. Peter		
Senator P.F.C. Ozouf		Connétable of St. Helier		
Senator T.J. Le Main		Deputy of St. Martin		
Senator F.E. Cohen		Deputy G.C.L. Baudains (C)		
Connétable of St. Mary		Deputy P.N. Troy (B)		
Connétable of St. Clement		Deputy S.C. Ferguson (B)		
Connétable of St. Lawrence		Deputy of St. Ouen		
Connétable of St. Brellade		Deputy of Grouville		
Connétable of St. Martin		Deputy J.A. Hilton (H)		
Connétable of St. John		Deputy J.A.N. Le Fondré (L)		
Connétable of St. Saviour		Deputy S.S.P.A. Power (B)		
Deputy R.C. Duhamel (S)		Deputy S. Pitman (H)		
Deputy C.J. Scott Warren (S)		Deputy A.J.D. Maclean (H)		
Deputy R.G. Le Hérisier (S)		Deputy of St. Mary		
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.W.J. de Faye (H)				
Deputy P.V.F. Le Claire				

(H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy of St. John				

3. Annual Business Plan 2009 (P.113/2008): fourth amendment (P.113/2008 Amd. (4)) - Amd. (4)(1)(3)

The Bailiff:

Well, we come now to amendment No. 3 and I will ask the Deputy Greffier to read that amendment.

The Deputy Greffier of the States:

After the words “withdrawn from the consolidated fund in 2009” insert the words: “(3) except that the net revenue expenditure of the Education, Sport and Culture Department shall be increased by £552,000 to extend opportunities for children who attain the age of 4 years between 1st September and 31st August in the year before commencing statutory education.”

3.1 Senator M.E. Vibert (The Minister for Education, Sport and Culture):

I believe I am acting as rapporteur for the Council of Ministers. Sir, I believe the arguments concerning providing free nursery education for all young children in Jersey have been well rehearsed and Members will no doubt be relieved to know that I do not intend to go over them in detail in my speech today. Members have previously had numerous reports on the subject, including a Scrutiny Report of over 150 pages and culminating in a 30 pages plus report and appendices accompanying this amendment. More than a quarter of a century ago the States made a commitment to providing free nursery education with the opening of the first nursery class at Grouville Primary School in the early 1980s. Twenty-five years later we now have 17 such classes attached to our provided primary schools providing free places for just over half all rising 4 year-olds. Sir, perhaps for clarity that is how we should refer to the children concerned because children become eligible for a nursery education in the school year in which they attain the age of 4. This longstanding, well intentioned policy has led to the current inequality whereby half of rising 4 year-olds can access a free nursery place and half cannot. This amendment seeks to remove that inequity whereby all rising 4 year-olds will be entitled to at least 20 hours free nursery education and care by the development of a public/private partnership with providers. I would like to publicly thank the Education and Home Affairs Scrutiny Panel for the extensive review they carried out on the issue and the excellent and constructive report that flowed from it. No doubt members of that panel will give their views on the issue during the debate. Sir, I have followed up the Scrutiny Panel’s recommendations, including holding a further consultation event with an independent chairman, the result of which has been published and resulted in support for the proposals before Members today. The case for investment in early years education has been proven. All the research shows that good quality early years provision pays back the investment in it many times over and gives not only educational but also social and economic benefits. By supporting this amendment Members will not only be supporting young Jersey children by giving them the best possible educational start in life, not only be supporting parents by helping reduce the cost of childcare to that half of parents who currently cannot access a free nursery place, but also doing the right thing for the Island as a whole, both now and in the future. The amendment proposes a universal system with all rising 4 year-olds having free access to at least 20 hours nursery education and care regardless of income and other circumstances. The universal system is inclusive, non-stigmatising, leads to the needed social mix for a balanced educational experience and provides

government with a means to inference a quality and cost of provision. Questions have been asked in the past about a means tested system. Well, a means testing system would not achieve this. It would require means assessment, which can put off the very families most in need and as well as requiring administrative cost would also push more families into Income Support or to lead to increased claims for childcare tax relief. The means testing conducted through Income Support will not cover those middle earner families in need who are already facing increased costs of fuel and food. All the reports and research advocates against means testing as being counterproductive and mitigating against those families most in need of help and introduces the danger of increased use of unregistered childcare. The universal provision of 20 hours per week term time - that is 38 weeks of the year - reflects the findings, Sir, of the largest research projects undertaken as being the optimum provision for early years education and that is what this amendment seeks to achieve with all families who wish to take advantage of it. When I brought this before the States last year, Sir, a number of Members asked for more detail on how it would work. Well, how the partnership with the private and non-profit providers would operate has been explained in some detail in the report accompanying this amendment. The funding levels required are laid out in the amendment and how they have been reached is outlined in the accompanying report. Of course, the final figures will be dependent on the take-up by parents of the provision. Directly funding the providers under a clear and accountable service level agreement protects both providers and parents and ensures the appropriate quality control. The Jersey Early Years Association, which represents all providers, supports this and has written to all States Members and I will read their brief letter, if I may, please, Sir. It is from the Jersey Early Years Association, Today's Association for Tomorrow's Child. It reads: "Dear Politician, Jersey Early Years Association represents all of the private sector nurseries and pre-schools in the Island. We have been battling for 5 years to get some sort of equality between the private and public sectors for the benefit of the children and families of this Island. On 16th September [they were very hopeful, Sir, that this would be debated on the first day of the States sitting] the Minister for E.S.C. (Education, Sport and Culture) is bringing an amendment to the States for funding to extend opportunities for children to access free nursery education. We ask that you put aside any political or personality issues that may exist and vote in favour of this amendment. While recognising that it is not entirely equitable, it is a result of many years of struggle and represents the best opportunity to date for the young children of this Island. We hope you will agree that any points of opposition to the Bill are better pursued once the funding is in place, rather than to continue to deny the children and families this vital opportunity now. We strongly urge you to vote in favour of this amendment to the Business Plan," and it is signed by Val Payne and Committee on behalf of J.E.Y.A. (Jersey Early Years Association). Sir, I was also presented with a 300-signature petition in favour of what is proposed in the Royal Square on Tuesday by a group of parents who had gathered with some of their young children. This petition was gathered at a few nurseries in just a few days and the prayer of the petition, Sir, reads: "Petition for free nursery education. We the undersigned support the Minister for E.S.C. Senator Mike Vibert's amendment to the States Business Plan at the States Assembly on 16th September 2008. We urge politicians to vote in favour of this amendment and provide funding for free nursery education for children aged 3 to 4 years for 20 hours per week during term time only." Sir, I counted up 314 signatures on that petition and I would like to hand it into the States Greffier so they can officially recognise the number of signatures. Sir, the Jersey Child Care Trust, the body set up by this States to champion the cause of young children locally, are also wholeheartedly in support. Again, Sir, they have written to all States Members and again if I may I will read out the brief letter. It reads: "Dear States Member, Business Plan amendment relating to Education, Sport and Culture, free nursery education for all children who attain the age of 4 years between 1st September and 31st August each year. The Jersey Child Care Trust fully supports the Council of Ministers' proposal to ensure that every child can access a learning environment in the year before they start formal schooling. The recent consultation event held by the J.C.C.T. (Jersey Child Care Trust) gave almost unanimous support for this option. The private nursery providers give their strong and unanimous support for this option. Universal access to a good quality learning

environment is supported by early years ongoing studies reports and experts, 'The E.P.P. (Effective Pre-school and Primary Project) Starting Strong' to 'O.E.C.D. (Organisation for Economic Co-operation and Development) Report, Dr. John Bennett, O.E.C.D.' Jersey provides good quality early years education free to half of our children. Please extend this to all by voting in favour of this amendment," and it is signed by the Executive Director of the Jersey Child Care Trust. Sir, providing universal early years education is something countries throughout the world aspire to; as a society it is all good. The U.K. are committed to doing it but at present lack the capacity to do so. Jersey has that capacity and for a comparatively modest further investment can deliver that aspiration and end the inequity that currently exists for the benefit of the whole community. Sir, I ask Members to please support this amendment and I will seek to answer any questions they have. Thank you, Sir.

The Bailiff:

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

3.2 Deputy C.J. Scott Warren:

Investment is a word that does not simply relate to money; investment in people, investment in our young children. I urge Members to invest in equitable early years nursery education and to support this amendment. I believe, Sir, that the cost per annum will be repaid many-fold in the long term with an earlier start for every child's education in Jersey and that means the gaining of social interaction skills and a better start, which has to have a longer term effect for the future adults of Jersey and this must be the most sound and wise way forward, Sir. I support this amendment.

3.3 Deputy S.C. Ferguson:

I am really rather surprised at the Minister. He has a plan which does not appear to be properly costed which is a new service and he is effectively expecting us to give him a blank cheque. His own costs as they are stated in the accounts for the States of Jersey work out at £100 per week per child or about £4 an hour, which is significantly below the minimum wage and does cast great doubts on the validity of the figures in the accounts. This is roughly half the cost in the private sector; I cannot believe that a properly costed States operation is so much cheaper than the private sector. Yes, it is a limited amount for 2009, but in subsequent years, based on previous experience and industry comment, it will grow. The forward estimates which the Minister has asked for are some £1.4 million next year rising to £1.6 million. I am told by the industry that £1.9 million is required as a minimum. This is an ongoing cost and commits us to future expenditure. The Minister did ask the Fiscal Policy Panel about this and they did tell him to prioritise. We will be told or we have been told that this will benefit future generations. Fine, yes, super, but what about the missing generations? Those who are leaving primary school now without being able to read, are we just going to abandon them? The current programme is apparently not working. We have people leaving secondary school who require coaching in the basic skills and we do not seem to have been given the numbers. We do not know the scale of the problem. They are certainly not in the performance measures. Why is the Minister not making sure that the services he is committed to deliver work properly before starting and embarking on something new on the basis of what do appear to be questionable calculations? I have heard from the J.C.C.T. and mothers and fathers of young children. I know that preschool education is important, but are we totally sure that everything else is working properly? Is present education all it should be? What is the percentage literacy in the Island? Let us make sure that we have given the less fortunate a hand up and that existing services work before we embark on a totally new venture. Thank you, Sir.

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

Deputy Ferguson has questioned the calculations and has told us that at £4 per week it hardly seemed feasible that these calculations were correct; sorry, £4 per hour were correct at £100 per week. I do have a child who will be going to nursery in October. He will not qualify under the scheme so I am not going to make it a declaration of interest, although there is marginal interest to

mention. However, the £3.90 per hour that we have been quoted for this nursery is less than £4 per hour and there is a £2 charge for lunch. So, I do not know which parents Deputy Ferguson had been engaging her consultation with, but it did not seem very feasible that that consultation had extended to those parents that have children in nursery, which is what we are talking about. No doubt the Minister for Education, Sport and Culture will give us an education when he sums up. Education, Sir, on that topic is about learning how to improve and you will be pleased to know, Sir, that I have been learning how to make a speech that can be appreciated. In order to do that, Sir, one must first of all stand up. The second thing one must do is speak in a loud and clear voice: "I support the amendment." Lastly, Sir, but most importantly, the third thing that one must do in order to achieve a speech that can be appreciated is to sit down. **[Approbation]**

The Bailiff:

I am sure all Members will congratulate you, Deputy. **[Laughter]**

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

Well, I will be as brief as I can. Before anyone gets running, I have already queried this £4.55. It is times of children and it is times 20 hours a week for 38 weeks a year. It is not one. It is not what is costing the child; it is costing to pay for somebody and it is not per hour. They are teaching lots of children. The costs are quite reasonable. In fact, for the cost I think the actual end gross cost could be wrong and I do have a query on that. My question is basically again along the lines of all the questions on these amendments ... although I did not agree with the proposition from the Chief Minister, we had reasonable reasons why this came late in the amendments. Now, I was on Education when the same proposition was in the stages of just being discussed. It has not changed; private sector, service level agreement, a payment for a child, 20 hours, 38 hours a week, actual teaching the same as you would get at a States nursery. In the main Business Plan under the Minister's instructions in the third paragraph the Minister states: "In 2009 the department will continue to drive forward proposals for integrated early education and care as a fundamental strategy for ensuring that our children get the best start possible." I totally agree, but the Minister tried an amendment last year and it was said we did not have enough information, but it also obviously did not get the fallback in with the Council because it was not brought by the Council, which this one is, but it is not structured in the Business Plan. Why could he not convince to have the limit so this could have been scrutinised? It is April since I first read and endorsed ... and I have read the Child Care Trust endorsing that we need this done. I went to the very good lecture at the Town Hall from ... I forget the Professor's name but it was very ...

Senator M.E. Vibert:

Dr. John Bennett.

Deputy J.A. Martin:

Yes, thank you, Minister. All very good. I do not think anybody has ever queried the principle, except some are querying the principle of equity and that the people should be means tested. Well, I do not agree with that because the Minister said in his opening speech, Sir, that the people who need it will not apply. I disagree because many people on low income and single parents are helped and they get a first place in the nursery so they can do a part-time job. The people who will not apply are the middle incomes, where we have already hit, and that middle income to be out of Income Support is around £22,000 and before paying tax is up to about £40,000. In their own proposition that we will discuss later you are talking about 6,000 to 7,000 households and many of these have got children. Now, as I say I listened with complete care with what the Minister said. I have read all on childcare and supported it right the way through from the time I was on Education and I really need to be convinced. I personally find it hard to vote against this. I think I may have done last year; I am not sure, I cannot remember because it was so badly presented and so late. But here we are again and as the Chairman of P.A.C. (Public Accounts Committee) has pointed out it is only from September to December next year and for £0.5 million and rapidly rising, and I need to

be assured that they are speaking here that private child carers cannot pass on any of these fees. I have not seen any of the finer details and as sure as “eggs are eggs” if there is a subsidy arisen coming from the State across private sectors, as I say, in 2010 up to £1.5 million, can we guarantee that private sector nurseries or care facilities will not put up their fees? I do not know. So, as I say, Sir, I am minded, I have had all the emails, individual and groups to support this, but again I really need ... and I do not need to have sarcastic comments from the Minister, but I am a big girl and I can take sarcasm. I want a reasonable and actual account of why these figures are not in the Business Plan for 2009 and have been lodged on 2nd September as an amendment from the Council of Ministers before he gets my full support. Thank you, Sir.

3.6 Deputy F.J. Hill, B.E.M. of St. Martin:

I was a bit surprised to hear Deputy Ferguson’s opposition to this particular amendment when I take note of what P.A.C. had to say very strongly opposing any recruitments for what we had at part 1 and part 2 yesterday. I think we gave about £7-8,000 for additional staff which was totally opposed by P.A.C. but yet was pushed forward and supported by Deputy Ferguson. So, 24 hours, obviously everyone has had a sleep and had second thoughts. But it is with a heavy heart that I am going to give this amendment my support and the heavy hearted is not because I do not want to give the funding. The heavy heart really is because this is something which should have come to the House many, many years ago. It is very, very, very late, but at the same time - and again Deputy Martin has said it - this should have been part of the Business Plan, particularly as it has been through Scrutiny. It has the support of Scrutiny; the case has been made. The difficulty I always have here is understanding why it was not made and made by the Ministers in the first place. However, I am not going to “cut my nose to spite my face” because I think most of us all know that. Maybe Senator Vibert is not going to like what I am going to say, but I do believe it is very much a “let him off the hook” for the elections. It is seen that way. I am going to say it because it is seen as outside. However, things apart, I will not stand by and see the discriminatory way in which the present situation works. As Senator Vibert knows I took a case last year to the Appeal Board, the Complaints Board. It really is heart-rending and it is something and I am glad we are agreeing, Senator Vibert, we have got to put an end to. This is not the best thought-out way; however, it is down for Education, down for the Committee or the Council of Ministers to address the funding, but I would urge Members to give this amendment the support even though, as I say, it is with a heavy heart because I do not like giving support to amendments. But, please, support Senator Vibert.

3.7 Deputy G.W.J. de Faye:

Like many Members I well understand how jurisdictions aspire to have this type of high quality approach to early education and I am certainly happy to join the throng of aspirants, but I remain very uncomfortable about this amendment. I can well understand, Sir, States Members on a public platform discussing the issue of early years faced with a room full of very angry parents and predominantly mothers feeling that perhaps life would be made a lot easier if a solution could be found to the obvious impertinent complaints, and we certainly have before us a solution of sorts. But this is very much the sort of solution, the genre of solution that the States has a rather bad reputation for. On the one hand the Assembly has insisted that Ministers should stick to cash limits, but here we are progressively amendment after amendment opening the box and requiring more funds to be set aside. This is not a particularly good way of keeping to cash limits. This particular proposal is, I think, one I would describe as a “foot in the door” proposal. It starts off with a conveniently low figure of less than £1 million, but as Members will see swiftly rises to figures of the order of £1.6 million or so which will obviously be affected minimum by inflation, but also by demand over time, and does it stop there? Because this is for 20 hours; this is the 20 hours provision, clearly an amount of time that is recommended as an effective period, but we see on the horizon 30 hours. Currently parents are to be expected to pay for the extra hours, but how long will that last before demand comes in to increase this, what will be a rolling revenue demand

further? So, I remain nervous about what amount of investment I am committing to and when I make investments I like to know that whatever I am investing in is not going to start coming back to me asking for additional funds year on year. That starts to become a liability, not an investment. But let us accept that the Assembly agrees with this aspiration and accepts this is going to be an increasing revenue cost year on year. My really troubling concern is simply this: targeting. Is this going to go to the right people and is it being offered in the right way? I have every sympathy with children of 3 to 4 years obtaining advantage. I am afraid where my sympathy begins to flag, though, is demonstrated within the report which accepts that previous approaches were inequitable and this approach is a better approach, but it remains not ideal, it remains inequitable. Of course it is right for any parent in difficulties looking after 3 to 4 year-old children who, particularly if they are a single parent, man or woman, who through circumstances has a child or children to look after and has to hold down a job at the same time, that is a clearly warranted deserving case that this type of approach should address. But it does not really address the difficulties of the working parent because this is largely term time only and extra funds have to be paid up for the extra requirement. So, have we got the targeting right? What I certainly would not wish to see are parents benefiting from what may for them be just a simple and convenient and free babysitting service so that they can continue not to go to work but to continue their extensive social lives. Do not worry, the children are being looked after 20 hours a week; I get in a couple of games of tennis; I get my hair done and so on and so forth. That is the sort of 3 to 4 years education with a result that I am not entirely happy with at all. Now, means testing has been ruled out, so we are accepting that we can have one or 2 parents in the financial services industry of a combined salary well over £100,000 benefiting from this arrangement. Now, maybe we should do that in order that the poor folk do not drop through the net, but I am not at all convinced this is the right way to go about things, although I am advised, of course, that we do not want the children to have and suffer from any stigma. Well, this is a very strange stigma we are being asked to consider. It is somehow linked to parents' salaries and the embarrassment of knowing that you are being supported in early educational, high quality care free while the child next to you has got rich parents and they are paying up. So, we do not want that. I find this rather hard to swallow because I simply do not see 3 to 4 year-olds sitting around in these high quality educational nursery classes having that type of discussion. I really do not see that this stigma is going to occur. What I do see, though, and what concerns me are people who can afford this easily taking advantage of it, and I hope that the Minister when he comes to his summing up can give me some pretty specific assurances that this is going to be targeted to the right people and that we are not going to be simply by having this very generous universal approach allowing people who can easily afford this type of care to have it for nothing. I also want some assurances that single working parents are benefiting out of this because I am concerned that it does not look like it to me. The universal approach, the 20 hours with the pay extra if you need it, is clearly going to impact on one section of the parental grouping here and that is the people who have to go to work. So, I think that we have got some issues here that currently for me remain unaddressed and I look forward to the Minister addressing them.

3.8 Deputy A.D. Lewis of St. John:

I am not sure if I am delighted or not to follow that last speech because it kind of took my wind away a bit and I do not wish to be rude about the Minister, particularly as he just offered to talk to me about our road works in St. Johns, but I am afraid I was really taken aback by some of the things he said. I have taken advantage ...

The Bailiff:

Deputy, I am sorry to have to ask you to pause for a moment. We are inquorate and I ask any Member who is able to return to the Chamber from the precincts to do so to make the Assembly quorate again. Please continue, Deputy.

The Deputy of St. John:

I have been fortunate enough as a family to take advantage, if that is the right word, of the excellent early years learning that exists at the moment and was constantly approached by parishioners who unfortunately had not been able to take advantage of it and were most upset. Not because they wanted to go and get their hair done or get their nails polished, to have a few hours away from their children, which I am sure all our wives and other homemakers would admit is a pleasure at times, but because most of these people have to go to work, Sir. Middle earners in Jersey need 2 incomes to even buy a small house and there is a lot of benefit to this, Sir, in educational terms, of course there is. There is a huge educational benefit demonstrated by the research the Minister's department has done on this. There is huge social benefit. There is also huge economic benefit, not just for our economy but for the families that can now suddenly afford to keep their mortgage, because we are talking here about people who have bought homes, then had families and have a 4 or 5-year period where they really struggle to make ends meet, when they have got their children in the early years of their lives, having just taken on big mortgages in Jersey. Sir, I was one of them and I was lucky I had the free place. Do not kid yourselves that there is going to be dozens and hundreds of people sipping gins, playing tennis, having their hair done because their children are occupied for 20 hours. That is simply absolute nonsense. This is about helping middle Jersey and the less well off, too, to benefit their children's education and to also significantly benefit our economy. I would also put a plea out here to employers to be more flexible with employing part timers who will only have 20 hours, maybe 30 if they want to top it up, in terms of work. These people are not earning £50-60,000 a year, they are lucky if they are clearing £12,000 or £14,000 part time, and they are forking out £10,000 or £11,000 in childcare. This mitigates that. This is what this is about. It gets rid of that inequity. It is 25 years the Minister said we started talking about this. This is the States playing catch-up on a promise they made 25 years ago. It is appalling planning on behalf of the States to promise something 25 years ago and only be delivering it today. Sir, I applaud this amendment. I am disappointed, too, that it has come through as an amendment; it should have been in business plans years ago. It should have been in the plan when we first published it. I would like the Minister to tell me why it is an amendment because he, Sir, has mentioned this on numerous occasions in this Chamber in the 3 years I have been here and it comes in the ninth hour as an amendment. I must admit I am extremely confused by that. But do not get away from the fact, Sir, this is going to help so many people in Jersey. It is going to help our economy. It will help our young people get on that first ladder of education which will benefit them greatly. We have got the research that proves that. So we need to get on and do this so that it is not a minority of people here that are going to benefit, Sir, it is a majority of people. It is a minority of people that will potentially abuse the system, but is it abuse? Those same people are paying tax as well. But if they choose to use a private superno nursery or a nanny they can do so. They do not have to take this, Sir, and I am sure a lot will not. The people that Deputy de Faye is talking about will probably not take advantage of this anyway, and if a few of them do, they have paid something towards it too. Let us sort it out once and for all. Let us make it equitable. This is not some kind of giveaway, this has been promised for over 25 years. It is now an opportunity for this Chamber to deliver what it promised. Thank you, Sir.

3.9 Deputy J.B. Fox:

I started off nearly 9 years ago on the Education Committee amongst others and I am still there as an Assistant Minister, a fellow colleague the Deputy of Grouville, and we have been working all that time to bring in what is before you today and to try and better it. The States' previous decision was, which we have been following as best as can, that every time we build a new primary school or we have a major refurbishment, we include a nursery whenever possible. But unfortunately we have only managed to build sufficient for half the demand that is required, 500 youngsters. There is another 500 that are not able to have this opportunity. It is very important that we realise that in such a small island, everybody knows each other and everybody knows when there is a non-equity. When you are, like me, stood in front of the Town Hall that is full up with very angry, very frustrated, some tearful people, they are not all mums, there are dads that are looking after their

young ones and they are all trying to do the best for their family. It comes as a great shock and a great anger when you suddenly see placards being held up that are saying some people are getting free and some of us are paying £10,000, £12,000, £15,000, £20,000 to make sure that our children have the opportunity of meeting other young children in an educational environment plus childcare which is very important and this inequity we have not been able to get out of because we have not been able to build enough nurseries as far as the States policy goes. There are some excellent private facilities out there which, of course, have not had the benefit of support other than through some tax allowances or support from Child Care Trust and other grants that have been available. But they do not cover the whole spectrum and it is at this time that we have got to do the best for our future young people. They are going to be the people that will be supporting us later on. The work force that is demanded in Jersey has got to be of a very high standard. Yes, we have people that have not made that standard within our schools, but we are doing a tremendous amount to rectify that. It is not going to all happen at once. We have got people in primary schools and secondary schools that do not even speak English, they have just arrived. We have got to work hard to give them all the extra support. We have got those with learning difficulties and other things that make it harder. We have got to do the best for them as well. But we have also got to do the best for the rest of our children and, more to the point, the families. I think that the working population for mothers is probably around 90 per cent. It is a very high figure and a lot of them have gone out of their way to be able to go to work but are still having to pay considerable amounts for their childcare. The topography of the Island makes it very difficult, too, unlike the old days when you all had your grannies and you had your extended family who could support you. A lot of people over here do not have that opportunity. More to the point is that the extended families are working equally as hard sometimes to support the families that have got huge mortgages or whatever. Yes, this is a very affluent Island, but there is inequality and there are people that are not having the opportunity to enjoy, like some do, the older you get the easier it gets. But we are talking about young families and we are talking about the hard working families. We are not talking about people that are sitting around and some will be able to afford it and others will not. There is always an odd exception to every rule but that is where society is there. It is there to support the majority but it is also there that if people abuse it, you can rest assured that we hear about it. I am delegated as an Assistant Minister to do the appeals on behalf of my Minister when it comes to educational matters. Believe you me, you hear some very harrowing, very distressing stories that come out. But, what is even worse is when you are not able, because of the lack of spaces in such numbers, to be able to say yes to them: "I can resolve it", because you cannot. But what you can do is you can try and get them up the pecking order to minimise the time that they are waiting or trying to slot into another school or another area if it is humanly possible. But it causes distress, it causes problems. Today, yes, it is an amendment. But today it is very essential that the States recognises that this has been going on far too long. We have got a window of opportunity to make it right and today is that window of opportunity. No, it is not perfect and I do not suppose it will ever be perfect, but at least it is equitable compared with what we have got now. So please, let us do the right thing for our young people, let us do the right thing for our parents that are struggling and give the young people the opportunities to have the best start in life that will save us a fortune later on in having to provide other special needs or other things, et cetera, and also provide us with an additional equitable workforce that is able to do the jobs that are available and required from the Island without having to import additional people and additional families to do it. I shall obviously be supporting this amendment. Thank you, Sir.

Senator M.E. Vibert:

I propose the adjournment, Sir.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

Yes, if Members agree we will reconvene at 2.15 p.m.

LUNCHEON ADJOURNMENT

PERSONAL STATEMENT

The Deputy Bailiff:

The Bailiff has agreed to give permission for Deputy Ferguson to make a personal statement. Deputy, I understand you wish to make that at this stage?

Deputy S.C. Ferguson:

There is an article in the *Jersey Evening Post* today which the Deputy of St. Peter and I consider requires an explanation to the Assembly. In January this year we became aware that a case was to be brought against a local businessman by the States of Jersey Police. The proposed charge was under Article 4 of the Computer Misuse (Jersey) Law 1995. The businessman is a constituent of the Deputy of St. Peter. The businessman had lodged an official complaint against a police officer in 2007. As is normal practice, investigation of this complaint was suspended while the court proceedings took their course. My parishioner had expressed her concerns about the conduct of the case against her brother, the local businessman. It was the Deputy of St. Peter and my considered opinion that there was a significant risk of a major miscarriage of justice and we could not just stand by. The Deputy of St. Peter and I considered that the appropriate course was to discuss the matter with the person in charge who is the Attorney General. As former Centeniers, we are aware that such concerns should be discussed with the Attorney General. As politicians, we are aware that the scope for a politician to represent a constituent in relation to the criminal process is very limited. The decisions are a matter for the prosecution and the court. The Deputy of St. Peter and I expressed our concerns to the Attorney General. The Attorney General decided to review the file and subsequently decided that the prosecution should be brought. The businessman concerned was charged soon afterwards. It would be inappropriate to make any further comments. The Deputy of St. Peter and I consider that it is part of our role as politicians to investigate and question any matter where we consider that our constituents face injustice and we make no apology for this. It would be a dereliction of our duty as elected representatives if we did not question and investigate. Thank you, Sir.

PUBLIC BUSINESS - resumption

3. Annual Business Plan 2009 (P.113/2008): fourth amendment (P.113/2008 Amd. (4)) - Amd. (4)(1)(3) - continued

The Deputy Bailiff:

Very well, now we return to the debate on amendment No. 3. Does any other Member wish to speak?

3.10 Senator P.F. Routier:

Yes, very briefly, Sir. Just picking up on a couple of points Members have made, I think it was Deputy Ferguson in her early contribution was concerned that there was a misuse regarding older children and that we needed to get things right for the older children before we set out on trying to improve things for younger children moving into the education system. I really think that although there may be perhaps some misuse which we need to put a bit more emphasis on for older children, I know the Education Department do their utmost to support children of all ages, but to deny younger children the opportunity to have early education I do not think it is a valid reason to latch on to deny the younger children those opportunities. So I would hope that the Deputy might consider that point and perhaps be prepared to support this proposition because I do not think it is really a matter that should deflect us from trying to improve the lives of younger children. A number of Members have raised the issue with regard to why was this not in the original Business Plan. The Council of Ministers had their hands tied because it was last year when we debated the Business Plan that this House tied the hands for us to bring forward a Business Plan within certain cash limits. So all we could do was bring forward plans which met our cash limit that was available to us. So if there were any new initiatives or anything new we wanted to do, because we had gone through the process of trying to find savings elsewhere and that has proved unsuccessful

to find those savings, so if there are new initiatives we needed to bring amendments to the Business Plan. That is the only way we could achieve these things. So I hope Members will recognise that and feel that it was either the Council of Ministers who were going to bring an amendment forward or other Members as we have shown. But the Council of Ministers did their duty and did as the House had requested and brought forward a Business Plan which met the requirements of the States decisions in previous times. Deputy Hill was saying that he was supporting this with a heavy heart and I am really sort of quite sorry he feels that way that he needs to have that sort of approach to it. I would have hoped that he may have been able to be a bit more positive and recognise that what we are suggesting is a very positive matter and that, as I say, besides Deputy Hill there are a few Members who seem to be trying to latch on to this issue about the Business Plan and why an amendment later as a reason just for knocking this very positive move. Sir, I do think that those Members who just want to have a niggle about it, just for the sake of it, they should really let go of those niggles and be very positive in this. I am afraid Deputy de Faye's arguments were completely off track and his views on education for young children and the need for all children, regardless of their family backgrounds, should have an opportunity to mingle and to be with children from all walks of life. I do not think that he should introduce comments with regard to people going off playing tennis, parents going off playing tennis. I do not think that was really an appropriate comment to make. This is all about the education of the children. It is not necessarily about the circumstances of the parents. To my mind, the positive thing about this is the education of the children and not the circumstances of the parents. Please support this proposition and not with a heavy heart. It is really positive. We should do it with conviction. We really should get behind this and support this and give children a really good start to their educational life. I urge Members to support the proposition.

The Deputy of St. Martin:

Could I clarify a point that the Senator has just made? I said it was a heavy heart, but I urge Members to support it. The heavy heart was why it had not come through as part of the Business Plan because that is where it was. But please support it, and I think the Senator has not really quoted me correctly.

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

Sometimes I despair when I have to sit here and listen to Members who seem to know the price of everything and the value of nothing. I believe the arguments that have been put forward today and on previous occasions have been well made, so I do not propose to repeat them but I support the amendment, Sir.

3.12 Deputy P.N. Troy of St. Brelade:

I would just like to say that this, of course, is streets ahead of the proposition that we had 2 days ago now - 2 days? 3 days, I cannot think how many days it was, 2 days. Streets ahead of the proposition from the Deputy of St. Ouen because this does not impact on the existing services. I would really ask Members, Sir, if they would curtail their speeches and let us get to a vote as quickly as possible, Sir.

3.13 Deputy K.C. Lewis:

I will indeed be very brief as normal. The notion that many housewives or ladies out there are playing tennis while their children are in nursery I find quite bizarre. Well over 90 per cent of the young mothers I know are doing one or more jobs just to keep a roof over their head. I will be supporting this, Sir, it is absolutely long overdue. It is not perfect but it is as good as it gets and I will give it my 100 per cent support. Thank you, Sir.

3.14 The Deputy of St. Mary:

As Vice-Chairman of the Education and Home Affairs Scrutiny Panel, I have had considerable involvement in this matter. I can only hope that Members will have read and been informed by our

report into this issue. It was long. It needed to be because the inequalities have been going on for a long time. I am not going to do more than touch briefly on a couple of the points raised; however, I would just like to explode one myth that Deputy de Faye mentioned. He seemed to think that politicians, so perhaps also the panel members, were cowed before the onslaught of hordes of angry parents. Not so. The parents who came before the panel were not angry, although they might well have had a reason to be angry, but they were frustrated by the inability of the States to address the obvious inequalities of the system, a system which in itself is the result of an undoubtedly well intentioned policy set in motion many years ago without enough consideration for the long-term effects it would have and for the impact it would have on the private sector. I saw parents who had invested their own time and energies into trying to fathom a way forward, sometimes long after their own children had ceased to even need nursery education, and whose efforts were repeatedly thwarted. There has been so much consultation on this issue without any solution. The States and parents have gone around in circles. Our report talks about ending the spiral and today we have a chance to do that. Neither are we talking of a free babysitting service, as the good Deputy fears. This is education and care and the 2 go together in an almost inseparable way and they should be the right of every child regardless of the family background. It was impossible during the review not to be convinced by the arguments for a universal early years policy. The studies simply speak for themselves. This is, as others have said, an investment in individual future lives as well as in society generally. This amendment will allow a limited free entitlement for all. Limited by age of the child and by the number of hours per week, but it is a huge step forward over what we have now. We are being asked to increase the cash limits, but this is for a provision that large numbers of the public themselves are crying out for and have been doing so for years and for which the Minister has been unable to fund by any other means. How many more children - and remember this is at a rate of 500 children per year - do we wish to see lose out on this benefit? I have 2 words of caution, however. This will not address the inequality that exists where some of our schools can have an integrated pre-school and some cannot. I ask the Minister for an undertaking that he will continue to ensure that these schools receive the department's support and they will not be discriminated against in future spending or development allocations because they lack an integrated pre-school. Secondly, all the latest studies show, and the panel received much evidence of this from our local experts as well as from international studies, that the period from birth to 3 years is also vitally important from an education and care perspective. Deputy Troy, I will curtail my speech but I have something new and very important to say. This may be the subject of future developments and the responsibility for this age group is not as clear cut as it is for the present age group, and I would say that to avoid the mistakes made in the development of the pre-school policies, which of course got us to where we are today, great care should be taken when these 0-3 year-olds are considered and I would urge full future consideration of the panel's recommendations for either a Children's Commissioner or an Assistant Minister with cross-cutting responsibility for children to be appointed. Having said that, Sir, I will of course be supporting the amendment.

3.15 Deputy G.P. Southern:

I, like the Minister for Education, Sport and Culture, of course have been 30 years behind a move like this to make sure that we get accessible nursery care on the agenda in an equitable way for all who wish to do so. So I welcome this much needed move. It reflects, at last, some concrete actions behind the words of the Chief Minister in particular to say that we are concentrating on social effects, on social benefits and looking after those who must be looked after. These children must be, and at a time when the economy is going through good times and tax revenues are going up, then this is an appropriate use of admittedly additional and late requested tax revenues, but nonetheless worthwhile. It has been 30 years coming; it is to be heartily welcomed. But, like others, I am somewhat disappointed that this has come as an amendment and was not endorsed earlier in the year so that we had plenty of time to examine the scheme in detail and to, if necessary, suggest improvements or changes that might be appropriate. We are very much, I think, despite the numerous appendices, taking something yet again largely on trust and woe betide if there is

something going wrong inside the mechanism of delivery which we find out about some time down the road. So I do want to see more details and, in particular, I pick up on page 16 in the argument against means testing - and for once I completely concur, this is about the children and not about the families, it should not be means tested, it should be a right - it says: "A means tested system, on the other hand, might seem more fair and equitable, but it would be short sighted. Whilst it might bring additional revenue to offset the cost of early education, it would increase the demand for Income Support and claims for childcare tax relief." Well, a claim for childcare tax relief is surely a right. It is something you do. You have got children, you claim for ... where would the increase come from? I do not understand that. Also, increase the demand for Income Support; again Income Support for Members says that according to your family you have this need in order to survive properly, a level of need, and whether your children are in free nursery care or not, that level of need is established. I do not understand, it does not take ... all it counts is income and need. It does not take any account of outgoings or absence of outgoings for nursery education, so how does this fit? How does this jigsaw with the provisions for childcare in Income Support and the whole Income Support, for those who are on Income Support, how is this going to fit? Because it seems to me there is a knock-on effect there which is not explained at all. I do not understand how that is going to gel. I am not sure and I seek an explanation. Shall I be confident? I am sure the Minister for Education, Sport and Culture can provide a perfectly satisfactory answer that it gels perfectly well and it has all been worked out and all the i's are dotted and the t's are crossed. I hope so. We shall see. But with that reservation, I heartily welcome this.

3.16 Deputy J.A.N. Le Fondré:

Yes, I am afraid I will not be supporting this amendment, Sir. It is extremely laudable, it is absolutely the right thing to do in principle, so in an ideal world we should be supporting it. I do not think we are in that ideal world, Sir. As I am listening to this debate I am getting more and more concerned that when we get to the end of this lot we will not have the money to do it. That is the bottom line and, yes, there is an accountant speaking, I am afraid, but it is trying to take the longer term view as well. It is absolutely laudable, the principles are fine; I do not think we can afford it and I will not be supporting it, Sir.

The Deputy Bailiff:

Does any other Member wish to speak? Senator Shenton?

3.17 Senator B.E. Shenton:

I think the provision of childcare and the ability of mothers to go back to work and parents to go back to work is obviously a very important topic. But I think also from a government point of view, perhaps the policies should have been over the years to allow people to have the choice of whether the mother wanted to go back to work or not. Unfortunately, because of the way that we have gone for the economic growth, we have forced mothers, many mothers, to go back to work, many mothers that would prefer to be with their children during their early years of development, and as such they have been put in quite difficult financial positions where they have to weigh up the cost of going back to work, deduct the cost of the childcare and come up with some sort of balance in their lives that gives the best for their children and makes it financially affordable to them. I do occasionally get a little bit annoyed with those preaching the mantra that 3-5 year-olds are better off in nursery than they are at home, to be somewhat insulting to the many mothers out there that provide excellent one-on-one childcare to their 3-5 year-olds and tuition and bring up children that are intelligent, well rounded socially and great contributors to the Island. So to always stand up and preach, as Senator Vibert does, that children are better off going to nursery 5 days a week, I just do not think that that is true. What is true is that some children would be better off at nursery due to circumstances, but certainly I would like to do more as a politician to help mothers afford to stay at home and look after their children because I do not think we are doing enough. Many of them have been forced by high rents and high mortgage prices to go out to work and to leave what is probably the most precious thing they possess in the hands of another. People say: "Well, you know, this is

all about economic growth” and so on and so forth. Well, sometimes you have got to look beyond the economic growth statistics. The ironic thing is if you are calculating G.D.P. (Gross Domestic Product), if you give your child to someone else to look after that person looking after the child contributes to G.D.P. and contributes to economic growth. If you look after your own child you do not. It is rather a weird scenario. I worked at a bank many years ago when my children were in the 3-5 year-old age category and we sent them to a very good nursery for 2 mornings a week because we felt that that was all they needed, 2 mornings a week. I was in the fortunate position where my wife did not have to work and she could bring up the children at home, and I fully understand that many people out there are not in that fortunate position. I was working at a bank and alongside me was a colleague whose wife also worked in the finance industry who was also fairly well paid. A new States-run nursery opened up the road so he immediately pulled his children out of the private nursery and put them in the free States-run nursery. As a taxpayer I objected. I objected because I did not or do not pay my taxes so that he can have an extra ski holiday every year, because that is exactly what happened. Moving forward a few years later, I was working with people that had their children in free nursery places provided by the taxpayer and one of the girls who did not earn very much money in the back office and was really struggling could not get a place. She was only working not because she wanted to work, but she needed to work because they were trying to get their foot on the mortgage ladder for the very first time. There I was, working with people earning very good money with free nursery places and this girl that genuinely needed a nursery place could not get one. That was the sort of ridiculous system that we were running then and unfortunately we are still running today. But the system is so inequitable at the moment that we have to do something now. Much as it pains me to support this, I will be supporting it, because people that have been dealt a bad hand, those that are struggling with nursery care, those that are struggling to get by, this is the only solution that we have for them today. But this is not a case of job done. I do not believe that this is the solution to the problem by any stretch of the imagination. I believe that there still is a lot of work to be done by the Minister for Education, Sport and Culture in this regard. People have talked about means testing and I would be all in favour for means testing to come in at a later stage. When we spoke at the Chamber of Commerce with my States colleagues, we did ask the audience the question of how many within the audience would support free nursery education in an un-means tested basis and 3 hands went up. The question was prompted by someone in the audience that was moaning about the fact of the lack of nursery provision by the States, and I went to see her afterwards and she said: “Well, we recommended means testing but our recommendations were ignored.” Now, I believe that if you are means testing you have to put quite a high bar on the means testing because you are dealing with families. Mortgages are high, food is high, eating is high. Just because you means test, you do not have to put the bar so low that you do not help anyone. So I think we can still means test and we can put on a high bar. Now, the other issue is the competition between the private nurseries and the public nurseries. There are different staffing standards required between the private and the public nurseries. The private nurseries have to employ more staff, and going back to the one where I said that the nursery up the road opened and the colleagues all pulled their kids out, that nursery did in fact close down. We have to make a more level playing field between private and public nurseries and I will be interested in the Minister when he sums up to let us know how he is going to deal with this. The argument in the past has always been that the nurseries provided by Education provide education and what we are doing is we are providing education, we are not providing babysitting or crèche facilities, we are providing an education for 20 hours a week. That is the proposition before us today. But of course we are also going to give the opportunity for those people who want to leave their children there longer at the States nurseries. So is this time after the 20 hours, is that crèche facilities provided by the States or is it still education? If it is crèche facilities, will you be applying the same standards of regulation that you apply to the private sector for providing crèche facilities? If you want a real level playing field between the private and public sector, do not give lip service to it, but provide it. Sir, as I said before, I will be supporting this because there are so many people out there that are

suffering so badly, but this is not the solution, this is a sticking plaster and there is a lot of work still to be done by the new House and the Minister for Education, Sport and Culture.

3.18 Deputy G.C.L. Baudains:

I speak largely in the same vein and I share many of Senator Shenton's concerns and he has eloquently demonstrated many of the problems that perhaps we should have attended to and we have not. It is obviously right and proper that we should address inequality, and there are many, and there are also many problems, Sir, in this particular area. But I have to say, Sir, before we congratulate ourselves on this amendment, we should reflect, as indeed Senator Shenton has done, as to why it is necessary. It is necessary because we have allowed the cost of living in Jersey to escalate to such a point that too many families find that both parents need to go out to work just to make ends meet. I agree that the most satisfactory situation is not to put children in childcare but for them to be with their parents, usually until primary school age. Research has shown that such children tend to be better adjusted than those moved away at an earlier age. It does seem to me, Sir, the more we tax and spend, the worse we make the situation. In like vein to the Senator, when my children were born, my wife and I made the decision that she would give up work and look after the children until primary school age. It meant that I had to work harder in order for us to make ends meet but we did it. I only wish more parents were able to do that. It is not a situation that many parents are able to do. So, Senator Shenton referred to it as sticking plaster exercise. I do agree. What we are doing here is repairing or attempting to repair damage that we have caused. But unlike the Senator, I may not support it. I need to be persuaded.

3.19 Deputy A. Breckon:

I would just like to come back for a moment to the comments of Deputy Le Fondré. I think he did say, and it is not that long ago, just to quote him, he did say: "This is the accountant speaking and there is a cost", and I think he said: "Can we afford it in the longer term?" Perhaps the question I would ask there is there is a cost, but is there not also a benefit? I remember being involved in a working group in 1994/1995 with a former Director of Education, Comptroller of Income Tax, somebody from Social Security, Deputy Dory and one or 2 others, and we were looking at these very same issues. An excellent paper was produced then by the Director of Education and what it said, I think, the area where there was the most information from was the United States of America, and what it said was that at the ages of I think it was between about 25 and 30, what you had from children who had come through a good quality childcare environment, be that in the home or in a sort of kindergarten thing, then you had better rounded individuals with less dependency on what they called welfare. People were well able to support themselves and the outcomes of those individuals in those age groups were particularly impressive, which did, I remember, at the time impress the Comptroller of Income Tax because he said if we are going to give relief on this in 30 years' time when we get the results then who is going to be around anyway? I would remind Members that the amendment that came to allow tax relief on childcare did not come from any committee or department, it came from Senator Kinnard in one of the amendments to one of the old Strategic Plans. From that flowed, we said: "Well, if we are going to give relief to people who pay tax, what do we do for those people who do not?" and from that flowed an allowance for people to get childcare through the social security system, so none of this came from our now Ministers or Presidents as they were, it came specifically from an individual and some of the work of that group which was not attached to any particular committee of the time. The other thing, Sir, Members may well ask themselves is if we do not do this sort of thing, then the effects may be an increased Probation Service, a bigger prison. If we put quality stuff in for young people then the outcomes, I think, will be there. It is a case of do we put a fence at the top of the cliff and spend some money or do we wait while people go over and run and catch them in an ambulance at the bottom? That perhaps is Deputy Le Fondré's scenario, is we cannot afford it now, wait until something happens and we will throw money at it to cure it rather than perhaps spend on the quality outcomes for young people. The other thing with that, Sir, finally I would just like to finish with the fact that we

must still remember that some people are living in still difficult circumstances. Kids do not have their own bedroom, they do not have a garden to play in, and this association from this as well as the educational benefit is really significant for these children and their families. So as well as the work ethic, do not forget principally it is about the welfare of the children. I would ask Members to wholeheartedly support this. I think it is probably 15 years behind other places so we are certainly not leading the way here, and I do not really see how many Members could have much opposition to this at all. Thank you, Sir.

3.20 Deputy C.F. Labey of Grouville:

I am very disappointed that Deputy Le Fondré has chosen not to support this because we can all, I feel, look at an ideal world and what would happen if we live in an ideal world, which would probably be, if you had your 2 point whatever children, a parent would be at home to look after them and also have holidays off or a parent would be at home, preferably the mother because the mother is far better at multitasking than a man. Sorry, that is being very sexist. But we do not live in an ideal world and we live in Jersey, we live in an economy that we are constantly told is where business is booming and the consequence of that is so are property prices and rents. That is the bottom line. People do not necessarily go out to work because they want to go out to work. Many parents, and certainly speaking as a mother who eventually had to go out to work, I would have been far happier at home with my children than having to work. One thing I would say when we talk about business is booming is I do feel employers, as we go into Zero/Ten, could play a far bigger part in making more flexible arrangements. I know things have moved on since I worked in the finance industry, but they have not moved on nearly quick enough. I know the attitude there was if I wanted time off to go and watch my daughter, for example, in a nativity play, it would be: "Mm, ah, do not know." But if I was to ask for time off to go on the golf course I would have been sort of encouraged to do so. Attitudes do need to change. We do not live in an ideal world and I am afraid Education, Sport and Culture is really playing a game of catch-up here. It is playing a catch-up from our booming economy and I would say to people, Chamber of Commerce, Institute of Directors, the economy does need to play a role here. It is not just down to Education, Sport and Culture. They need to look to themselves and their staff and make far more flexible arrangements than they do at present. I agree it is a privilege to sort of be at home with one's children, but as that is not to be for many parents then we have to provide good quality education. I believe, as Senator Shenton said, this should be the second choice, the second option, but more often than not it is the necessary choice. There are things that we can do to improve the situation and at Education I believe we still need to look at things like children that start off in the States nursery schools should be committed to continue at those schools because I feel there is more controls needed there. With regards to means testing, we have looked at this, but in fact we would be means testing parents with 3-4 year-olds and then when they hit 5 to go into the school reception we no longer means test them. So, do we employ our army of civil servants for the 3 and 4 year-olds and then no more? It is a bit of an anomaly. I take on board the sentiment but I do not think it would work in practice. Thank you, Sir.

3.21 Deputy S. Pitman of St. Helier:

The Minister outlined in his speech the different parents and early years providers groups pleading with him and States Members to support this proposition and that these groups and parents have been battling this for 5 years. Indeed, Sir, they have worked extremely hard to push the Minister to bring about equity in the provision of early years education. Well, their efforts have largely landed on deaf ears and while the Minister has put no stop to a policy of building nursery provision on to primary schools which has worsened the inequity of provision and which has put enormous pressure on private providers and in one or 2 cases has resulted in them closing, the Minister also said that Jersey has the capacity to bring about this change. So why, in the 6 years as President and then Minister for Education, Sport and Culture, now, at a very later stage, is this Minister bringing this proposition? It is, Sir, because it is election time. Despite this, I will support this proposition

because parents desperately need equitable access and provision to childcare and this is a start, Sir, however rudimentary. Thank you.

The Deputy Bailiff:

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

3.22 Senator M.E. Vibert:

May I thank all Members who have spoken and contributed to the debate? It started with Deputy Scott Warren and I thank her for her unreserved support because it is the right way forward as she said. Deputy Ferguson was not quite so sure and perhaps I can talk ... as Deputy Le Claire explained that the charge per hour for childcare, £3.90 was mentioned, it is usually between about £3.90 and up to £5.00 and we have come out at £4.55. I do not know where Deputy Ferguson got her idea of double that from; we have canvassed all the providers. Perhaps I can encourage Deputy Ferguson to support this by mentioning all the savings we will make by having this policy. We will save something like £7 million on capital investment. But if we were to continue building nursery classes we would need to spend about £7 million to build enough nursery classes to cater for all the children, double what we have got now. By introducing this public/private partnership we will be saving that whole amount of money and not increasing the revenue than it would have otherwise been. So perhaps that will persuade the P.A.C. Chairman that this is a fiscally prudent policy. On that, if I can just refer to what Deputy Pitman said: "Put no stop to a policy of building new nursery classes," I have. I put a stop on it. There has been a stop on it for nearly a year pending this debate. Sorry, I will refer to Deputy Martin in a minute, but Deputy Le Claire had some personal experience to give about the costs and so on and made the shortest, best speech he has ever made, I thought. Well done. Deputy Martin asked why it came so late and Deputy Pitman sort of, if I can pick up on her, Sir, asked, you know, why was I bringing it now after nearly 6 years in charge, why had I not done it earlier and so on? She even mentioned elections, which I found particularly disappointing as Deputy Martin can confirm as a previous member of my Education, Sport and Culture Committee we have been looking at it since her day. It is quite a complex issue. It was quite hard to come to a public/private partnership agreement. We have had a number of reports on it which I have been reporting to the States for 4 years on this now. Deputy Pitman, I hope you can remember, but I brought practically exactly the same ...

The Deputy Bailiff:

You hope that she can remember.

Senator M.E. Vibert:

I hope she can remember, Sir, I brought back practically exactly the same proposition for nursery education last year and unfortunately she voted against it then, I believe, or was not in the Chamber, one of the 2, because she is not on my list of voting for, Sir. So it was not something that has suddenly come along, it has been around for some time and it is not a surprise, I hope, to anybody because last year, when unfortunately my amendment was defeated, I gave notice then that I was going to be bringing it back. I have given notice all through the year since. I went to public hearings of the Scrutiny Panel and said I was bringing it back then. I have said all along. Some people ask why as an amendment? Well, because I could not bring it any other way until the Council of Ministers had lodged their proposition, then I could bring an amendment to get the funding. Why it is in the Council of Ministers' name and not my own name is I had given notice all along I was going to bring it in my own name. The Council of Ministers agreed to support it and asked could it be brought in the Council of Ministers' name? Of course I was very pleased to do so, so that is really why. That is why the figures are not in the Business Plan and so on. I would just inform Deputy Martin, she was not sure if she supported it last year, I am pleased to say she did support it last year and I hope she will do the same. I did speak with the Deputy, Sir, afterwards and we are building into our service level agreement, of which great detail was given in the papers, with the amendments to make sure that the fees cannot be put up to take advantage of the fact that

we are going to be providing this through the providers. I am sorry the Deputy of St. Martin had a heavy heart; it should have come to the House many years ago. Well, it has been something that has grown up for 25 years. I brought it last year after finally getting agreement on the way forward with the providers and everybody else. It was not brought forward and I brought it again. Yes, the cases that go to complaints board that people cannot get the places are heartrending because we only have half the places to offer. But if States Members vote for this today, they will solve that at a stroke and we will be able to offer everybody the opportunity. Deputy de Faye understood the aspiration to high quality education, and because he does I would ask him to support this. It is not a foot in the door proposal; it is what we believe is the best proposal. I would ask him to really consider does he really want this total inequity to continue? Because that is what will happen if we do not vote for this today. Again, talk about means testing. We do not means test at 5. The views of the Jersey Child Care Trust and the Scrutiny Panel that looked at this in incredible detail were absolutely convinced that means testing was the wrong way to go. The Deputy of St. John was quite right to refer to middle earners in Jersey, and that is a big problem. This is going to help. I agree with my Assistant Minister, the Deputy of Grouville, employers should be doing much more to be family friendly and to be flexible. But let us do our bit and let us get rid of the inequity and offer this to all. My other Assistant Minister, Deputy Fox, has been on Education even longer than I have and knows how long it has been looked at. We finally come up with a way forward and let us say yes. His job would be a lot easier because he will not have so many appeals to deal with from parents who are desperate for their children to have a place. Senator Routier, I thank him for his support. He explained why it could not be brought earlier. I think he is absolutely right, we just need to do it. Again, Deputy Hilton, I thank her for her support, and Deputy Troy. Deputy Lewis was quite right, Sir. We have one of the highest levels of working mothers in Europe, so the idea that all these mums are going off playing tennis and sipping pink gins and so on while their children are at nursery is total cloud cuckoo land. They are going off to do a job so that they can pay the high property prices, the high rents and the high prices in Jersey. I thank the Deputy of St. Mary, who is the vice-chair of the Education and Home Affairs Scrutiny Panel, for talking through the report and the frustration of parents that she experiences. Yes, the original policy was well intentioned, but it has led to a situation where we have to act so as we can get rid of the inequity. It is not a free babysitting service, as she said. This is education and care and should be the right of every child regardless of background. The Deputy and the panel who looked at it so closely were convinced of the case for universal provision. Our own States Scrutiny Panel looked at it, scrutinised it, and said it should be universal provision. She wanted an undertaking from me, Sir, that schools without nurseries would not be discriminated against, and she has it. I would not allow any school to be discriminated against. They are all of the same importance, all our primary schools. Of course, the Deputy said birth to 3 years-old are also vitally important, and I agree. We need to really address that. We have not done enough there and we need to address it, and I refer to the Deputy of Grouville again. We need to address it in concert with employers. We need to make employers start doing far more in this area, particularly in the flexibility. Deputy Southern, I thank him for his support. Again, I will not go on about why it came as an amendment because I tried to explain it through. He did ask about tax relief and so on, coming into tax relief. The reason for that is that at the moment people who get a free place at a States nursery class do not pay anything for that, so they cannot claim childcare tax relief. If we means tested and they started having to pay for that place, they could then claim the childcare tax relief on it and that is how that one worked. It is explained in some detail and I am quite happy to talk it through afterwards, but I am sure he understands. I am going to appeal to Deputy Le Fondré's other side, the non-accountant side. I am sure there is one there, Sir. I see Deputy Baudains looking for it and I hope he will get there and find it for me, the human side. I ask Deputy Le Fondré, who says it is extremely laudable, right in principle, please stick by the principles, Deputy Le Fondré, really try and allow yourself to do a long-term investment.

The Deputy Bailiff:

Through the chair.

Senator M.E. Vibert:

Sorry, Sir. I would like the Deputy to think of it as a long-term investment because as Deputy Breckon said so rightly ...

Deputy G.P. Southern:

Will the Minister allow ...? I did ask about the interface with childcare tax relief, and also about how it would meld with Income Support in particular.

Senator M.E. Vibert:

Sorry, Sir, I am trying to carry through. The Income Support, there is a concern that again at the moment if a person has a free place, then the mother might have a part-time job or go out to work and get enough income so that family unit does not get into Income Support area. If there was a charge, the mother or the parent working might decide they cannot afford to work, their income would drop and they may go into the Income Support. Sorry, Sir, I was just referring to Deputy Breckon and trying to convince Deputy Le Fondré to support it because Deputy Breckon was quite right, it is the benefit of it. The benefit is in the future. There are benefits now for the parents and the children, but big benefits in the future. The sooner we start investing, the sooner we will reap that benefit and not have to have the ambulance at the bottom of the cliff. Senator Shenton, I am glad he is supporting me, Sir. I am pleased about that. I have never preached - and I do not know why the Senator thinks it - the mantra that young children should be away from their mothers. Never done it. Like the Senator, lucky enough that we made a decision and my wife when our children were very small stopped work so she could be at home with them. But they attended a playgroup and nursery as well because that social interaction, that education element, at that age was so important as well. If Senator Shenton would care to visit any of our nurseries, our school nurseries and the private nurseries, he will see how involved parents are in the nursery. It is open house. They can come in, they can take part with their children. So it is not taking them away from the mothers or the parents. The parents can become involved but, as many people said, unfortunately not everybody has that choice. Perhaps we should be doing more to give them that choice, but not everybody has that choice. So what we are doing, we are not forcing this. This is an option that people can take part of, and I thank the Senator for his support. Deputy Baudains as well, he says it is right to address inequity, so I hope what I have said will convince him that he should, because he said he needed to be persuaded. We need to repair the damage caused, I totally agree, and I hope he has been convinced. The Deputy of Grouville, I have mentioned a lot of things that the Deputy said, Sir, and it is quite right about means testing. We do not means test at 5; why means test at 4 with all the problems and also the Scrutiny Panel looking at it saying it is the wrong thing. I believe, Sir, I referred to Deputy Pitman. She mentioned the different groups pleading, Sir, and I agree and I have been listening to them for some time. It certainly did not land on deaf ears with me. Unfortunately, they landed on deaf ears in the States last year, including, I believe, certain Members who voted against and Members who were out of the Chamber. I can understand that, it was a really difficult time. I believe I have provided much more information this time. It is a continuation, something I feel so wholeheartedly for, Sir. I just really urge Members to support it. I would just like to finish, Sir, by referring to the letter of the Jersey Early Years Association - "Today's Association for Tomorrow's Child - in their final paragraph to States Members in which they say: "We ask that you put aside any political or personality issues that may exist and vote in favour of this amendment. Whilst recognising this is not entirely equitable, it is the result of many years of struggle and represents the best opportunity to date for the young children of this Island. We hope you will agree that any points of opposition to the Bill are better pursued once the funding is in place rather than continue to deny the children and families this vital opportunity now. We strongly urge you to vote in favour of this amendment to the Business Plan." Sir, I plead with Members to give every young child in Jersey the best possible educational start in

life, the opportunity to have a nursery education and care in the year they rise 4. I move the amendment and ask for the appel, please.

Deputy S.C. Ferguson:

Can I ask a point of clarification, Sir? I did ask the Minister for the percentage literacy rate in the Island.

Senator M.E. Vibert:

Not knowing that that issue was going to be raised in a debate on early years, I have not got it in front of me. We have a very high literacy rate and perhaps I can assure the Deputy that all the research shows the best way to get the best literacy rate is to start with nursery education.

Deputy S. Pitman:

Point of clarification. I did not vote against or for that proposition that the Senator brought because I was out of the Island attending a funeral.

Senator M.E. Vibert:

I thank the Deputy for that clarification.

The Deputy Bailiff:

Very well. The matter before the Assembly is the appel on amendment No. 3

POUR: 42		CONTRE: 2		ABSTAIN: 1
Senator S. Syvret		Deputy S.C. Ferguson (B)		Deputy G.C.L. Baudains (C)
Senator L. Norman		Deputy J.A.N. Le Fondré (L)		
Senator F.H. Walker				
Senator W. Kinnard				
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator M.E. Vibert				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Peter				
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Trinity				

Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy of St. Martin				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérissier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy of St. Mary				

Senator M.E. Vibert:

Can I thank Members for making a lot of children and their parents very happy from next September?

4. Annual Business Plan 2009 (P.113/2008): fourth amendment (P.113/2008 Amd. (4)) - Amd. (4)(1)(4)

The Deputy Bailiff:

Very well, we come next to amendment No. 4 lodged by the Council of Ministers. The Greffier will read the amendment.

The Greffier of the States:

After the words “withdrawn from the Consolidated Fund in 2009” insert the words “except that the net revenue expenditure of the Home Affairs Department shall be increased by £250,000 to provide the necessary funding for the implementation of the Discrimination (Jersey) Law.”

4.1 The Deputy of St. Ouen:

Please, Sir, before we commence this amendment, I have been privileged to receive a revised financial forecast for the period 2009-2013, which shows the implications of the current decision that the States has made and what the effect will be on the estimated Consolidated Fund balance. It is clear that if we pursue ...

The Deputy Bailiff:

Sorry, you received this from whom?

The Deputy of St. Ouen:

From the Treasury Department, Sir.

Senator W. Kinnard:

I really think that we ought not to have this kind of intervention ...

The Deputy of St. Ouen:

I will just go on to say that I have asked before we proceed with any further amendments because we are now in a deficit situation or possible deficit situation. I have asked the Minister for Treasury and Resources to explain the situation and the implications of the position.

4.2 Senator T.A. Le Sueur:

I think the implications of each of the different amendments are clearly set out on page 30 of the amendment lodged by the Council of Ministers. They do show that with the introduction of V.E.D. the figures remained in balance over the 5-year period. Following this morning’s decision, Sir, the situation will have changed, but I think before issuing any new forecasts or further forecasts which may only confuse Members, I think it would be more sensible to wait until all the further strands of these amendments have been debated and either agreed or rejected. If after that Members wish to have an updated forecast showing the position in the absence of V.E.D. I am happy to present that probably on Monday, Sir.

4.3 Deputy S.C. Ferguson:

I think that it is incumbent upon the Minister for Treasury and Resources, surely, to remind Members of the implications of this fairly haphazard spending spree that we are engaged in at the moment. This is the future of the Island that is at stake.

The Deputy Bailiff:

The V.E.D. is identified in that figure. I am sure it is not beyond the ken of Members to be able to work out the difference if V.E.D. is not there.

4.4 Senator F.H. Walker:

Could I just add, I hope, a little bit of clarification to that? The figures are clearly spelt out on page 30 of the Council of Ministers’ amendment. The budget remains in balance. The only difference

so far is that V.E.D. was not supported by the House and we have added a one-off cost of £2 million in 2009. That is the only difference as a result of the debate we have had so far to the table on page 30 of the Council of Ministers' amendment.

The Deputy Bailiff:

I am afraid, Deputy, we cannot now have a mini debate on something that is not before us. Now, the Minister is going to propose amendment No. 4.

4.5 Senator W. Kinnard (The Minister for Home Affairs):

I am going to be proposing the amendment on behalf of the Council of Ministers in relation to the addition to the Home Affairs budget. Sir, as this is not a new item but, in fact, is a reinstatement of a previously agreed bid, there is a brief report which appears on pages 19 and 20 of the Council of Ministers' fourth amendment to the Annual Business Plan where, Sir, it says: "It is proposed that the net revenue expenditure of the Home Affairs Department shall be increased by £250,000 to provide the necessary funding for the implementation of the Discrimination (Jersey) Law." In the 2007 States Annual Business Plan, an amount of £500,000 was allocated for the implementation of the discrimination legislation as part of the Strategic Plan funding. It was always anticipated that the introduction of the legislation should be phased and when the funds were approved in the States Annual Business Plan 2007-2011 the following observation was made: "It is unlikely that all of the funding will be required in the first year following introduction of the law as it is intended that the balance of the funds will be used to supplement the present budget in the short term until the funding pressures are resolved." Following 2 reports from Her Majesty's Inspectorate of Prisons which identified inadequacies in provision and arrangements to support the varied group of prisoners at La Moye, and a recognition that the prison had been historically under-funded, a full review of the prison budget was undertaken in 2007. The results of that were presented to the Council of Ministers, which accepted the evidence that the prison budget fell short of the resources required for the size and complexity of the task. The Council concluded, therefore, Sir, that there should be an increase in the prison's base budget and, following further discussions, agreed that the funds originally allocated for the implementation of the discrimination legislation should be diverted to the prison for 2008 and beyond. The additional funding for the prison has allowed for the recruitment of additional staff and the implementation of a number of important initiatives in the improvement plan including prison education, but in consequence, Sir, the implementation of the discrimination legislation now requires some growth funding. A proposed Discrimination Law has already been drafted and, indeed, has been consulted upon, as have 2 of the first sets of Regulations covering race and sex discrimination. The draft law and the Race Regulations have already been consulted on twice and the Sex Discrimination Regulations will go out for consultation very soon. Thus, there has been a lot of work and resources put into this legislation already prior to the allocated budget being transferred to meet the pressing needs of the prison. All that work would be lost, Sir, if Members were to fail to approve the amendment today. The Chief Minister said that this legislation has been a long time coming forward and I agree with him, but it has not been for the want of trying. Sir, here is a selection of some of the propositions and reports that have gone to the States on these matters since the early 1990s. There are a huge weight of documents: working party reports, reports from A.C.E.T. (AIDS Care Education and Training), reports from the Discrimination Forum, various consultation documents, reports in Portuguese, English and French and so on, a huge amount of material on these issues has been presented to Members. When this issue has been put out to consultation, it has received consistent public support for the introduction of the law each time that it has been raised and consulted upon, the most recent significant support being expressed by more than 300 people attending a conference in September 2007 held by the Community Relations Trust on the law and which was attended by some people who might, indeed, have something to gain from the legislation. For example, people with disabilities and members of our minority ethnic communities and religious groups. Although today's debate ought to be focused on the reinstatement of the budget for something already agreed

in the 2007 Business Plan, I am advised that I may be facing an uphill struggle and it looks from the earlier intervention that that might be the case. So I think it is appropriate, Sir, to cover some of the background. It is not intended that the introduction of the law will open the floodgates to complaints. Rather, the law will act as a backstop to set standards of behaviour that are commonly accepted by all as appropriate to our community in the 21st century. Of course, Sir, if basic standards of decency and fairness towards others are maintained, then complaints need not be made. The law would be introduced in phases to allow business and the wider community the opportunity to get ready for its introduction. Our approach, Sir, has been to promote the law as helping to create a climate of acceptable standards. The proposals are for an inclusive, non-adversarial approach which avoids unnecessary bureaucracy while ensuring effective enforcement. The intention is that individuals would ... Sir, do you think that the people to my left could stop talking? Thank you. It is a very important issue, this. The intention is that individuals would be free to seek redress for the harm that they have suffered as a result of unlawful discrimination through procedures which are inexpensive so as to obtain remedies which are effective. Of course, Members will have an opportunity to debate the detailed provisions of the law and to make any amendments at the appropriate time, but the general principle has already been agreed by this House in 2002 that there is a need for the introduction of this legislation. Anti-discrimination legislation is, indeed, to be found in most jurisdictions worldwide. Jersey has a recognised presence, Sir, on the international stage and it follows that the Island should have the necessary legislation in place to command respect as a jurisdiction that promotes modern standards and encourages equality and harmony between its citizens. In addition, the Island has obligations under a number of international treaties and covenants to ensure protection from discriminatory behaviour. Jersey is required to file regular reports with international organisations to demonstrate that it is taking steps to comply with these treaties and covenants. In the last couple of years, Sir, we have filed reports relating to the I.C.E.R.D. (International Convention on the Elimination of all forms of Racial Discrimination), a number of international labour organisation treaties, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. On each and every occasion, the Island has promised to introduce legislation to protect its citizens from discrimination. Officers, too, Sir, have been required to attend hearings of the International Human Rights Committee and have been examined on the extent of discrimination in the Island and again, Sir, will be called very soon before the Committee on Human Rights to address some of these issues again. But let us look at some of the evidence of discrimination that have had to be addressed. I have a very short selection of some headlines from the *Jersey Evening Post*: “Foreign students fall victim to Nazi abuse,” “Polish man beaten up after football taunts,” “Sexual harassment must not be tolerated,” “Large ladies call for anti-discrimination law.” There have also been reports of swastikas daubed over the synagogue and the Jewish cemetery as well as the defacing of a certain Senator’s election posters in a previous election with racist drawings and slogans. Also, advertisements, Sir, I tend to keep quite a few of these so I have only brought a small selection. Here we have a few: “Smart, young, attractive barmaids required.” Here is another one here: “Full/part-time domestic cleaners required, females preferable,” an agency asking for it, not a private house. “Van driver/storeman required,” “Full-time position for lady in office,” “Part-time waitress required,” “Maintenance man for department,” “Salesman required,” “Full-time foreman master roofer.” Some Members may wonder, Sir, why discriminatory adverts are a concern, and I hear a few people tittering around the Chamber. They have the effect, Sir, of denying individuals who may have relevant skills and yet are prevented from both the application and the selection process. This does not make good business sense and it does not make the best use of all our talent. It has the effect, unfortunately, of reconfirming the existing discriminatory occupational structure in which women, older workers and those with disabilities are concentrated in part-time, lower paid and lower skilled jobs notwithstanding their particular skills and abilities. The last Jersey census shows that Jersey has one of the highest levels of women in the workplace compared to the United Kingdom and the rest of Europe. Part-time work is predominantly done by women. Women account for 90 per cent of part-time employees in Jersey.

Locally, Sir, there is also a marked gender specific character to certain occupations: 70 per cent of managers and senior officials are men, as are 95 per cent of those employed in skills trades. In contrast, women dominate the administrative and secretarial grades at 80 per cent and 85 per cent of those who work in personal service occupations. These factors, Sir, part-time working and the fact that female-dominated occupations are often among the lowest paid, contribute to a gender pay gap. A report for the Office of National Statistics in April 2008 of this year found that in the U.K. the gender pay gap of full-time employees had narrowed since the introduction of sex discrimination legislation and the Equal Pay Act in 1975, so I am hopeful for our own legislation. Disabled people, too, Sir, face stereotypes about their capabilities and may be patronised or excluded on the assumption that they cannot contribute. Age discrimination and recruitment, training and promotion is one of the key causes of declining economic activity among older people. An example of such discrimination I have seen recently reported in the press is Selina Scott, who is suing Channel 5 for being sidelined for being too old, and there are a number of others who claim that they have been dropped for “demographic” reasons, age being the key here. I have received a number of letters as well, Sir, from the public. For instance, a local woman who is married to an Afro-Caribbean man wrote to me about what she termed “nigger baiting” when she and her husband tried to slip into the traffic in an area of traffic congestion. Both were extremely upset and distressed that there was nothing that could be done about it. Another woman wrote about farm workers in her family in the following terms. In fact, this was put into the newspaper: “After a hard day at work in the summer - they can start at 6.00 a.m. and finish as late as 8.00 p.m. 6 days a week - all they want is to have food in their bellies and a bed to rest in. Also, I have had the opportunity to witness a case that contradicts the belief that they have any time off when they need it. Somebody I know had to postpone a visit to the G.P. (general practitioner) twice because it was not a convenient time to the grower. The person is still waiting for a convenient time because apparently workers are supposed to choose the right time to become sick.” There are many other examples from local research, Sir. The Discrimination Forum Report of 2000, which was made up of a group set up by the Chief Minister’s Department and included people from both the public sector and the private sector, made the following comments after a huge meeting and convention that they had on the issue: “Discrimination was not the preserve of one age or social group. Despite some movement into higher paid jobs, underlying discrimination does exist. Concern was also expressed about a number of different attacks on language students. Both members of indigenous and immigrant communities can feel they are discriminated against. While second generation children are legally accepted as being Jersey born, they are not culturally accepted and suffer at school. Jersey has a discrimination issue and the States must be committed to tackling the issue.” That was the kind of evidence they found. There have also been a number of suggestions of how discrimination of the type that I have described should be best dealt with. Education is often put forward but it is not a panacea, Sir. Education is, of course, important in seeking to promote harmony and social cohesion, but alone it fails to provide an effective remedy for those suffering tangible disadvantage because of prejudice and intolerance which has resulted in their unemployment or their unfair dismissal, their abuse or harassment. But education or awareness raising and the law are necessary working hand in glove, but education alone will not suffice. Codes of practice, Sir, comparative academic research carried out across Europe into the most effective ways of dealing with discrimination, and I have a paper here by Professor Ian Forbes, an authority on this issue. He shows that unless proposals are properly institutionalised in law, progress can be uncertain and subject to changing circumstances, such as, in particular, economic downturn which is often when racial tensions and discrimination are at their peak. It has already been accepted by this House, Sir, that employment legislation is necessary rather than relying on codes of practice to properly protect individuals and ensure fair play. This is why codes of practice in the absence of legislation would not be sufficient to protect people’s fundamental rights in respect of the different forms of discrimination. Having said that, Sir, it is intended that the law will be implemented with a light touch, with most cases being conciliated and very few going forwards to a panel or tribunal. Other legislation is dependent on the enactment of the

Discrimination (Jersey) Law. The Employment (Jersey) Law does not cover discrimination at the time of selection for employment, nor in fact does it cover terms and conditions on which the employment is offered. In any case, the law protects employees only and cannot cover discriminatory actions in the way in which services or leisure activities are provided. The Social Security Department consulted on maternity and family friendly policies during 2007. In addition, the Legislation Committee of the Chief Minister's Department has been considering gender recognition legislation. It has become clear that it will be necessary to introduce protection from discrimination on grounds of sex or gender at the same time or as soon as possible thereafter as any employment legislation brought forward by Social Security or the Chief Minister as a result of their consultation and proposals. Sir, without the Discrimination Law no effective remedies will be able to be enforced under those pieces of legislation. I have mentioned briefly our international obligations, Sir, but it is legislation, not codes of practice nor good intentions, that are required to meet our international obligations. These I mentioned briefly, as I say, before: the I.C.E.R.D., the Elimination of Racial Discrimination, the International Labour Organisation treaties on labour conditions, international covenants on civil and political rights, and so on. The States have previously agreed in principle - in fact, in January 1991 - that all forms of discrimination based on sex, whether against men or women, should be removed to enable the extension of the United Nations Convention on Eliminating all forms of Discrimination Against Women, C.E.D.A.W., which was ratified by the United Kingdom in 1986. Sir, I believe that Islanders know and care about what we are discussing here today. I think that they do not think that discrimination is a good thing. Further, in the world of business it is increasingly clear that those which are capable of surviving and adapting in a global marketplace are those that value and embrace diversity and in doing so make the most of all the talents available to them. The J.A.C.S. (Jersey Advisory and Conciliation Service) Annual Report for 2007 commented on the need for the Discrimination Law. They said that they remain of the view, however, that the absence of laws dealing with discrimination and the consequent lack of clear policies to deal with discriminatory practices by some employers leads to Jersey's relatively high incidence of claims of alleged bullying and harassment and results in a relatively high number of tribunal claims for constructive dismissal. Sir, I am grateful to the Education and Home Affairs Scrutiny Panel for their input into the Business Plan and their comment that the department consider seeking funding of £250,000 so that a start could be made on implementing the legislation rather than the full £500,000 originally requested. This is what we have done with this amendment and the proposition is for £250,000. That, Sir, is £2.80 per head per year to protect all our citizens. Finally, Sir, I remind Members of what the Chief Minister said on Tuesday, a long time ago now. He said: "We can afford to introduce the long-awaited Discrimination Law without compromising our very strong financial position." The Chief Minister also asked: "What sort of Island do we want to be?" I hope Members will decide that they want an Island where there are no second class citizens, an Island where everyone born here, everyone lawfully settled here, should be treated equally in the daily practices of everyday life. Sir, I propose the amendment.

The Deputy Bailiff:

Is the amendment seconded? **[Seconded]** Senator Shenton.

4.6 Senator B.E. Shenton:

As my colleagues on the Council of Ministers will be aware, I do have some concerns about this legislation. I, like every other Member of this Chamber, know that discrimination is wrong; it is something that is instilled on you from a very early age and it is something that society does to educate you against discrimination. But I do not need a law to tell me that discrimination is wrong, and this law in my opinion is based very much on a U.K. law that does not work. Furthermore, I think we have to be very careful. The cost is not just the cost in the figure that Senator Kinnard mentions. It also will lead to quite a lot of logistical nightmares. The States is one of the largest employers on the Island and we will get cases brought which are quite frivolous. The genuine

cases I believe are already covered under the States employment legislation, the States terms of practice with regard to employing staff. We do have a no discrimination policy within the States. Most firms as well have a very strong no discrimination policy. Certainly, every finance industry firm operating on this Island will have a very, very strong no discrimination policy, probably a policy that is even much stronger than the law that we are debating today. Now, in my 3 years in the States I have had no one approach me on the basis of any form of discrimination, to help them out on any cases; maybe other Members will stand up and say that they have been approached by many people. But the cost is not just the cost of the £250,000; it is also the cost in administering this legislation. I sometimes wonder whether sometimes we go through these little exercises almost like a ticked box thing: we have that, we have the other. I was reading a management magazine at the weekend and it was going on about the amount of legislation in the U.K. What is happening over there for many smaller businesses, the red tape caused by employment legislation is a good reason to avoid hiring staff and using agency workers or freelance consultants is a tempting alternative. It goes on to say: "Many small businesses do not want their lives complicated and will not hire unless absolutely necessary." I mention that because the Senator brought up about added employment legislation with regard to maternity benefits and so on and so forth. We have to be realistic as a government. We have to do what is best, but we also have to make sure that we do not over legislate and stop people getting the jobs at all. What we are talking about here is discrimination and we are talking about bringing in legislation so that people can sue. I think the idea that you can now under this law sue a firm because they have advertised for a storeman, I do not know what the actual word is that we are meant to use instead of "storeman" but I am sure there are quite a few female storemen around the Island as there is. To me a storeman is someone that looks after a store; it does not matter what sex they are. The Senator mentioned about Selina Scott suing because she felt she was discriminated against because she was a woman and they felt she was too old. Well, I am not sure whether the law will sort these sort of things out. Are we going to have anyone who is ever laid off finding some little niche that they can sue back on, on the basis of discrimination? It is wrong to discriminate and we talk about having an equal society and so on and so forth, but of course we still have a qualified and unqualified sector in the Island. Is that an equal society? We talk about utopia, a utopia that is very difficult or almost impossible to get hold of. So I do have concerns about this legislation and I do have concerns that the cost to the taxpayer and to the Assembly will be significantly more than £250,000. But like every single other Member of this House, discrimination is wrong and we must do what we can to educate people not to discriminate.

4.7 The Deputy of St. Ouen:

I am pleased to follow Senator Shenton because he echoes many of the sentiments and thoughts that I have. I would like to pick up on one point, though, which the Minister mentioned in her speech and that was the Chief Minister's assurance that we had sufficient funds to finance this and other projects. It is with that in mind that I would like to just draw Members' attention to the fact that since Tuesday a number of decisions and extra additional expenditure has been made. If they do their sums or if they look closely at the figures and consider the other areas that we are seeking to fund, such as inclusive vocational day services, Social Security, Income Support and winter fuel allowances, we are precariously - and I mean precariously - close to ending up with a deficit over a 5-year period. The consequence of that is quite clear, and it was made clear to us by the Minister for Treasury and Resources and the Fiscal Policy Panel before we even started this debate. It is that because we are unable to run a deficit we need to address it. The only way we can address it is raise more money, which means increase in taxes. We seem to have forgotten that there is a cost to providing all these additional services. I, like many, have supported some additional spending proposals as, indeed, there are good reasons for doing so, but I think it is totally wrong, Sir, for this Assembly and especially those Ministers promoting these particular amendments to pretend - and I use that word, Sir, pretend - that there is no cost. There is a real cost that not only ...

Senator W. Kinnard:

I said there was a cost of £250,000.

The Deputy of St. Ouen:

Excuse me, I am not giving way, Sir. Not only that this Assembly will need to consider, but more importantly those that will come behind. The legacy that we are going to leave the new States following the elections and the new Council of Ministers to face in the coming 3 years is unlike anything we have ever seen. We hear every day banks are going bust and yet we pretend that Jersey is okay and our economy is still going to increase and manage itself. We con ourselves into looking at figures and forecasts that pretend that we can retain and contain expenditure at levels of 3 per cent when over the last 3 years we have not even been able to manage it below 5. We pretend that we can hold pay awards to levels that we have never achieved, and yet at the same time we go: "Well, okay, but let us spend." I am sorry to be the one to bring it up during this particular debate. It was not my intention. However, I do believe that we need to properly understand what we are doing and the consequences of it. I am sorry, Senator Kinnard, I am totally unable to support your amendment due to the fact ...

The Deputy Bailiff:

Do it through the chair, please. You must not address the Member directly.

The Deputy of St. Ouen:

Sorry, Sir. I am unable to support this amendment.

4.8 Deputy P.V.F. Le Claire:

It is disappointing, really. The Island has been made up of a diverse group of people since the war. My dad was here during the occupation. He keeps reminding us of that. A lot of people were here during the occupation - and many of them sitting in the benches among us - an occupation of the Island by the German occupying armed forces, and whilst the German occupying armed forces in Jersey were not as horrific in their actions as in other parts of the occupied armed forces of that nation during the Second World War, there were nations that were held subjected to slavery within Jersey during that period of time. From Spanish to French to Russians, they were treated appallingly. So I find it quite amazing that I am listening to all these tuts and grunts and blusters at the moment from the Constables benches that I am sitting among. It would be ridiculous to try to point to that and say that would be the only reason to support it, although that is a good reason and good enough reason to support this, in my view. But it is also about progressive international and mature society which we are trying to portray on the international stage that we are fast becoming. How on earth can we go out among the wider world today and say that we are a progressive, self-determining nation state with our own respectable courts and judiciary if we scoff this one out after having approved it in years prior to today? I can understand and appreciate that many of the amendments that have come today and the time that it has taken us to get to this point, which is not even halfway through, are becoming irksome to Members, not only from their costs but the time that it has taken. There is obviously something not working with our system in relation to how this debate has been going so far. But I would like to put some personal perspective on discrimination in Jersey and my experience of discrimination in Jersey. When the Polish people first came to Jersey, I spoke to them in the church in St. Thomas's and asked them if they would like to start a Polish Association because the priests were becoming inundated with requests for help from among their numbers. So, for the first year and a half, I chaired and ran the Jersey Polish Association and tried to help the people from among that community. The different and varied reports that I received of how they were being treated on the one hand by intelligent, respectable individuals within society as a plus for Jersey, and at the same time being denigrated by other factions within the Island, it was quite appalling. This has also been going on prior to the Polish people coming with the Portuguese people, and I also spoke to them at a Portuguese mass and asked them what they thought. Both communities were reluctant to get involved with any of the electoral process.

Both communities did not believe in politicians because their experience at home left them jaded and they had brought that experience with them to Jersey. They also lamented from the way that they have been treated in the past when it came to the types of jobs that you see in the newspaper: "Portuguese cleaner needed." We have even had one member saying ... advising that her cleaner should not be paying tax because her tax had been paid already. It is all so very quaint but it is also very antiquated. I remember once being in a position where the only job I had was playing the guitar in a pub in St. Helier 2 nights a week and trying to survive on that. A new manager came into the bar and took over and I was quite impressed because the lady was Scottish and she came from the same part of Scotland as my mother had come from. I thought that maybe perhaps in the weeks to come we could have a good laugh and joke and maybe introduce my mother to her and everything else. Within the first 3 days of taking her appointment she had completely sacked everybody, including myself, that was of non-Scottish origin. I said to her a few months afterwards, when she herself lost the job and the pub had been changed, what a really bad move that had been on her behalf because it may have made it a nice little clique for the group of workers that were working there at the time, but what she did not realise when she put me out - and who knows, others, I did not ask them - she was putting out the son of a Scottish woman just because I did not have a Scottish accent. She thought I was just a Jersey person. Discrimination can work in all sorts of ways. It can work in a reverse way. It could be in years to come, as is happening now, people of ethnic minorities or local minorities may find that they cannot gain access to the workforce in fields where they are only qualified because ethnic factions within that firm want to stay totally ethnic. For example, I have had reports recently where a complaint has been made to me that they cannot get any joy in the job where they are working because the Portuguese people in that firm are totally working against that person and they are working to get that person out. I have had other complaints where people have said: "Oh, people have been working against us because they only want to employ Polish people" or: "They only want to employ Jersey people" or: "They only want to employ Scottish people." Discrimination can work against you and if we do not take care to make sure discrimination is sorted out and rooted out from society, it will come back to bite us in more ways than one. It will come back to bite us on the international stage when we try to say that we are a mature and respectful society that takes account of our needs, and it will come back to bite us when our children and our grandchildren go for job after job after job and fail to get them because they do not happen to be from another sector of the community. I would like to say, however, when the law comes forward it is going to take some effort on our behalf to try to implement a law that is workable because there will be a requirement for some policing of this law, especially in areas where you have firms that are prejudicial by managerial decision-taking to appoint new jobs specifically to races that are theirs. That can be counterproductive. It will need to be given consideration in relation to advertisements in the *Jersey Evening Post*. Would it be illegal, for example, to advertise in Polish? Would it be illegal to advertise in Portuguese? Would that be discriminatory? Those are the sorts of issues that a Jersey law needs to reflect upon given the broad base of the population in Jersey. I think with the large groups that we have, English speakers, French speakers, Polish speakers and Portuguese speakers, consideration has to be given whereby the law can be written that that can be determined in a fair and equitable way. It is going to be difficult. There may be some people who are excessively litigious, but there is provision for that under the laws of Jersey for excessive litigation. People who seek to be for ever at the door complaining will be struck off if they are excessively - I cannot remember the exact term - litigious. I would like to ask Members just to pause for a second and think about one thing and one thing only. Is it going to look good when we go back to our homes tonight and someone says to us: "Oh, did you support that?" "Oh, no, well, you know, that is one of the things we did not really want to do." "Oh, you supported the tax strategist, you supported the spin doctors, you supported the this, you supported the that, but you have left discrimination alive and thriving in Jersey?" We, above all, should remember the lessons of our parents and those of us who were fortunate enough to still carry those living memories with us. We cannot allow discrimination to survive. I took what my father told me, and I take it still, every day I speak to him: "I was here during the occupation; I was

here during the occupation.” Well, some of the Members, Sir, were here during the occupation and I hope that they use their votes wisely today.

4.9 The Deputy of St. Martin:

Welcome to the Council of Ministers’ roundabouts. The Chief Minister has had his nearly £800,000, the Minister for Planning and Environment, the Minister for Education. We have got some more to come. We have got the Transport and Technical Services. We have got the Treasury, Social Security, so we have a lot more spending to go. Now, here we have Home Affairs who has already spent the money that their panel, or their committee, was given last year. There is a saying about a bird in the hand is worth 2 in the bush. Unfortunately, the Minister has spent the money she had and now she has got to come back seeking some more. It might be a surprise that I am going to oppose this amendment, particularly when only a week ago I was seeking the House’s support for a committee to oversee human rights, and one may well say: “Well, what is the difference?” There is close correlation with the 2 but the reason I was seeking support for my proposition was it was to fill a gap that was never filled when we passed the law way back in 2000; that is the Jersey Human Rights Law. It is because of the States’ failure to implement all the proposals, or the requirements, that were in that Jersey Human Rights Law in 2000 that we have ourselves in a mess now because we did not see it right the way through. We made a promise that, yes, we will have a feel good factor because here we can say: “Yes, Jersey has got a human rights law.” Then, of course, we will say: “Yes, Jersey has got a discrimination law” but will it be really in our hearts and will we have the money to support it? I ought to remind the Minister that, along with all the other Council of Ministers apart from Senator Shenton, all opposed what I was proposing and yet a week later they are asking for twice as much money than I was asking for. It is not through sour grapes but what I want to do is ensure that Members know what they are going to give their money for. We ought to remind ourselves that we have got to go way back to 1999 when the States approved, in principle, to set up a working party to look at the Jersey Discrimination Law. If we think back it was about 4 Houses ago. Then in 2002, which was probably 3 Houses ago - or 3 States Chambers ago - we agreed again in principle to draft a law. Now here we are going to agree to part-fund something which not this House is going to go through, it may well be the next House, because what we know at the moment is - and we have heard the Minister say so - if one reads page 19 of the Council of Ministers’ amendments it says: “Members will recall that Council of Ministers had approved the Draft Discrimination (Jersey) Law 200- which will ultimately outlaw discrimination on the grounds of sex, disability, age,” the draft law which had been the subject of public consultation in advance of consideration by the States this year. Well, we are very unlikely to see the draft law this year let alone debate it, so I think it was the Deputy of St. Ouen was saying should we be committing this House or the future House to commitment this year? What I am going to suggest is that we should not support this today but we should wait until we have seen the proposed legislation and we will know what the financial and manpower implications are. It may well be that I will be supporting the Discrimination Law so do not take it that I am opposed to it because I do believe there are a lot of things in what I have seen of the draft. Of course, it is only a draft and we will not really know what the full law entails until it is put before us, but what I would ask Members to do is vote against this proposition. There is no hurry because it is unlikely that the law will be debated until some time next year. If it is approved - and no doubt there may be a number of amendments to it - it will then be off to the Privy Council, so it may well be 2010 before they come into force. By that time, of course, it will have gone through the whole recourse of Scrutiny and we will all know whether it is what this House particularly wants. Then we can come back and we should be able to pass then, if indeed we did approve £500,000, blindly, last year. The reason it was blind was because it was part of the Business Plan and it went through and that is why early on I mentioned about the heavy heart about the previous debate, because I felt had it gone through the Business Plan it would have probably sailed through. We would not have the major debate which we had and I am glad the result went the way I voted. Sir, what I am asking Members to do here is to vote against this, not because they necessarily want

to vote against the Discrimination Law when it comes but be fully aware of all the implication that is going to come out of the Discrimination Law. If they then wish to support it they will also know what financial and manpower implications are concerned. Thank you, Sir.

4.10 Senator P.F. Routier:

Many years ago when I was just a mere businessman I used to have horrific thoughts about legislation, employment legislation, and I thought that it was something we should never, ever bring into this Island, probably similar sorts of thoughts that Senator Shenton has mentioned this afternoon about this extra legislation coming into place which can have additional costs to it. I know from experience, and it took me a steep learning curve, I have to tell you, to have to come forward and champion some of the employment legislation which I have brought forward. I have brought forward legislation for minimum wage. A few years ago I would have thought: "No, there is no need for that." Well, the proof of the pudding is there has been need for that. There have been people that have been found to be paying very, very low wages in the Island and the employment legislation has helped to resolve that issue. The same with time off, minimum time off. There were some employers who were requiring employees to work extensive, long hours and unhealthy hours and inappropriate hours. The list of other areas with regard to employment legislation which has come forward has shown through the implementation and the practice within the Employment Law and the cases which have come to the Employment Tribunal have highlighted that there are issues to be dealt with within the Island. I do not believe that any of the legislation that we have brought forward with regard to employment legislation has been unreasonable. It is very, very basic areas of people's lives and their needs with the employment legislation and this is very similar to what is being brought forward now for the discrimination legislation. I know there is a need for discrimination legislation with regard to disability. That exists; I know that for a fact. There are, obviously, other areas: race, which is coming forward, and sex, gender and all those things which we need to address. I understand the reluctance of people to introduce new legislation. I understand that and I have a feeling for that but the bottom line is there are some areas within our community which we cannot turn a blind eye to. We should address these issues. I will be supporting this amendment because we need to have in place this basic protection for people. I would like to thank Senator Kinnard for her diligence in championing this area of work. She has had a long hard slog to try and get it to where it is [**Approbation**] and I think it would be a great shame if she left this Chamber if we had not finally given the way forward for this legislation. I hope Members will endorse this amendment.

4.11 Senator P.F.C. Ozouf:

I am delighted to follow the very thoughtful, wise words of Senator Routier explaining very clearly the fears that people have about legislation but the necessary requirement to put in place some minimum legislative standards. I, Sir, understand the concerns of the Deputy of St. Ouen. I suspect that Deputy Ferguson, whose light I think I saw shining a moment ago, is going to speak about her concern and the Deputy of St. Ouen spoke about his concerns about the financial picture. Sir, I would not be supporting these Council of Ministers amendments if I did not think that they were affordable. The Deputy shakes his head but I think I have spent a bit more time in the finance and economics and the other areas than the Deputy has [**Members: Oh!**]. I know very well he is showing up the future forecast. Maybe the Deputy does not do the things that I do, like meeting hedge fund managers yesterday, discussing their move to Jersey, [**Members: Oh!**] discussing with the recent returnees from the Far East talking about the world of opportunity that exists in adverse financial markets, of the world of opportunity that we can share to continue the economic prosperity of Jersey. I would not be supporting expenditure unless I thought that it was affordable and it was sustainable and nothing - even the turbulent world of the financial markets outside of this Assembly in the last few days - shakes me from that position and my position on that has never changed. So, I say to the Deputy of St. Ouen and to Deputy Ferguson: "Yes, these things are affordable and the Council of Ministers would not be supporting them, and I would not, if they

were not.” Senator Shenton is, Sir, the Minister for Health and Social Services. There are rumours circulating in some places in this building that he is considering his bid for Chief Minister at some point. He certainly is making an interesting set of speeches. Yesterday he supported the additional resources for the Chief Minister’s Department. That may be going to be good for him, or not, **[Laughter]** but I note he is carefully positioning speeches and he is refusing to rule out options. I would say to the Senator, to ask him, I do not know where he has been sitting. I do not know whether he has been sitting in his office at Health and Social Services. I do not know how much time he spends there. Maybe he is spending a lot of time in his other office but he is not going out and talking to people. Maybe he does not speak to the minority communities of Jersey. He said, extraordinarily, that nobody has ever come to him and said that there is any discrimination. He came, I think ... I will give way, if he wants.

Senator B.E. Shenton:

I should point out to the Senator before he goes into overdrive that I said no one had come with a specific complaint about discrimination. I also did not say which way I would be voting on it so I am quite curious as to why he is having a go.

Senator P.F.C. Ozouf:

Good, Sir, excellent. Well, no doubt my remarks will be able to pull him on to the right side in support. I think *Hansard* will prove he did say that he was not supporting some of the issues of the Council itself. I am pretty sure he said that, Sir, but *Hansard* will say that. He did say that there was not going to be a ... that he had not had any cases of discrimination. Well, I am afraid that discrimination does exist. It exists in all countries. It exists in numerous forms. It consists of discrimination on the grounds of sex, age, race, ethnicity, religion. Difficult for some Members to deal with, but it deals with gay and lesbian issues. It is denial to say that discrimination does not exist. It does exist. It exists in most places in the world and it exists in Jersey and I would imagine that all thoughtful, in-touch Members of this Assembly would accept that. What I understand Members will be questioning is the way to deal with that. Senator Kinnard mentioned the role and importance of education and awareness raising and codes of practice and they certainly do have an important role. Awareness raising, constantly guarding and educating people using art and culture in the way of raising awareness of discrimination certainly works, but most countries have understood and most of the research clearly indicates that you do need a minimum legal protection in order to assist matters. Senator Kinnard has campaigned on this issue for years. She showed just a few documents in her hand. Members will know that she is in the sunset of her political career **[Approbation]** and she does have and we have in this Assembly a proud record of individual Members making a difference. This is the opportunity for her to finally deliver what she has campaigned for for a number of years, and I think that we owe it to her in order to deliver ... I will give way to the Deputy if he wants.

Deputy G.P. Southern:

[Laughter] The Minister seems to be implying that Senator Kinnard has done nothing else, that it would be her only achievement. Surely not?

Senator P.F.C. Ozouf:

No, Sir. I was not saying that at all. **[Laughter]** She has done a great deal but on this issue. She has spent a great deal of effort and she has campaigned on it and I have to say that this Assembly, including on occasions myself, has been fairly tough on Home Affairs in relation to the budget issues, and she was right to remind Members of her original bid of £500,000 to deliver this which was diverted, or £250,000 was diverted, to the prison. Well, I went up to the prison 2 weeks ago today and saw the investment and skills which were required. She has been facing some very difficult issues and it is sad that the discrimination legislation fell off the bottom of the list of priorities because of that issue. I do not think that the discrimination and the importance of the discrimination issue should be punished as a result of that. This is our opportunity to make that

decision today, to put in place the legislation. I am hopeful that, in time, we will not have expensive tribunals and expensive costs enabled to run this legislation. I think that legislation will provide the signal, will provide the message that cases will not have to be required. Yes, there will be some in the early part, but just as many of the fears of the employment legislation and others, there was a great deal of concern about the cost, in reality good employers, responsible employers, do not have the additional costs because they effectively abide by the rules and abide by the legislation. So I do not buy, I am afraid, this long-term concern about the costs. In terms of the running of tribunals I think the way that the port system, the way that the tribunal administration is working is proving that it is effectively a low-cost option and it achieves this objective. The most important issue is that this Assembly needs to have this legislation approved by this Assembly to put that minimum standard in and that is the signal. Last night we had a very interesting debate at the Arts Centre by Deputy Le Hérissier and Advocate Lakeman about Jersey's constitutional position, our proudness of our self-governing nation state situation, our proud situation of abiding by international standards. We have debated in the last few months international standards about financial regulation. We are proud of that. We also need to have international standards in terms of discrimination and I really hope Members will send out the signal that we care as much about that as we care about money.

4.12 Deputy C.J. Scott Warren:

I will be supporting this amendment, and obviously the wider issues where discrimination takes place, certainly in this Island, do need addressing. I would like the Minister to comment on the discrimination that the States of Jersey operates regarding our housing qualifications, those who are eligible for the job market here, because it seems to me the government have introduced a fair bit of discrimination ourselves. Obviously, as has been said by Senator Routier, we know there is discrimination on grounds of disability, and obviously with an Island where we have a multi-cultural society we do have to address issues of race. I do have some concern about political correctness and I am a little bit concerned because this legislation needs to be appropriate for Jersey. For instance, we all know of a well-known local drapers closing this year, where they used to advertise for female staff over a certain age; I think it was 35, maybe even older. I presume that will no longer be allowed. I worry that there is a situation where an employer will not be allowed to say that they want to employ a male or a female, but they will then get double the candidates that would have replied and they will still pick what they would have put into the advertisement originally. Is somebody going to have to scan all the adverts going into the *Jersey Evening Post*? I worry about the nitty-gritty of this. I appreciate we do need a law to address the wide issues, the serious issues of discrimination in the Island. I call myself a chairman of a local charity. Will I have to put a "chairperson" in future? This is what worries me. I am concerned about the political correctness issues and I would like comments on the issues when the Minister sums up.

4.13 Deputy S.C. Ferguson:

I am sure this does not apply to anybody in this House, but when we are talking about discrimination I think probably I have observed as much attempted discrimination as most women, most of which I ignored and worked around. After many years of observation I have come to the conclusion that, present company excepted, men over 50 and technically illiterate are usually the ones who are uncomfortable with women managers. I trust that Senator Ozouf is aware that most hedge funds made a loss last year and their chances of profits in the current year will be severely curtailed as they have been limited in their short trading activities on banks, and if that is correct and does not apply to Jersey, I think we should think very carefully about it and perhaps the Financial Services Commission will be listening, I hope. I appreciate the wise words of the Deputy of St. Martin, reminding us that if we vote this money and the law does not start coming in until the end of next year, then what is the betting that the money will be spent on something else before the law comes in? I think there are 2 issues here. There is one, Discrimination Law, and the other is the apparent cost of implementation which seems ridiculous. I am concerned at the degree of

political correctness that is going to be generated. The Minister has held up an advertisement saying if you want a male storeman that is discrimination. Well, hang on a minute, if you want a male storeman it is because you want somebody who is strong and can lift and shift heavy loads. It is not because you do not want women to do it. I mean, really. What about the doctor who got into trouble because he advertised for a Scottish housekeeper. He was hauled up before, I think, the Race Relations Board in the U.K. and all he wanted was decent porridge in the morning. I mean, really? **[Laughter]** These are the stupid things that we will be getting into. It does bother me that laws like this emasculate your sense of humour and encourage people to take themselves too seriously, and I feel that they can very often, if you are not careful, be detrimental to tolerance. I am concerned that tucked away in the small print in the proposition is the fact that this is estimated to cost £250,000 a year. Is there really that much discrimination in the Island? Is it really going to cost that much? The Minister has not given us the hard evidence. We have had a wonderful review of advertisements which I mentioned already, but the Minister really tells us that many of the cases will be effectively job advertisements in employment cases. Surely, to a great degree these are covered by the Employment Law, but also is this not something that is appropriate for J.A.C.S.? It is surely an extension of their work. I really question the cost of the implementation of this. In common with my Vice-Chairman, but I am afraid less eloquently, I am concerned that if we continue with all these amendments, apart from those linked with the recommendations of the Auditor General, then we shall be getting well into a structural deficit. Should we really be leaving such a heritage for our children, a high-tax high-spend bailiwick? I really cannot see how the Minister can honestly justify this particular piece of spending and I ask Members to vote against this amendment.

4.14 Deputy G.P. Southern:

I remind Members that we are still amongst the lowest tax, lowest spending in the world without doubt. I am filled with this vision of the Scottish home owner who advertises for a female because he wants his oats in the morning **[Laughter]**. I am looking forward to the exercise, both from Senator Ozouf and from Deputy Ferguson of 3 minutes for a speech and one minute for an answer. This boils down to 2 principles. The principle is am I in favour of legislating in order to get some standards of anti-discrimination? The answer to that is either yes or no. If it is yes, then fine, go on to consider the second principle. The principle is these Ministers do not come to our Chamber with last minute amendments to ask for extra money over the budget. That is the second principle. So it is either yes to the first and what I have just said about another request for more money - yes or no. So if it is 2 yes's then it gets the vote. Yes, no, vote against. No, vote against. Simple. For me it is yes to the first. Yes, we need legislation; I am always asking for legislation. That is the way you set standards; you do not rely on codes of practice. For me the second one, we have spent enough today, what is another quarter of a million? Quite frankly, we are in a spending mood, are we not, so I am going to go with this.

4.15 Connétable K.P. Vibert of St. Ouen:

We are really making very heavy weather of the whole thing, but I have to say that I have sat with the Council of Ministers through many long hours, in fact many long days, of trying to set this particular programme. Let us be honest, I have waited for a day and a half now for one of the Council of Ministers to tell the Assembly that what we have here in the 21 amendments are the items that did not make it after all the assessments had been made. To set the Business Plan within the cash limits which the House have set, these items did not find a priority and, therefore, did not reach the Business Plan. What the whole House has to decide today is whether any of these items are sufficiently important to rate high enough that they will come in, admittedly, over and above the cash limit that was set. I suspect that no one in this House can hand on heart stand up and say that they do not want this particular proposition, the Discrimination (Jersey) Law, in statute in Jersey. The one thing we have to think is can we, at the moment with the figures we have, accept it? Yes, we have a proposition for £250,000, but I suspect that figure is only the beginning, that alongside it

will be a further demand in the future for more funding. I am very sorry that the Minister has not come clean and said in the proposition of her amendment: "We need £250,000 to get the Regulations up and running and we will be coming to the States with them and there will be an extra cost." I suspect that is exactly what it is. I am as yet undecided how I will vote on this.

4.16 Deputy G.W.J. de Faye:

I was very interested and impressed to hear about Deputy Le Claire and how he got on with the Polish community in Jersey and it did remind me how many years ago I was similarly impressed when I came across the French Polish Society which I thought was a tremendous breakthrough for international relations until I discovered they were experts in furniture **[Laughter]**. It is interesting to see how things change over the years. I remember as a young man being brought up to be discriminating. To be discriminating was perceived as really quite the thing to be. Discrimination has now taken on a very different and more pejorative outlook. But just to pass one other comment, and it is very much on a personal note, I have been rather distressed this afternoon to hear the references to Miss Selina Scott. It is a matter of fact that when an experienced anchor, Richard Lindley, was hosting the ITN World News his co-presenter was one Guy de Faye and the pair of us, eminent and appreciated though we were at the time, were relieved of our presenting duties in favour of the young, blonde and beautiful Miss Selina Scott and another young, blonde and beautiful co-presenter assistant. I think we really were discriminated against **[Laughter]** on that basis and I am finding it rather hard to feel sorry for Miss Scott now that she is not so young and not quite as blonde and beautiful as previously. Anyway, I have got that one off my chest now. **[Laughter]** I think we do need to reflect on our international obligations. It will not look good that Jersey has no law on discrimination and I certainly in the current environment would not want to open the door to Her Majesty's U.K. Government who wants to come and look over our shoulder on the basis that they think we may not be acting properly. Of course that means, as I have indicated before, there are lessons to be learnt about what we commit ourselves to on an international basis without thinking through the consequences and the costs. While £2.80 per head per year does not sound like big shakes, to me it is still an awful lot of money to come on board for a Discrimination Law. Nevertheless, I think it is fair to point out that the Minister has struggled very hard to keep the cost down and when the Council of Ministers saw the earlier figures we were talking nearer £500,000 and not £250,000. I give the Minister great credit for having found ways of keeping the cost down. Now, it may be that costs will rise over time and I have no doubt that in its early incarnation there will be a lot of people wanting to bring test cases just to see what constitutes discrimination and what does not, so the law I expect to be well tested in its early years. Nevertheless, it is right to have a law to ensure that discrimination does not take place. It should not; people should not lose the opportunities for work simply because the employer has some problem with their racial background. That should be dealt with and I am sure will be. But by the same token I do not want to see the adoption of laws on discrimination meaning that we end up with yet another job for life civil servant costing us time over again in revenue budgets to maintain something. Quite frankly, I hope that over time we will be able to wind down the activities of the Discrimination Tribunal because there is no longer anything left for them to do. The culture has changed and we will have hopefully eradicated discrimination from our society. We also need to bear in mind this will cause difficulties in a small Island. I really do have some concerns about how, for myself and I am sure on behalf of other Members, we are going to look after our local people. In fact, if Members think about it we have discriminated for many, many years in favour of local people. It is only, I believe, on the radio this morning we were hearing talk about succession principles. It is going to be a little difficult to justify having succession management throughout our entire governmental administration and have that in favour of local people alongside a Discrimination Law, so I think there is going to be some interesting challenges ahead of us. Nevertheless, this is a significant amount of money, but realistically I say to Members you may not like having to dig further into the pocket, but this is something that has to be done. The Island has effectively given commitments that we were going to get on with this type of legislation and we

have not done it yet so we are getting close to the point where if we do not look out people from the outside are going to start coming back to look at us and say: "Why have you not? Why have you not got on with it?" I think it is a price to pay and we have to pay the price. Discrimination is wrong and we have to deal with it so I say to Members, yes, it is painful, it is going to cost and we may have to think again about how we raise revenues over the next few years, but as I think the Connétable of St. Ouen so clearly pointed out, we are only doing this, we are only bringing these measures in this way because these are the things that fell outside the cash limits. They are still things that need to be done and I think we all realise the solution, the sledgehammer solution, of imposing cash limits is not really the most subtle way of dealing with the funding of the various requirements and demands that come before us. I urge Members, I know this is probably a difficult one to swallow, but I think we have to do it.

4.17 Senator F.E. Cohen:

Comprehensive discrimination legislation is an essential element of any civilised society. It is a moral obligation on the part of legislators to ensure that it is appropriately covered and I am amazed that we presently do not have adequate discrimination legislation. It may not be an investment in the same way as the investment in the tax strategist produces a financial return, but it surely is an investment in terms of our good standing in the world community and a return in the sense of well being it will deliver to our community, and I mean all of our community. There are many examples of discrimination in our society. I do not think I need to read out a long list - I think we are all aware of instances of unacceptable discrimination in our society. If Senator Perchard wishes to have a list, I will give him a list of personal issues later, together with those relating to others whom I have represented. But I think they are personal matters and would be better not repeated in this House. Jersey has a rich history of immigration. Many prominent Jersey families are descendants of Huguenots who fled religious persecution at the end of the 17th century. They came to Jersey specifically because of a lack of discrimination legislation in their own countries. I would have thought this example alone would have been sufficient to convince Members of the worst of proper discrimination legislation. I will be supporting the amendment and I urge all other Members to do the same.

4.18 Senator F.H. Walker:

It seems to me that there have been 2 principal criticisms of this particular amendment, indeed, the same criticisms that have been made of other aspects, too, of the Council of Ministers' amendment. The first is timing and I am pleased to hear what the Constable of St. Ouen said. A number of Members have said: "Why now? Why an amendment? Why not include it in the Business Plan?" Let me say again, as I have said it already, very clearly the Council of Ministers were bound by a States decision to deliver a Business Plan within the agreed spending limits last year. We had no choice. What that means, though, is that the Business Plan we originally produced was not the Business Plan that the Council of Ministers wanted to produce. It was the Business Plan we had to produce to conform to a States decision. Now, had discrimination law, had early years, had our international position been included in the original Business Plan then other things would have had to come out, and I ask Members what those other things would have been. But that is the fact of the situation and if the Council of Ministers wants, as it does, to improve Jersey - I said in my opening speech it is all down to what type of Island do we want - then we had no choice other than to bring these forward as amendments, having lodged the original Business Plan. So any objection to this on the basis that it was late, that it was an amendment or whatever is absolutely not well based. The only objection to this amendment should be if Members disagree with the principle of the amendment which, of course, was approved by this House some time ago. The other criticism and concern is that of whether or not we can afford it. The Deputy of St. Ouen got a new forecast during the lunch period which clearly has suggested to him that we cannot. The problem with that forecast is that it shows the extra £2 million the House agreed to this morning recurring every year throughout the period of the forecast. That was not the decision the States took this morning. The

States took a decision to add £2 million to cash limits in 2009 only. Senator Cohen made it abundantly clear that he would be looking for other measures to raise that revenue from 2010 onwards. Indeed, I have already seen an email sent out from his department asking people to come forward, the Environment think tank and others, to come forward with their proposals on a suitable environmental tax or something of that nature in order to fund the environmental measures that we have agreed to from 2010 onwards. So, the forecast the Deputy of St. Ouen has got is wrong, and I have a forecast - which Members I hope will shortly have - I have a forecast which reflects the true situation, which is £2 million added to cash limits next year, and we remain in balance on the back of that. Now, in common with Senator Ozouf, Senator Le Sueur and, indeed, every other Minister, I would not be supporting this amendment if I believed we could not afford it. Now, it is true, we have got to fund as a result of this morning's decision an extra £2 million which we had not anticipated. But that is a States decision but I emphasise again it is a one-off, and the forecast over the period of 5 years remains in balance. That is without resorting to any borrowing or resorting to using even the income from our reserves, which many other communities are doing. It represents a 5.3 per cent increase year on year, with percentage increases in subsequent years much lower than that. I would remind Members of where we are with inflation at the moment. That is just about bang on the rate of inflation. It is not hugely excessive spending and Deputy Southern was quite right earlier when he said that the States of Jersey, Jersey as an Island, remains one of the lowest spenders in terms of percentage of gross national product. A speaker, I think it was Deputy Ferguson, said: "Well, maybe it is not going to cost £250,000." Well, if it is not we will not use it. The Council of Ministers, I am sure, will not use it. The States will not use it, but that is the estimate at the moment. On the other side of the coin, the Constable of St. Ouen suggested that it may cost more than that and that Senator Kinnard would have to bring forward proposals for additional expenditure; that is not the case, as I am sure Senator Kinnard herself will confirm. Basically, Sir, this comes back to what type of Island do we want to be. Do we want to be a high quality modern, just and - as Senator Cohen has said - civilised society with a good reputation or do we want to be known as an outdated, backward looking, falling behind international standards-type community? Well, I know which I prefer. I know which I think is essential for the future of Jersey. But, Sir, the issues about timing and the issues about unaffordability are a distraction. What Members should be voting on is whether or not they favour a discrimination law. Nothing more, nothing less, and, Sir, I vigorously support the amendment.

4.19 The Connétable of St. Peter:

I am pleased to follow the Chief Minister because I think that the Council of Ministers should be reminded that the reason why this debate is taking so long - and I refer to other amendments and other aspects of it, not only this particular area - some years ago when we had the old budget system, led by the Ministerial system, they fought vigorously to bring about this Business Plan on the back of severe criticism of Members bringing forward amendments to the budget in the way that we used to operate. Now it appears that they are turning out to do exactly the same thing that they were critical - and very critical - of the Members. That they were taking unnecessary time and causing delays on budget days, prolonging it and all sorts of reasons were outlined, and this had to be the way forward. Well, I am sorry, but the way that this debate is going, generally, with regard to this Business Plan, it is high time that the new Council of Ministers, when elected, take a very good and very close look because this is not a satisfactory way forward, and I think that one or 2 should recoil their memories, Sir [approbation].

4.20 Senator T.J. Le Main:

I would just like to advise Members that I am going to be supporting this proposal because virtually on a weekly and daily basis I get a huge amount of comments discriminatory about the people that are entitled or otherwise for housing. People that have worked in Jersey for years have the rights of qualification and housing rights, and quite honestly, Sir, if anyone saw the amount of comments I get, and mostly from Jersey people themselves, about how people are being accommodated because

of where they originated from and their colour and race, then I think that people would be horrified. I am defending all the time the rights of this Island to be fair and proper to all people that have made Jersey their home, wherever they come from, and I hope that Members will realise that - particularly in our role in Housing - we have a duty and a fairness to be fair to all races, creeds and colours. Sir, I get very upset sometimes at the comments I get from people discriminating about good people that have come, and they have settled in the Island, they have worked hard paying their taxes, and we have the same duty to them as we do to myself as an individual.

4.21 Deputy G.C.L. Baudains:

I notice when the Chief Minister was speaking, and I hope I am quoting him correctly, he said he would not be supporting this if we could not afford it, and yet not terribly long before that the Constable of St. Ouen had reminded us that all these amendments had been left out of the Business Plan because we could not afford them. It does seem to me there are double standards here, Sir.

Senator F.H. Walker:

May I make a point of clarification here? The Deputy of St. Ouen was looking at the wrong forecast. It is not what the States have agreed. That is a pretty crucial difference.

Deputy G.C.L. Baudains:

I think, with due respect, the Chief Minister completely misses the point. I think we were all made aware at various presentations. I seem to recall it was at St. Paul's where various things were going to have to be left out, these were nice to do but we could not afford them, and as far as I am concerned most of these amendments fall into that category, and I believe that that is what the Constable of St. Ouen was talking about. I was not referring to the Deputy of St. Ouen. If I said the Deputy of St. Ouen I do apologise, I meant the Constable. It does seem to me, Sir, that quite often in this Chamber - far too often in my view - we lack the appreciation of the consequences of legislation. As Deputy de Faye said in his speech, Sir, we discriminate in favour of local people in many ways; in housing, social security, any number of other areas. The D.V.S. (Driver and Vehicle Standards), for example, offers the driving licence test in English and Portuguese but not French or any other language. It seems to me there will be no end to the problems that this legislation will cause. I agree totally with the concept of no discrimination but it cannot be absolute. At times some discrimination is not only common sense but desirable. Age non-discrimination, for example, is practically unenforceable and there is the practicality of it. Will 13 year-olds be able to challenge sex and marriage laws? Will someone still have to be 21 to get a heavy goods vehicle licence? Why will 14 year-olds not be able to buy alcohol? I mean it is age discrimination, is it not? Could we continue to discriminate against smokers? I mean why should we discriminate against smokers? One only has to look at the nonsense in the U.K.; the Armed Forces, for example, where they have had to lower the entrant standards in order to accommodate women that could not manage the assault courses and that; would the same apply to emergency services? I would hate to be on the fourth floor of a building that was on fire to be met by a fire fighter saying: "Well, I would like to rescue you but I am afraid I cannot physically do so." These are not humorous, these are actual cases that have happened in the United Kingdom. Do we really want to go there? If I employed 14 Polish farm workers and I needed some more workers, I would intend and want to ask for 2 or 3 more Polish workers. I would not be allowed to do that, I would not be able to advertise for that, so I could have an Italian and a French and a Polish worker come along, there would be a complete language barrier and a safety issue resulting from that. I cannot see that as a benefit to anybody. It defies common sense. As I said, Sir, we know from daily experience in the U.K. this legislation rarely achieves what was intended but does clog up the courts and makes a mockery of natural justice. As I said when I started, Sir, it is not what the law sets out to achieve that is important, but what happens as a result of that law which is important. It is for that reason that I opposed the Human Rights legislation, and I will oppose this for the same reason. I truly believe that education in this field will achieve much more than legislation which, to be quite frank, apart from the huge number of nonsensical cases that arise because of it, frankly it does not work. It is

only recently we learnt that there is a rise of anti-Semitism and anti-Muslim feelings across Europe. Do they not have anti-discrimination legislation? It does not work, Sir.

4.22 Connétable G.W. Fisher of St. Lawrence:

I have been listening to the debate - I think I have listened to every speech - and I can certainly appreciate the pros and cons, and I agree that discrimination is wrong. However, is it right at this time when we are scratching round to find money, when the Council of Ministers decided that this did not have priority, or sufficient priority, to go into the original figures, is it right to put it in now? I suggest that it is not. I have not heard sufficient evidence to support the need for an anti-discrimination law. I saw the consultation document last night that went out originally and it said in that document there was very sketchy evidence, or words to that effect, to support the need for such a law. When we last debated it I remember that we talked about £250,000 for setting it up but it would cost a minimum of £500,000 per annum thereafter, and I think a lot of people were a little bit cautious about accepting that it would stay at as little as £500,000 per annum. So, I am very concerned and I do not think a case has been made to change the figures in the Business Plan to allow for this at this time. Therefore, I shall not be supporting it.

4.23 Deputy J.A. Martin:

I am sorry to speak after many others, but I am slightly confused, and I want some clarification from the Minister when she sums up, on here in her proposal and reading the few comments from Home Affairs, as she says there has already been a lot in the Strategic Plan, Annual Business Plan 2007 to 2011. That is where my problem is. For this we allocated £500,000 and the Minister does go on to say why that money was spent not on a discrimination law, and we still have not got one. But I do not see anything in this Chamber in the way we budget and we give another £250,000 to the Minister for Home Affairs; if something else happens at the prison within the next few months or something else in another emergency service, will this money go again? I would say probably yes. So, I do not think I am going to get the assurance that I am seeking from the Minister. I really do not want to vote against this, Sir, because I think we need laws, but I have already seen £500,000 moved one way. Again, we can always raise the argument we need these things. I do not believe voting £250,000, extra money for a big budget for Home Affairs, will achieve this. I need to be convinced from the Minister. I also have a question, and I hope she is up to speed on page 30, because we do have the revised with the amendments but the income from G.S.T. still remains 47. If these are over-estimated maybe, but we have not had them revised upwards, Sir, we are still working in the blind for another proposition that has come in later that we might be giving away an extra £4.3 million in different benefits and different taxes. So, I hope the Minister has consulted with the Council and is this extra £250,000 on top of taking away, giving benefits of the G.S.T., and, as I say, my main concern is that this funding was supposed to go there, it was foreseen that it was unlikely that all the funding would have been used in one go for this law, but it was also, I would say, unforeseen for a Minister to let £500,000 go to the prison. But we had no say in that. If you read the amendment, there was a crisis at the prison, the Council were convinced the money was needed and what did they say? "Oh, did the States not vote in the Annual Business Plan £500,000 for a discrimination law? Use that today, we will go back and get it tomorrow." What happens tomorrow if we get another crisis? I need to be sure this money is going in the right place before the Senator gets my vote.

4.24 Senator L. Norman:

A few moments ago the Chief Minister told us that this amendment, indeed all of the amendments before us in amendment (4), have been brought late, 2 weeks before the debate, because the States instructed the Council of Ministers to keep to their cash limits. So all of this shambles is our fault. Do the Council of Ministers not recognise the States made that decision, requesting them, instructing them, whatever way you want to put it, to keep to the cash limits because the States wanted the Council of Ministers to do just that? They wanted the Council of Ministers to keep spending under control. They wanted the Council of Ministers to prioritise their spending plans.

They wanted to keep to the limits agreed by the States. This is why we have got Ministers, why we have got a Council of Ministers; to decide on priorities, and they did that. Some of the money that was agreed for this particular legislation, as Deputy Martin has explained just now, was transferred to the prison. The Council of Ministers decided that was a greater priority, and I have no problem with that. That is what they are called to do, to make these sort of decisions. But I do not like the way they have come back with this very, very late amendment, even though they have got their hats to it, they could have done it more than 2 weeks ago if they knew they were going to do it. But the Chief Minister also said: "We would not be bringing these amendments and this amendment if the States could not afford it." Well, can we afford all of these things? Of course we can. Of course we can, because government, almost any government, has an almost infinite ability to raise money, and this Council of Ministers seem to have an almost insatiable appetite to do just that. They raise money through taxation. Over the 5 or 6 years ... in last year's Business Plan we are going to have an additional income of something like £200 million that was expected in last year's Business Plan, over the 5 or 6-year projected period. I cannot remember if it was 5 or 6 years. Half of that, £100 million, we spent in one go on the incinerator, just writing out a cheque out of the Consolidated Fund instead of spreading it over the lifetime of the plant. It would be very embarrassing to have £200 million in the bank when we were expecting just about nothing. G.S.T. is bringing in 10 or 20 per cent more than was anticipated at this time last year. So, yes, we can afford it; the question is should we afford it? Should we continue taxing people just to meet all these things which are well-intentioned, good, valuable, but where do they stand in the Council of Ministers' priorities? They are lower in the Council of Ministers' priorities than all the other things that are in their plans. Yes, we can afford it. We can afford all of these things but only by taxing people. This particular issue, this legislation and all of the costs that follow it certainly would be good to have and one day even possibly we might have to have, but certainly not at this moment. We are transferring the burden of taxation from business to people, and yet we want to spend more and more and more. That is totally wrong and this amendment, I am sorry, the fact that it is the Minister's last major proposition for the States I do not think is relevant. I feel sorry for her, but you know, the Island needs to be protected from this sort of extravagance and I will be voting against the amendment.

4.25 Connétable P.F.M. Hanning of St. Saviour:

Very briefly, I have concerns about this, and perhaps the Minister can help when she sums up. I think we all know that we do not want discrimination, as such, in the Island. We want a legislation to be able to stop it. I think we are all concerned that what we are setting up here is an industry and it has to be controlled. We know that it can be taken to absurd lengths if it is not controlled and I think I need assurance from the Minister, and very strong assurances, of how this would be controlled so it just will not run wild.

4.26 The Deputy of St. John:

I fully appreciate the difficulties Members are having with this one. It is a lot of money. Some have said that it is self-policing already. Some have said there is other legislation that deals with it already. Many have said: "Well, do we really want the same as the U.K.?" It is not the same as the U.K. We are looking at legislation that is more similar with Guernsey, the Isle of Man, Northern Ireland and Australia, as it happens, which are much simplified versions of this legislation. Members will have plenty of opportunity to dissect this legislation as and when it comes before the House. That is the time to have this type of debate. What we are doing at the moment is agreeing funding, something that all nations should have. They should have a respect for human rights and respect for issues such as discrimination. I do not think the Minister made that very clear in her opening words. There is a lot of detail that needs to be put to the test here, a lot of scrutiny, I hope - Scrutiny will have a good look at this - and plenty of opportunity for Members to take this legislation apart, put it back together again and get something that is right for Jersey. Not a huge piece of legislation that is the likes of what they have currently in the U.K., which I think would be wrong. We have a lot of legislation in Jersey now that reflects the type of thing that small nations

should have but do not copy the legislation of other countries that have bigger machines to deal with it. I think that is the key here. Yes, we should have something but it should be appropriate to a small jurisdiction. I believe that if Members agree the funding for this that could be achieved. I say “could” because I am not totally convinced that we need the sort of legislation they have got in the U.K. I believe we do not. But we do need something. As a well run, well managed, independent sovereign state we should have this type of approach to discrimination and that unfortunately, Sir, does mean some form of legislation. But I do share Members’ concern about the potential cost of this. It is nice to have but is it something we have to have? I am afraid that the Minister is quite right. We do have to have something. We cannot expect to have the sort of independence that we have without this type of legislation. It will not be long before a case comes up where there will be cries for the U.K. Government to intervene, as has happened in recent times, because we have not got appropriate legislation. Do we really want that? But we can control what that legislation looks like and make it appropriate to a small jurisdiction something that we can afford, because we do need something. But I do not want to encourage frivolous cases coming forward. I do not want to have something that is unwieldy, expensive, encourages litigious activity. There are ways of mitigating that and Members will have plenty of opportunity to make sure that that happens provided we do the research, we have the funding to do it. As Deputy de Faye said, in times to come because we have this sort of thing in place there will be less and less cases coming forward because we would have cleaned our act up. That is what I like to think would happen. I have not got a crystal ball. I cannot say that is what is going to happen but I think Deputy de Faye articulated that rather well. It pains me to spend the sort of money that we need to spend to catch up. Let us face it, that is what we will be doing, we will be catching up with other countries on this, so there will be some work to do but I do believe, Sir, that in future years it will cost us less and there will be plenty of chance for Members to have their say on this as the legislation is developed.

4.27 Deputy R.G. Le Hérisier:

Very briefly, Sir, because I have had the same struggle as the Deputy of St. John. He clearly has to be loyal but by the same token his other sort of beliefs lead him to the fact that this kind of legislation is always a bit dodgy or a bit unnecessary. So, just like me, he is having a bit of a struggle. I have got no problem with the principle except the light touch necessity. The Minister for Home Affairs has worked long and hard for this. I do not think we should become too precious about it, but what does worry me, Sir, there is a procedure in place which seems to have been circumvented, and this is what the Assistant Minister was perhaps talking about, where we do bring laws forward and in those proposals, Sir, we outlined the manpower and financial implications. But we seem to have this vague sort of notion that we are going to give a court £1 million to get the thing rolling, and that is not the way, generally speaking, we introduce laws. So I would like some very clear arguments from the Minister as to why we have to start at this particular point and why the normal process where we prepare the draft, which has been prepared, and where we outline the financial and manpower implications, why that part of the process seems to have been sort of short-circuited in favour of this sort of rather vague publicity programme which we seem to be financing. If she could outline that in some detail.

4.28 Deputy J.B. Fox:

I would appreciate if the Minister could just explain that we already gave £500,000 and then it got spent. Why was it not utilised at the time it was allocated last time? There is also how long is this money going to be sitting around before it is going to be used? Those are the 2 questions. All the other questions have been answered.

4.29 Senator J.L. Perchard:

Just briefly, Sir, I think my mind is made up after that speech from the Assistant Minister for Home Affairs. I was inclined to support the amendment and now I definitely will not. **[Laughter]** “We do need something, do not know what, but give us the £250,000 and we will give it a whirl.” Now,

let us do it like we normally do, Sir, let us bring the draft legislation forward for Scrutiny, for proper assessment and for approval if deemed fit by this House.

4.30 Deputy A.J.H. Maclean:

I thought I might as well join in seeing as everybody is having a bash.

The Deputy Bailiff:

Do not feel you have to. [Laughter]

Deputy A.J.H. Maclean:

I just wanted to raise a point. I made it earlier on today and the other day as well, and this drives right to the heart of what we are doing here. First of all, should we have a discrimination law? Of course we should. No question about it. Listening to Members this afternoon, it is pretty clear that we believe we should have one. In fact we should have had one a long time ago. Where I have a severe objection here is that process again that we have gone through to do it, bringing late amendments along. This House sets spending limits, and we are breaking them. I mean it is absolutely farcical. We are supposed to be setting a standard. We are supposed to be being clear and give good strong leadership in terms of the ways in which we spend taxpayers' money and I just do not believe this process gives confidence to the public and sets the sort of standards that this House should be setting. It disappoints me enormously. I did take some comfort from the Assistant Minister for Home Affairs making the comments about the legislation drawing from other parts of the world, not just being U.K. legislation. We do tend to take far too much U.K. legislation *en bloc* and just stick it into Jersey and think that is a nice, cosy, cost-effective way of doing it. In fact, it is not. It does not work. We should be looking to Jerseyfy quite a bit of legislation that comes here, and certainly with regard to this type of discrimination legislation we should certainly be having a good strong look at it from Jersey's perspective. We have to remember Jersey is an Island of small businesses; 75 per cent of businesses in the Island employ 5 or less people. It has got to be workable across the board for an island, not something that is appropriate for the U.K. I do not really want to say very much more on this, other than I am getting rather fed up with all these propositions coming forward, amendments to the Business Plan, when really it should have been done in the budgetary process right at the beginning. We should not be taking this on as a last minute amendment and I really hope in future the Council of Ministers, when they set their Business Plan and budgetary positions, they do it well in advance to give Members a chance to consider. It is really down to departments to ensure that they have proper control as well, Ministers and individual departments, of the budgets that they are actually spending. I do not think that process has really been followed through appropriately.

4.31 Senator T.A. Le Sueur:

I am sure that the Minister can defend her own position in this situation without me coming to her help, but when Members suggest that the Council of Ministers have lacked the urge to bring this forward at an earlier stage I can assure them that we have not. The Minister for Home Affairs has been vociferous in her demands for having this within the plan. We have stifled those for some time but realistically they should not be stifled, and given that there is scope within available cash to do the job the Council of Ministers felt, quite rightly I think, that these sorts of necessary expenses - expenses which were approved in principle years ago - should now be brought forward. I suspect that we are trying to discuss today the principles of legislation when, in fact, all we are being asked to do is talk about the funding of it. The principles of the legislation have been agreed some time ago, Sir, and I do think that we are making heavy weather of this particular issue.

4.32 Connétable K.A. Le Brun of St. Mary:

Very quickly, and certainly I must be thankful to Senator Norman because among his smoke and mirrors, I suppose, I better bring that in as well, he has hit the head right on the nail [Laughter] [Aside] Well, that is the same difference, is it not? It is the same difference, you see. This is what

is happening all the time with the Council of Ministers because they come forward with one thing and they reverse it, and this is what is going on again with this situation as well. That they are coming forward with this and thank goodness for Senator Norman, as I say, among his puffing and smoking we do get a bit of common sense come through there, and also for the honesty and the truth we have suddenly had from one of the - not so much the Council of Ministers but the person that is allowed to get on the Council of Ministers, and that is the Constable of St. Ouen. He has come forward with exactly what has been happening. It is only the wishes that are now coming forward, and that is the honest truth is why we have not had it before and it has not been on the requirements as such. They wanted to do it, they have not got the money, but the Chief Minister blames all of us now because: "That is what you wanted, you know, you wanted to put the restrictions on us so we could not spend it. It is your fault", although that was on the recommendation of the Council of Ministers nevertheless, and this is what has suddenly come forward. So certainly it made up my mind as well after listening to Senator Norman, aided and abetted by certainly the Constable of St. Ouen who has now given us the truth of what this is all about. This is all the wishes that they so want and unfortunately it has now landed, or we have all suddenly come to this conclusion, and unfortunately the Minister for Home Affairs has got to take all the brunt of it, and therefore the others got in first and she has now got to take the brunt. So, I certainly will be voting against this, absolutely.

The Deputy Bailiff:

I call upon the Minister to reply.

4.33 Senator W. Kinnard:

I know that Members have got to go away this evening early to an appointment and I am going to have to speak for some time, I wonder whether I could hold it over? A lot of Members have spoken and I would obviously like to do justice to them in my reply.

The Deputy Bailiff:

It is a matter for the Assembly.

Deputy A.J.H. Maclean:

Surely we can finish this tonight?

Senator W. Kinnard:

I, myself, do not have a problem but I know that a number of Members have something that they have to attend to tonight, and I also know that a number of Members in this House who have responsibilities for children will not wish to stay too much beyond 5.30 p.m.

The Deputy Bailiff:

Can I put it to the Assembly? First of all, how long do you expect to be, Minister?

Senator W. Kinnard:

I would expect to be about 20 minutes.

The Deputy Bailiff:

All those in favour of continuing until the Minister's conclusion kindly show? Those against? The Assembly wishes to continue, Minister.

Senator W. Kinnard:

Okay, Sir, well, I will do the best that I can. It is just that I was aware that there were people wishing to get away. I will crack on. Senator Shenton, I am hoping that I am going to be able to persuade him to vote in favour of the proposal after all. One of his major concerns was that the legislation might, in fact, be based on United Kingdom law. Very, very much, that is not the case,

Sir. We, in fact, reviewed legislation from a number of jurisdictions; in fact I think my Assistant Minister mentioned some of those. Obviously we did look at the legislation in the United Kingdom. We looked at it in Guernsey. Of course there is already discrimination legislation in respect of sex discrimination in Guernsey. We looked at the Isle of Man, we looked at Northern Ireland and we looked at Australia in formulating our policies, and also New Zealand. I wanted to look across a broad field, Sir, because I am aware, as many Members are, that the United Kingdom had a number of disadvantages. Not only did it have separate laws for each type of discrimination, it was very legalistic in approach and very bureaucratic with separate organisations in terms of the Commission for Racial Equality and the Equal Opportunities Commission and so on. So we really did not want to go down that road at all. What we are proposing instead, Sir, is an overarching law rather than separate pieces of legislation, an overarching law with regulations which is much simpler. Also our proposals, Sir, are not designed to be adversarial. They are designed to be inclusive in approach, while ensuring obviously that there are appropriate remedies available for individuals who have suffered discrimination. He was also concerned ... I mean he also said: "Why do we need a piece of legislation when there are a number of non-discrimination policies in the States?" Well, there may be a number of policies in the States, Sir, but I have to say, and it pains me to say this, that I have had a number of individuals from working within our organisation who have come to me with tails of concerns about some discrimination that they themselves feel that they have suffered, and they do not feel that the existing policies do give them sufficient support in that area. It is not a large number but there are some and they certainly want to see the legislation in place. In terms of those firms that have policies, there are a number of large organisations, indeed, who do have very strong discrimination policies within their organisations, largely because they are part of the U.K. set-up, but we already know that in Jersey there are a number of other firms ... but it is not just about employment, it is in other areas such as goods and services and leisure activities where these matters are very important. So, even though there are firms with very robust policies, in some circumstances they do not cover every area and, indeed, they do not cover all that many of our organisations. In terms of the cost to the States, that has come up a number of times. This has been a great headache, in fact, in my discussions with my colleagues on the Council of Ministers because originally the proposals were for the implementation costs of the whole of the law being estimated at about £500,000. But, in fact, Sir, I have worked very hard to bring down those costs and I have worked with a small working group on this, and we have managed to bring this cost down to £250,000 per annum, and the idea, Sir, is that it will be capped at that. The number of cases that will be dealt with once, if you like, that budget has run out, the cases will have to wait until the next year in order to be dealt with, so that is the way in which we are going to be able to cap the budget. The other concern that Members have mentioned is how will they be reassured that the £250,000 that does go into the budget as a result of this amendment hopefully, how can they be reassured that it will be spent on implementing the legislation and not be hived off to some other area of stress that faces the Home Affairs budget. Sir, I make no apology for agreeing for the last of the Discrimination Law. We had already highlighted in the 2007 to 2011 Business Plan that we were not going to need the full £500,000 to implement the first stages and that we would use some of that money to supplement the prison budget. I make no apology, Sir, for then agreeing with my Council colleagues that because of the pressures at the prison which did not go away, could not be alleviated with the budget that had been allocated it, to allow the rest of that Discrimination Law funding to go toward the pressing needs of the prison. However, Sir, I did that on the basis always that I intended to come back to this House to try and get the money for the law reinstated. As I say, Sir, we have now come up with a reworked budget of £250,000 per annum and a way in which we believe we can keep it capped. I am grateful particularly to Deputy de Faye for his kind words about how hard I have worked to achieve that. The Deputy of St. Ouen, he again I think tried to intervene to bring up this issue around: "Oh, now we have agreed to a number of amendments, this is one we really cannot afford." Despite the fact that this is only, relatively speaking, compared to some of the others a lot less at £250,000 and, as I said in my speech, that is £2.80 per head per year of population. I think the Chief Minister in any

case dealt with the vast majority of those complaints that Members made about us not being able to afford to implement this legislation when the Chief Minister came up with the latest forecast showing that, in fact, it is going to be possible to implement the law and remain with a very healthy financial position. Deputy Le Claire, I thought, made an excellent speech. My goodness, he has been on form the last couple of days, and he reminded us of the discrimination that has been faced by waves of immigrants to our community in the past: the Irish, the French, the Portuguese and others throughout our history. He, like many other Members, were concerned about our international reputation and how it would look if we were to throw out today the money that would enable us to move this legislation on a bit further considering all of these various reports that we have had to the States in the past. I know that he was very involved with the Polish Association so he has experienced it first hand from those individuals the problems. Indeed, Sir, I had a complaint made to me that there were signs on a building site saying: "No Polish" and that has been in certainly the last 6 months. So this is an issue. The Deputy also gave a number of examples where perhaps discrimination still does continue where there is a desire to, if you like, freeze people out with no good cause, and I think that was a very sad circumstance that he seems to have been a victim of that. He reminded us that this legislation is not just for us, it is also for our children. Most poignantly, he reminded us of what our parents and grandparents fought for. I think also from the intervention of Senator Cohen, I think those 2 thoughts together go a long way to really underlying why I stand here today and believe absolutely totally, and absolutely, why this legislation is necessary for this Island. The Deputy of St. Martin said: "Oh well, you have already spent the money for the prison" and criticised me for that. Goodness knows, I can imagine the criticism I would receive from the Deputy had I not sent the money to the prison and I had put it in the Discrimination Law as an alternative. It was a very difficult decision for me to make because this has been a personal crusade for me, but also the care of prisoners and the rehabilitation of prisoners, prison reform is another area very close to my heart, and I was faced with a very difficult decision. I thought it was important to meet the immediate pressing needs of those at the prison who desperately needed better facilities, that that really had to be a high priority despite my own personal deep commitment to this subject area. He talked about Human Rights Law and should that not be enough protection, but the Human Rights Law - I know this intimately because I brought this to the House - it only gives protection in relation to Convention rights, so it is quite limited. Again, all the academic research on this kind of area shows that you do need other legislation to supplement and that the Human Rights Law or human rights legislation is not sufficient to protect individuals' rights. I have been criticised about why have I brought it to the House now or why have I not brought the legislation ahead of coming here today. The difficulty is, Sir, that we did have some initial discussions with Scrutiny, of course, on the Business Plan and I am very grateful for the input that they gave, and I mentioned it in my speech. One of the things they gave in their feedback was it is not a good idea, and it will not go down well, if you come to this House with a piece of legislation without the funding. Now, I have 2 sets of Regulations which could be lodged virtually tomorrow but I have not brought them to this House because I have taken on board the comments of Scrutiny that it would not go down well to bring legislation to this House when the money at this present time is not in my budget. That is why I have not brought it up until now. But if we are successful today in getting that money then it does mean I can move this on forward or someone in the future will be able to, but without the money in the budget I cannot see the House agreeing to debating a piece of legislation. So, if the money does not go into the budget today I think we can kiss goodbye to legislation of this type for another 5, 6, 8 years that I have been fighting for this length of time. Senator Routier gave us some very sensible wise words. His was a very sensible view, I thought, of the businessman. He knows from experience as a businessman that - and also from his experience as the Minister for Social Security - that there is a need for this legislation and he knows that looking at similar legislation, like employment legislation, that there was not a meltdown with its introduction and he says again he does not believe that there is going to be the huge effect that some Members would have us believe once this legislation against discrimination is introduced. He supports the legislation from his experience, as

I say, both as the Minister and both as a businessman, and in particular with his excellent work that he does with people with disabilities, and he knows the discrimination that they face. He said we cannot turn a blind eye to these issues and I think that is absolutely true, and by not voting for this amendment today that is exactly what Members will be doing. Senator Ozouf gave a very stirring speech and he believes that the law is both affordable - and certainly with all his knowledge and experience I was very grateful to hear that - both affordable and sustainable. He talked about the importance of awareness raising and education, and yes, I do believe that is very important. But he also agreed with me that we need a minimum legal framework if we are going to effectively protect people's rights. So I thank him for his support and certainly for his kind words about my years of campaigning on these issues, but I think this is not just an opportunity for me today. This is an opportunity for us all to make a difference for the future. He also said we should care as much about this issue, or we should care as much about this issue as we care about money, and absolutely. What is the point of raising all the money that we need to raise if we do not apply it to making our community a better place, and I think that brings us on to what Senator Cohen said. He said: "We, as a legislature, have a moral obligation." He said that: "There will be a return to our community in terms of wellbeing of all our community and in terms of a civilised society" and I can only agree with him. Deputy Scott Warren was concerned about political correctness and, indeed, I think certainly so am I. She asked about a number of examples, and I think perhaps if I just run through some of the answers to that. A number of the examples were, indeed, apocryphal in the sense that there are certain circumstances in which you can advertise only for women or in which you can advertise for people of a particular nationality. There are useful guides which are produced in other countries that have this legislation and, of course, we would work to produce those sorts of guides to help the community and business understand how this is going to work. It is not difficult and it is really a lot of common sense, and often it will be a case of having words of advice, people phoning up for information about how to avoid being discriminatory. That is my experience. Usually business wants to know how to avoid being discriminatory rather than us having to come down on them to, if you like, be heavy-handed, and it is not the intention to be heavy-handed. Also, other people mentioned about does this law stop other types of discrimination. I think it was Senator Perchard who raised the issue around housing qualifications, and so on. There are a number of exceptions in the law, and this is very common to all legislation of this type with Acts done under any law which otherwise might appear discriminatory are exempt. So that is how we deal with that kind of situation. So a lot of the fears that some people have in that area I think are going to be unfounded. To talk about the issue, very briefly, about political correctness, I think we have had a bit of a laugh and joke about words and whether we are called chairman or chairlady or whatever; frankly, Sir, I do not really care what people want to call themselves. But what I care about is that they have the opportunity to get to be in the position of being able to lead that boardroom, or lead that group of people. Whether they choose to call themselves chair, chairwoman, chairperson, chairman, frankly is irrelevant and I think sometimes people get too hung up on that. Deputy Southern, again, gave a very sensible speech and he said: "Look, it is quite simple, it is a question of yes or no." It is not about a last minute issue to the plan, as I said, because I have said right back in 2007 that this was something that I was going to need to bring back to the House. The Constable of St. Ouen reminded Members that, of course, the cash limits are something within which we had to remain, but we brought forward these amendments because we have the support of the Council, and these are things the Council wish to do. But I wish, again, to reassure him that the cap of £250,000, we have a way of ensuring that that is the cap that remains. Deputy de Faye, I feel sorry for the Deputy that he is not blue, blonde and beautiful, but never mind. But he was right when we must attend to our international obligations, particularly when all eyes are upon us at the present time, and it would not look good if we were to reject this idea of discrimination legislation. Senator Walker, I will come back to him, if I may. Senator Le Main, I was glad for his support and I wanted to say very much that his department does an awful lot to allay concerns that his department acts in a discriminatory way. I know that they operate a fair and just way of operating their allocations policy and I praise them for that. Deputy

Baudains never voted for any of the proposals that have come to this House to introduce this legislation. He never voted for the Human Rights Law, so I think the record will show that I generally answered all the questions because he has generally asked the same points each time, so I will not do it now. He can read *Hansard* from previous debates if he wishes to. The Constable of St. Lawrence started raising issues about statistics. Now, the reason why there are not that many statistics in the report he referred to is because very few official statistics are kept, and this is because without the legislation there is no reason to keep those statistics. So the information and evidence that I have given to you today is a small number of the, if you like, anecdotal cases that have come to me. But they are not the official statistics because many people are (1) afraid to come forward but (2), as I say, when it comes to organisations there is no reason to keep statistics when the legislation is not in place. So that is why there is a difficulty there. But be assured there is discrimination which we need to deal with. I think the others just basically carried on about the cap, so if I can just finally go to both Senator Le Sueur; very prudent, who believes we can still afford to do this. My plan should not be stifled, he said. The principles have been agreed some time ago and I am extremely grateful for the huge support given by the Chief Minister. He made it clear early on today, and it absolutely holds true now, that this is affordable, this can be accommodated within the Business Plan and for all the right reasons we, in this Chamber today, should support it. Sir, I maintain the amendment and ask for the appel.

The Deputy Bailiff:

The appel is called for in relation to amendment No. 4.

POUR: 26		CONTRE: 19		ABSTAIN: 0
Senator F.H. Walker		Senator L. Norman		
Senator W. Kinnard		Senator J.L. Perchard		
Senator T.A. Le Sueur		Connétable of St. Mary		
Senator P.F. Routier		Connétable of St. Peter		
Senator M.E. Vibert		Connétable of St. Clement		
Senator T.J. Le Main		Connétable of Trinity		
Senator B.E. Shenton		Connétable of St. Lawrence		
Senator F.E. Cohen		Connétable of St. Brelade		
Connétable of St. Ouen		Connétable of St. Martin		
Connétable of St. Helier		Connétable of St. John		
Deputy A. Breckon (S)		Connétable of St. Saviour		
Deputy P.N. Troy (B)		Deputy R.C. Duhamel (S)		
Deputy C.J. Scott Warren (S)		Deputy of St. Martin		
Deputy R.G. Le Hérisier (S)		Deputy G.C.L. Baudains (C)		
Deputy J.B. Fox (H)		Deputy S.C. Ferguson (B)		

Deputy J.A. Martin (H)		Deputy of St. Ouen		
Deputy G.P. Southern (H)		Deputy J.A.N. Le Fondré (L)		
Deputy of Grouville		Deputy A.J.D. Maclean (H)		
Deputy J.A. Hilton (H)		Deputy of St. Mary		
Deputy G.W.J. de Faye (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				

The Deputy Bailiff:

Can I just say to Members that 4 papers have been presented and lodged today. There is Projet 148 Draft Boats and Surf Riding (Control) (Amendment No. 28) (Jersey) Regulations; Projet 149, Draft Amendment (No. 33) to the Tariff of Harbour and Light Dues lodged by the Minister for Economic Development; and Projet 150 Financial Services Compensation Scheme lodged by Deputy le Claire. Then there is also R.101 the Committee of Inquiry into the Bel Royal development at St. Lawrence.

The Connétable of St. Lawrence:

Can I just say very, very briefly, a few words to thank Mrs. Carol Canavan, Mr. David Watkins and Mr. Peter Kemble, and the officers who have worked on this Committee of Inquiry. There is a tremendous amount of work gone into it and a lot of time has been spent on it. I have only had a brief chance to have a look at it, but I hope people do read it, particularly the Minister, because he has paid for it. [Aside] You have read it? Every word? Gosh. Sorry, Sir. I would just like, as I say, to thank those people who have been involved in it. Thank you very much.

The Bailiff:

The Assembly will stand adjourned until 9.30 a.m. on Monday.

ADJOURNMENT