

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 1st DECEMBER 2009

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

ROLL CALL

1. Deputy T.M. Pitman of St. Helier:

Senator Syvret got in touch with a lot of politicians last night to advise that he was malade and I raise that now for the House.

The Deputy Bailiff:

Deputy, I think it is open to any Member to take an oath before the Assembly that the reason that another Member is not present is that they are malade. It is incumbent on a Member to make proper inquiry to satisfy himself or herself that that person genuinely is malade and as long as that is the position and the Member taking the oath realises that it is an important thing to take an oath before the Assembly that that is the case, then so be it.

Deputy T.M. Pitman:

I am doing the same courtesy as I would for any other Member. That was the message I received and I am reporting it to the House. I accept your instruction.

The Deputy Bailiff:

I am absolutely giving you no instruction, Deputy. It is a matter for you if you feel able to take the oath that Senator Syvret is only not attending today because he is malade and not for any other reason. If you think that is the case and you have made your inquiry, it is not for me to inquire into it. It is entirely a matter for you.

Deputy T.M. Pitman:

I am happy, Sir. I can do no more.

The Greffier of the States:

Vous jurez que Monsieur le Sénateur Syvret est tellement indisposé qu'il ne peut pas assister aux Etats sans exposer sa santé.

PETITIONS

2. Deputy J.A. Martin of St. Helier presented a petition on behalf of the residents of the Ann Court area of St. Helier (P.202/2009)

The Deputy Bailiff:

Deputy Martin will present a petition on behalf of the residents of the Ann Court area of St. Helier praying that the States abandoned plans to create a multi-storey car park on the site. Deputy, you are entitled to say something briefly about the petition if you wish.

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

Very briefly, I would just like to thank all the residents of the area, especially the 2 ladies mentioned on the petition who organised for about 8 Saturdays and all the Deputies, especially the Deputies of my area; Deputies Southern, De Sousa and the Pitmans and, as

I say, the other people who put in the hard work. That is all I have to say. Thank you very much, Sir.

QUESTIONS

3. Written Questions

3.1 DEPUTY S. PITMAN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE SICK DAYS TAKEN BY PUBLIC SECTOR EMPLOYEES IN 2008 AND 2009:

Question

Will the Minister provide a detailed breakdown, department-by-department for the types of illness underlying the sick days taken by public sector employees in both 2008 and for 2009 to date, such as stress, depression, flu, accident and so on and the total resultant cost in 2008 and 2009 to each department?

Answer

Appendix A provides a detailed breakdown, by Department for the reasons underlying public sector employees' sickness absence for the calendar year 2008 and for the period ending 31 October 2009. This information is not available at individual department level where one department is made up of a number sub-departments, for example, Home Affairs and non-Ministerial. To collate the information at that level would be a significant piece of work and very time consuming.

All public sector employees' sickness absence is recorded on a central computer system, using standard absence reason codes, that have been agreed with the States of Jersey Occupational Health service and are similar to those used in local government in the UK. This classification of the causes of sickness absence allocates reasons for absence to the broader sickness absence categories to enable simpler recording.

The terms and conditions of service applied to our employees mean that that they work various working patterns and differing standard hours per day. Whilst absence is recorded in hours lost across the service, the information in Appendix A has been converted to show the number of days lost for each type of sickness. Please note that the figures for 2009 do not relate to a full year and the incidence of absence over the winter period is likely to be higher than at other times of the year. The Deputy will also note that in 2009 a unique code has been added to capture sickness as a result of Pandemic Flu. The impact of Pandemic Flu is expected to have affect absence levels for sickness and special leave for employees with caring responsibilities in the coming months

The Appendix shows that the top causes of absence for public sector employees to be due to musculoskeletal, stress/anxiety/depression, and respiratory conditions. The annual CIPD absence management survey published in June 2009 identified musculoskeletal, stress and acute medical conditions as the top causes for absence. A significant percentage of absence is also recorded as "miscellaneous", this coding is frequently used for short term un-certificated absence where the illness is not clearly specified as well as

where the employee would like to keep the reason for their absence confidential. Where a small number of days absence has been recorded for a particular sickness reason within a Ministry, it may be possible to identify an individual employee from the data. To protect the privacy of our employees, information relating to the actual days lost by reason has been calculated as a percentage of the total number of days lost for each sickness reason.

Relevant comparisons of absence within the UK Public sector workforce is difficult due to the range of occupations that are now operated outside of local government such as blue collar roles and the categories of sickness causes recorded. The table below provides comparison figures for the top causes of absence in the States of Jersey in 2008 and 2009 with the most recent figures published by the Local Government Employers Association for the period 2006/7. (Data for the period 2008/9 will not be published until 2010) Whilst the States of Jersey compares favourably with the % percentage days lost due to Musculoskeletal and Stress related absence in the UK local Government survey, the comparison is less helpful in respect of absence recorded as due to respiratory and miscellaneous reasons.

This is likely to be due to a difference in the absence categories used to classify and record absence causes.

Comparison of Causes of Sickness Absence.

Source :UK Local Government Employers Survey 2006/07 and the States of Jersey

	UK Local Government Employers Survey	States Of Jersey	States Of Jersey
Cause of absence and % of total days lost	2006/2007	2008	2009*
Back and neck problems/ Other musculoskeletal problems	22.5	22.4	23.3
Stress, depression, anxiety, mental health and fatigue	22.6	13.5	13.6
Chest, respiratory	5.8	15.1	16.5
Other, miscellaneous	14.8	27.8	26.0

Both the HR team and departmental management actively manage sickness throughout the States. The Occupational health service Annual report for 2008 recorded that the greatest number of referral to the service were in relation to musculoskeletal and psychological reasons. The States of Jersey operates a partial return to work scheme. This scheme enables an employee to safely return to work earlier than otherwise expected on a rehabilitation basis and under the guidance of the Occupational Health Department.

The department does not have the financial information available in the format requested. The total (actual) resultant costs of sickness absence in 2008 and 2009 to each Department is not available without an individual review of every employee who has been off work. This would be a significant piece of work and extremely time consuming. There are numerous pay groups with many different grades within each pay group, the system does not directly cost sickness against an individuals pay.

Furthermore resultant costs such as the cost of absence cover, or overtime, are not attributed directly to sickness absence. To provide accurate costs for sickness would require manual intervention and a separate calculation made against every employee.

APPENDIX A

Sickness Type	Cancer	Cardiovascular	Dermatological	Endocrine	Gastrointestinal	Gynaecological	Miscellaneous	Musculoskeletal	Nervous System	Anxiety Stress Depression	Respiratory	Special Senses
	01	2	03	04	05	06	07	08	09	10	11	12
2008												
Ministry	01	2	03	04	05	06	07	08	09	10	11	12
Chief Minister's	0.4%	0.5%		0.8%	2.5%	5.5%	1.2%	1.2%	1.6%	3.8%	3.5%	1.9%
Economic Development					0.6%	0.5%	0.4%	0.4%	0.6%	0.3%	0.8%	
Education, Sport & Culture	19.0%	11.8%	14.2%	12.5%	24.8%	38.3%	12.7%	15.5%	34.6%	22.5%	23.5%	29.8%
Health & Social Services	63.4%	18.4%	62.7%	75.5%	33.4%	36.8%	51.7%	38.9%	42.3%	38.2%	38.2%	23.5%
Home Affairs		0.8%	3.3%	7.4%	9.6%	5.6%	9.3%	12.5%	2.2%	16.4%	1.1%	6.0%
Housing			1.2%	0.8%	1.4%		1.6%	1.8%	2.9%	0.5%	0.9%	1.3%
Jersey Airport	1.8%	3.5%	1.8%		3.3%		1.0%	4.2%	0.9%	0.2%	3.9%	2.0%
Jersey Harbours	6.6%	4.6%	1.2%		2.7%	0.6%	0.5%	2.2%	2.9%	0.8%	0.8%	
Non Ministerial States Funded	6.6%				0.8%	0.6%	1.3%	1.8%	4.2%	0.4%	1.7%	14.6%
Planning and Environment		1.2%			0.9%	2.9%	1.7%	0.7%	1.1%	2.9%	2.2%	4.6%

Social Security	2.6%	0.3%			1.8%	0.4%	2.9%	0.4%	0.8%	1.2%	2.2%	0.2%
States Assembly			0.4%	2.3%	2.9%	0.2%	0.8%	0.1%		0.2%	0.6%	1.4%
Transport and Technical Services		59.0%	14.2%	1.2%	1.8%	0.5%	14.8%	17.0%	2.6%	12.9%	8.9%	9.4%
Treasury and Resources			1.5%		4.8%	8.2%	1.6%	3.6%	5.1%	0.8%	3.5%	6.1%
2008 Total days lost by reason	1356	948	271	257	5090	1881	15851	12749	896	7690	8600	863
Percentage of total absence by reason	2.4%	1.7%	0.5%	0.5%	8.9%	3.3%	27.8%	22.4%	1.6%	13.5%	15.1%	1.5%
2009												
Ministry												
Chief Minister's	5.8%		4.2%	34.5%	2.7%	0.8%	1.1%	1.3%	8.0%	3.3%	2.5%	2.4%
Economic Development					1.9%	0.3%	0.3%	0.5%	0.1%	0.8%	1.7%	
Education, Sport & Culture	28.2%	55.2%	25.7%	32.2%	25.9%	39.0%	14.0%	13.5%	16.5%	25.3%	26.4%	28.3%
Health & Social Services	45.7%	21.7%	52.9%	2.3%	39.2%	49.8%	5.7%	41.9%	39.0%	34.3%	34.8%	18.7%
Home Affairs		1.8%	10.0%	6.9%	7.6%	2.3%	9.3%	12.5%	2.9%	3.5%	8.2%	9.7%
Housing	8.4%			6.9%	0.8%	0.2%	0.5%	0.4%		0.6%	0.4%	0.3%
Jersey Airport	2.4%	2.2%	1.1%	13.8%	3.7%		1.4%	3.8%	0.7%	1.0%	5.9%	9.0%
Jersey Harbours		2.5%			1.9%		1.5%	2.5%	6.2%	4.7%	1.3%	
Non Ministerial States Funded	0.8%	0.6%	1.1%	4.6%	0.1%	0.5%	0.6%	0.8%	1.2%	0.2%	0.2%	1.9%
Planning and Environment					0.6%	0.3%	1.6%	0.6%	0.7%	2.8%	2.4%	1.6%

Social Security			0.4%		1.7%	0.2%	3.0%	0.7%	2.8%	8.0%	2.3%	
States Assembly	0.3%	0.4%			1.0%		0.8%	0.5%		0.2%	0.7%	0.9%
Transport and Technical Services	0.9%	4.2%	5.7%		6.9%	0.2%	14.7%	16.6%	8.2%	17.1%	7.5%	14.0%
Treasury and Resources		1.5%			5.7%	3.3%	2.4%	4.2%	3.5%	1.1%	4.6%	4.9%
2009 Total days lost by reason	1224	323	261	87	3762	1322	11336	10180	754	5931	7223	636
Percentage of total absence by reason	2.8%	0.7%	0.6%	0.2%	8.6%	3.0%	26.0%	23.3%	1.7%	13.6%	16.5%	1.5%
2008/ 2009												
Total days lost by reason	2580	1271	532	344	8852	3203	27187	22929	1650	13621	15823	1499
Overall Percentage of total absence by reason	2.6%	1.3%	0.5%	0.3%	8.8%	3.2%	27.0%	22.8%	1.6%	13.5%	15.7%	1.5%

* Please note that the number of days lost to the various reasons for absence have been presented as percentages of the total days lost for that sickness reason.

This information protects the privacy of our employees as it may be possible to identify an individual from the actual number of days lost.

**All percentages have been rounded to 1 decimal place

3.2 DEPUTY A.K.F. GREEN OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE CHEMICAL MAKE UP OF THE CONTAMINANTS AT THE CASTLE QUAY SITE:

Question

Further to my written question tabled on 21st September 2009, will the Minister confirm when he will be in a position to provide the answer to part 3 of my question namely: the precise chemical makeup of the contaminants in the excavations from the Castle Quay site?

In the Ministers reply he indicated that he would provide a copy of a report showing the heavy metal uptake in marine indicator organisms which have been monitored since the early 1990's, will he advise when that will be made available?

Answer

The Castle Quays site sits within "made ground" and the infill used during the construction of this "made ground" was predominantly inert demolition debris and surplus soils arising from building and civil engineering excavations. This accounts for some 94% of the input on the site. The remaining 6% of fill material comprises combined ash from the Bellozanne incinerator.

A summary of the analysis available for the ash material deposited throughout the area is presented in the table at Appendix 1. This information was taken from "Summary Report of Research on the West of Albert Reclamation Site, St. Helier" which was undertaken by the environmental consultancy WRC in May 2004 and commissioned by WEB.

Appendix 2 provides information relating to chemical analyses of the samples taken from the site during a separate study. This study, entitled "Castle Quay Development, Geotechnical Desk Study, Preliminary Information" was undertaken by the environmental consultancy Amplus Ltd in January 2005. It was commissioned by Dandara.

The report directly referred to by the Deputy in his question is entitled "Investigation of possible contamination of marine biota from a land reclamation site, La Collette, Jersey". The investigation was conducted by the Environment Department in 2009 and looks at heavy metal uptake by marine indicator organisms. The size of the report makes it difficult to provide electronically however a hard copy has been sent to the Deputy and is available on request to all other States Members.

3.3 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE FINANCIAL MANAGEMENT OF THE JERSEY HERITAGE TRUST:

Question

In light of the concerns the report of the Comptroller and Auditor General (CAG) raises about the inadequate financial management of the organisation would the Minister consider undertaking a detailed examination before committing further public money to the Jersey Heritage Trust?

Can the Minister give assurances that granting the Jersey Heritage Trust £800,00 to cover their budget deficit, will not impact upon the monies available for the Island's other cultural and heritage providers dependent on States-funding?

Given that two of the historic sites managed by the Jersey Heritage Trust are owned by the National Trust for Jersey (Hamptonne) and La Société Jersiaise (La Hougue Bie), what consideration, if any,

has the Minister given to entering into separate ring-fenced funding arrangements with these two bodies to open these sites to the public?

Will the Minister inform the Assembly of the respective attendances at Jersey Heritage Trust meetings by the two States Trustees (the Connétable of St. Helier and the Deputy of Grouville) during the period in which the Trust was negotiating to purchase the DUKWS from Pure Adventure, and will the Minister undertake to make public the attendance records of all trustees since 2005 when a budget deficit was first recorded?

Answer

A detailed examination is currently in train. I have made arrangements for independent auditors to work closely with the Jersey Heritage Trust to help identify a way forward and implement a number of specific recommendations made by the Comptroller and Auditor General in his report. This work is expected to be completed by the end of this year. It would therefore be premature to express a view in advance of receiving this information and discussing it with the Trust.

I can confirm that the emergency funding provided to the Jersey Heritage Trust will not impact on the support given to the other cultural organisations funded by the department. This funding has been provided from the department's 2009 budget and I have an agreement with the Treasury Minister that the department will be reimbursed once the actual amount is known.

As part of the review of Jersey Heritage Trust, we will work with the National Trust and La Societe Jersiaise to explore opportunities for the future.

The Jersey Heritage Trust has no objection to making public, details of the attendance of all its trustees, including representatives from the States, and I have passed the Deputy's request to the Trust who will be furnishing him with the information he seeks.

3.4 DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE EMPLOYMENT OF APPRENTICES IN JERSEY:

Question

Could the Minister outline in the simplest terms how a local employer in the motor trade can take on an apprentice without meeting a wall of bureaucracy and does his Department have a guide for local employers?

Answer

Apprenticeships are organised independently of EDD. Apprentices are selected by employers, who then arrange their day release training, usually with Highlands College.

Employers are then able to approach the EDD to request financial support for the training of apprentices. Once an employer has identified a suitable candidate, EDD will consider an offer of funding of up to £8,500 for a four year apprenticeship.

Given the scale of funding involved, an evaluation process is however necessary to ensure grants are issued in line with States Financial Directions. There are two elements to this:

- Firstly, the Department must be assured that States money is going to businesses that have the correct insurance, experience, range of work and working conditions to support an

apprentice. A single form is issued to collate this information and a standard contract between the employer and the States must be signed. This information is only required once – not for each apprentice employed.

- Secondly, we need to ensure that the prospective apprentice has the relevant residential and academic qualifications to be eligible for the scheme. Another short form is required to confirm these details which must be accompanied by a signed employment contract.

The Department tries to limit paperwork as much as possible but does seek to support employers in ensuring its completion via one-to-one meetings to answer any questions they may have.

There is an information booklet available on the States website, along with supporting guidance. In addition, the Department offers meetings to prospective employers and information can be sent in paper form on request.

Background information

- Jersey Apprenticeship Scheme (JAS) was launched in 2002.
- Employers within the motor trade, as well as construction, mechanical engineering, hairdressing and food occupations are eligible to apply for funding.
- The majority of apprentices registered on JAS are in carpentry/joinery and hairdressing.
- In total, 536 have been registered on the Scheme since it was launched.
- Currently, 99 apprentices are registered on the Scheme.

3.5 THE DEPUTY OF ST. JOHN OF THE CHIEF MINISTER REGARDING MEETINGS WITH THE CONSEIL GENERAL DE LA MANCHE:

Question

Will the Chief Minister advise whether Ministers have met with their French counterparts since December 2008, and if so, detail which Ministers and the dates of the meetings?

When was the last joint working meeting held between the States of Jersey and the Conseil General de la Manche and what matters were discussed?

As the Assemblée Parlementaire de la Francophonie is about to be re-constituted, do the reforms have the full backing of the Council of Ministers?

When will the next meeting with the Conseil General de la Manche take place?

Answer

A meeting with the Conseil général d'Ile-et-Vilaine took place on 15th September 2009. Ministers attending were the Chief Minister, the Minister of Transport and Technical Services and the Minister of Education, Sport and Culture. The meetings were also attended by Assistant Minister Deputy Duhamel, Deputy Hill and Connétable Crowcroft.

A meeting with the Conseil général de la Manche was held on 9th July 2009. Ministers attending were the Chief Minister, the Minister for Economic Development, the Minister for Education, Sport and Culture and the Assistant Minister for Planning and Environment Deputy Duhamel.

A further informal meeting with the Conseil général de la Manche was held on 23rd October 2009 at the Conseil général offices in St. Lo, attended by the Chief Minister and Connétable Vibert.

Finally informal meetings were held during celebrations to commemorate the 65th Anniversary of the D-Day landings, attended by the Chief Minister and the chairman of the Comité des Connétables, together with the former Bailiff.

As previously stated, the last joint working meeting between Ministers and elected representatives of the Conseil général de la Manche was on 9th July 2009. The matters discussed were economic affairs, education, sport and culture and environmental issues.

Although correspondence has recently been received by the Chief Minister's office, the Council of Ministers has not yet considered the proposed reforms of the Jersey branch of the Assemblée Parlementaire de la Francophonie.

A date has not yet been agreed for the next meeting between Ministers and the Conseil général de la Manche, but it is likely to be between July and September 2010.

3.6 SENATOR B.E. SHENTON OF THE CHIEF MINISTER REGARDING PROGRESS OF THE REVIEW OF CUSTOMARY LAW AND STATUTORY PROVISIONS:

Question

Given that, on the 10th March 2009, the States adopted P.1/2009 'Voisinage and customary law - review' which sought to review and investigate possible overlaps between customary law and statutory provisions and to make recommendations as appropriate, can the Chief Minister update the Assembly on the progress of this review and give an indication of when the findings may be published?

Answer

In March of this year I wrote to the Chairman of the Law Commission to request that the Commission review the Law relating to Voisinage and make recommendations on how the issue should be progressed.

I have been informed by the Law Commission that a draft consultation paper for consideration by the Commission is nearing completion. Subject to that paper being discussed and agreed by the Commission, it will be published in the first half of next year.

3.7 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE USE OF LOCAL SURVEYORS FOR DESIGN WORKS FOR THE NORTH OF TOWN MASTERPLAN:

Question

Will the Minister advise whether all surveyors work in respect of the north of town Master plan is being undertaken by off-Island companies, and if so, would he inform the Assembly who the companies are, and whether any local companies were asked to tender for these works, and, if none were asked, explain the reasons why?

Given that the Island is in recession, would the Minister explain why the Planning and Environment Department is not using local professionals as a matter of course for all major projects, in order to assist with the economy?

Answer

Not all of the work by surveyors on the North of Town Masterplan was undertaken off-Island. Indeed a significant contribution was made to the project by the surveyors employed by the Property Holdings Department.

It was a requirement of the Brief that the appointed consultant, if not local, should work in conjunction with a local architectural practice to facilitate transference of masterplanning skills and experience. At the time the Brief was prepared, it was not considered that surveyors would be required to form part of the consultant team, and accordingly, none were asked to tender for the project.

Three local architectural practices were invited to tender for the project (BDK Architects, Naish Waddington Architects and Axis Mason) and three UK-based practices (Robert Adam Architects, MJP Architects and Hopkins Architects, all of whom had experience of working in Jersey). BDK were the only practice to submit as a lead practice, and were invited to interview with teams led by the three UK practices.

The four tenderers were interviewed by the Chief Officer, Director of Planning and Department Architect, and as Members will know, Hopkins Architects were appointed, in conjunction with Robert Townshend Landscape Architects and local practice Naish Waddington Architects, to prepare the Masterplan for the Northern part of St Helier.

As part of its submission, Hopkins indicated that it would require commercial advice in order to assess the viability of the options it considered. Hopkins proposed that it use WT Partnership, a UK company, and because it had worked successfully on the Esplanade Quarter proposals, the Planning and Environment Department approved its addition to the consultant team. That company was added to the team after the project had started and, although paid directly by the Planning and Environment Department because it did not form part of the original order raised against the project, worked directly to Hopkins. The fixed fee was £6000, which included visits to Jersey and consultation with local surveyors.

The Department regularly employs consultants, and ordinarily will appoint locally when it is satisfied that local practices have the required expertise and capacity to undertake the work.

3.8 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE RENT FOR THE GAMBLING CONTROL OFFICE:

Question

In figures circulated at the meeting on 18th November 2009, entitled 'Gambling Control Current Income vs. Costs' the building rent of the Gambling Control Department is given as £29,822 p.a. What does this comprise of and who is the landlord?

As the cleaning bill is £15,000 for this small group of workers, why is it costing over £1,000 per month?

What is the annual cleaning bill for all of Economic Development (section by section)?

Why is there an annual building maintenance cost of £9,000 per annum in addition to a rental charge of £29,822 per annum for the Gambling Control Department?

Answer

The following is a summary/extract from a report presented to the States on the 18th February 2003 on the lease agreement of 24/26 Bath Street.

“On 12th March 2003, the former Finance and Economics Committee approved, on the recommendation from the Environment and Public Services Committee, the lease from Mr. Le Boutillier for office accommodation (measuring 2,503 square feet – which is £15.98 per square feet) at 24/26 Bath Street, being required for occupation by departments under the administration of the Economic Development Committee, for a period of nine years deemed to have commenced from 1st March 2003, at a commencing annual rent of £40,000 (exclusive) payable quarterly in advance.

The lessor agreed to an initial rent free period of 25 days of the agreement and therefore the first rental payment would be made on 25th March 2003 and quarterly thereafter. The rent was to be reviewed every three years in line with the Jersey Retail Price Index.

The lessee was to be responsible for internal repairs including all mechanical, electrical, fire alarm, and plumbing repairs/maintenance, plus lift maintenance/insurance. The lessor would remain responsible for external and structural repairs and maintenance and external decoration. The lessee was to be responsible for payment of all utilities consumed on the premises parochial occupier rates and the cleaning of the demised premises including the veranda. The lessor, throughout the lease and at his expense keep the in which the demised premises sit insured.

For the avoidance of doubt, the lease would to be in the name of the Environment and Public Services Committee but the responsibility in fulfilling the terms and conditions of the agreement would lie with the Economic Development Committee.”

The costs circulated during the meeting of the 18th November were for the year 2008 as these were the last year-end figures available. At that time and in accordance with the lease conditions noted above, staff from the Gambling Control function were still at bath street and maintenance costs had to be paid as required by the lease. Subsequently these premises have been relinquished.

The cleaning bill for the entire department is as follows:

Cleaning

Jubilee Wharf (EDD share) - JPH	
Regulation of Undertakings	
Regulatory	
Enterprise (part)	11,325
Liberation Place	19,919
Liberation Place - JPH	13,000
Tourism	
Corporate	
Enterprise (part)	
	32,919

Rural -HDF EDD share 1,450 1450

EDD Total 45,694

3.9 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE UNEMPLOYMENT FIGURES:

Question

Is the Minister satisfied that the recently published figure of 1000 people unemployed in Jersey is accurate?

What is the occupational break down of that figure and how accurate are the figures in relation to young people?

Answer

The Department publishes a monthly report identifying the number of people registered with the Department as Actively Seeking Work. The total for October 2009 is 997 and the report can be found on the gov.je website.

The report includes the following comment:

“It should be remembered that there is no statutory requirement for all unemployed residents of Jersey to register as actively seeking work with the Social Security Department. As such the data above is a useful indicator of the level of unemployment in the Island but it does not attempt to measure the actual rate of unemployment. This is undertaken on an annual basis through the Jersey Annual Social Survey.”

The International Labour Organisation’s unemployment rate as measured by Jersey Annual Social Survey in 2008 stood at 2.3 %. The figure for 2009 will be available at the end of December.

I am satisfied that the figure of 997 is an accurate statement of the number of individuals of all ages registered with the Department as actively seeking work but, as explained in the extract above, this figure does not attempt to measure the actual rate of unemployment in the Island as a whole.

The occupational breakdown of registered individuals is based on the classification of the individual’s last employer for contribution purposes. It should be noted that employers in each category will employ a wide range of workers. For example, employers in the “banking” category will have employees who work as administrators, facilities managers and HR officers as well as those who provide banking services directly.

Employer Category	Number
Retail, wholesale	117
Banking, insurance	128
Utilities	10
Agriculture and Fishing	18

Engineering	9
Motor trades	13
Tourism, leisure, catering	89
Misc professional (Legal, accountancy, IT, etc)	80
Misc trades (Glass, timber, printing, etc)	10
Misc services (Hairdressing, cleaning, etc)	97
Public sector (including temporary seasonal posts)	66
Educational services	7
Private domestic service	7
Medical services	38
Construction	139
Transport, communications	26
Self- employed	25
No previous contribution record - recently arrived in Island	2
No previous contribution record – aged under 24	95
No previous contribution record – Workwise client	21

At the end of October there were 74 trainees aged under 19 on the Advance to work (ATW) scheme who were registered as actively seeking work. These trainees are included in the table above, with the majority recorded under the “No previous contribution record– aged under 24” category.

3.10 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE BUDGETARY SOURCE OF THE ADDITIONAL PAYMENT TO JERSEY HERITAGE TRUST:

Question

What was the budgetary source of the emergency sum of £800,000 recently allocated to the Jersey Heritage Trust?

Answer

Following advice contained in the Comptroller and Auditor General’s report on Jersey Heritage Trust, the Education Sport and Culture Department has provided emergency financial assistance to Jersey Heritage, forecast to be in the region of £800,000 pounds.

A commitment has been given by the Minister for Treasury and Resources to work with me to clear the existing borrowing of the Jersey Heritage Trust and also to develop a longer term solution for the funding of the organisation. This commitment is recorded in the minutes of the Council of Ministers of the 29th September 2009.

As an interim measure it has been agreed that presently unspent funds within the department's overall budget allocation for 2009 could be used for this purpose.

Once the full extent of the emergency funding is known, the Treasury Minister has confirmed that the department will be reimbursed allowing it to deal with some of the ongoing financial pressures not recognised in the 2010 Business Plan. Work is already being undertaken by the department to address some of these pressures as part of the proposed Comprehensive Spending Review. It is my aim to bring forward proposals to be considered during the 2011 business planning process.

Due to the uncertainty over the department's overall budget for 2010 as a result of the Business Planning process it has not been possible to address the Higher Education funding issues in 2009 although this is now being progressed by the department.

As a result unspent monies have provided the opportunity to support the Jersey Heritage Trust beyond its normal level of funding in 2009.

A review into the funding of Higher Education has been instigated, not only in recognition of the potential increases in top-up fees which could be introduced by the United Kingdom government but also because of the erosion of financial support to students since 2001. This action is supported by the Council of Ministers.

3.11 DEPUTY R.G. LE HÉRISSEUR OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING THE ALLOCATION OF THE BUDGET TO HEALTH AND SOCIAL SERVICES TO FINANCE THE VOLUNTARY EARLY RETIREMENT PROGRAMME:

Question

Would the Minister advise what sums of money, if any, have been allocated to the Health and Social Services Department's budget in 2009 to finance the Voluntary Early Retirement programme and other early terminations of service specifying the sums allocated to the individual programmes?

Answer

No sums of money have been allocated to the Health and Social Services Department's budget in 2009 specifically to fund voluntary early retirements or other early terminations of service.

Where it is considered appropriate for such terminations to occur, funding comes from the cash limit of that department.

3.12 SENATOR J.L. PERCHARD OF THE CHAIRMAN OF PRIVILEGES AND PROCEDURES COMMITTEE REGARDING LIMITING THE NUMBER OF PROPOSITIONS LODGED AND THE LENGTH OF SPEECHES:

Question

Following consideration of these matters at the Committee's meeting of 20th November 2009, will the Chairman undertake to bring to the States for debate proposals to –

- (a) limit the number of propositions an individual member can lodge for debate in a given period (such as a maximum of 3 per parliamentary session);
- (b) limit the length of speeches a member can make during a States debate;

and if not, what action, if any, will the Privileges and Procedures Committee be taking?

Answer

The Committee considered both of these matters at its meeting of 20th November 2009. It was noted that States meetings were getting longer and an increasing amount of business needed to be dealt with. Consequently ministerial, scrutiny and constituency work was being squeezed into a shorter window of time.

The Committee established a States Business Organisation sub-group to look at ways to improve efficiency. Its review will cover all areas of the States business, including:

- Minimum lodging periods, in particular the two week lodging period;
- Length of speeches;
- Length of debates;
- Programming and timetabling of public business;
- The number of propositions and amendments being lodged for debate;
- Members' ability to give full and effective consideration and responses to propositions and amendments;
- The possible introduction of a mechanism for gauging support before lodging propositions;
- Content of speeches, repetition, interruptions;
- The order of business on States days.

The sub-group will hold a series of hearings, scheduled to take place between 11th and 15th January 2010, and all States members were invited by letter last week to make submissions detailing how the efficiency of States sittings could be improved. Any members who have not yet accepted this invitation may do so by e-mailing the Greffier or the Committee Clerk to arrange a convenient date and time.

Meanwhile, the Chairman will be working with the Greffier more pro-actively to order business more effectively in accordance with Standing Order 31(3). A standard format for reports supporting draft legislation will also be developed to ensure that members have a satisfactory level of information available to them for consideration in advance of the debate. This should enable debates to be further streamlined.

3.13 SENATOR B.E. SHENTON OF THE CHIEF MINISTER REGARDING LIMITING THE FUNDING POSITION OF THE PUBLIC EMPLOYEES CONTRIBUTORY RETIREMENT SCHEME:

Question

In respect of the ongoing funding position of PECRS, can the Minister publish the estimated total service shortfall as at 3rd November 2009 on an ongoing basis and a discontinuance basis?

Can the Minister also confirm that responsibility for funding this deficit lies with the Scheme Members and not with the Jersey taxpayer?

Answer

I am unable to tell the House what the estimated total service shortfall is as at 3rd November 2009, as this information is not available.

As Chief Minister I deal with formal valuation figures as and when they are published, not interim figures which are not finalised nor based on agreed assumptions and membership data, as would be the case with a formal valuation report.

The Committee of Management's established policy is that a formal actuarial valuation shall be made every three years, the most recent being 31st December 2007. At that date a deficiency of £63.2 million was revealed and negotiations are currently under way in order to deal with that deficiency. Members are referred to R.130, recently published, and R.88, for full details.

There are no Regulations under the PECRS legislation that deal with discontinuance of the Scheme.

If a deficiency is revealed by a formal valuation of the fund there are a number of actions that may be taken, namely:-

- If, having considered the Scheme Actuary's advice, the Committee of Management and the Principal Employer are of the view that the deficiency is of temporary nature, a recommendation that no action should be taken, or if the deficiency is not seen as temporary, an agreement to increase in the contributions payable by the members and/or in the contributions payable by the employers to the Scheme.
- If there is no agreement between the Chief Minister and the Committee of Management, within six months of the formal valuation being laid before the States, after an additional period of three months, the Committee of Management, under the legislation is bound to reduce or cancel any increase in pensions in order to eliminate the deficiency as far as possible.
- If the Actuary's report indicates that even after the reduction or cancellation of pension increases a deficiency is likely to continue to exist, the Chief Minister shall submit proposals to the States for an increase in the contributions payable by the members, and/or the employers and/or a reduction of other benefits payable under the Scheme.

Therefore the primary responsibility for funding any deficit in the Scheme lies with the scheme beneficiaries and not with the Jersey taxpayer.

3.14 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING INTRODUCTION OF PORTFOLIO SOLUTIONS/BLUESTREAM (TM) SAFETY MANAGEMENT SYSTEMS INTO THE DEPARTMENT:

Question

What connection, if any, did the Harbour Master have with the introduction of Portfolio Solutions/Bluestream (TM) safety management systems into the department?

Did the system work well, and was there any conflict with the introduction of Windows XP as an operating platform, particularly in respect to online documents management systems?

How much has the company been paid to date, and has the company ceased trading?

When Bluestream (TM) system failed in 2007 at a crucial time, what provision was put in place to get it running, who provided assistance to get it running, and did the department have to source another system, if so, at what additional cost?

Could the Minister confirm that the company Portsfolio Solutions (TM) is/was registered at 21 Howgate Avelon Park JE2 3FG, and that the HarbourMaster is/was a Director of the company?

Answer

The current Harbourmaster was not involved in the purchase of Portsfolio safety management software system by Jersey Harbours. The software was purchased prior to his employment as a civil servant.

He was a non-executive director of the company when he was subsequently employed as Deputy Harbourmaster at Jersey Harbours. Permission to continue his directorship and links with Portsfolio Solutions were explicitly incorporated within his contract of employment.

The non-executive directorship was re-confirmed by Act of the then Harbours and Airport Committee in 2005 which concluded that, on the basis that Jersey Harbours had no further commercial dealings with Portsfolio Limited, save with regard to the maintenance of existing software and that when the time came to review this software an alternative package would be sourced from another company, it could see no reason why the non-executive directorship should not be permitted to continue.

The software was indeed successful and a core part in the implementation of an overall safety management system at Jersey Harbours, and subsequent compliance with the Port Marine Safety Code. The safety management system software did not conflict with Windows XP. There was an issue with an associated document management system which had been provided at the same time; however this was not part of the safety management system itself and was not upgraded.

For the supply and 5 year maintenance the company was paid approximately £8,000 initial cost in 2001 and then £1,400 per annum thereafter until 2006.

The licence was not renewed for 2007. The decision was taken to move to the SHE system, aligning more closely with Transport and Technical Services, at an initial setup cost of £12,000.

The Jersey Company was registered to the address at Avalon Park and dissolved in 2006, the UK Company to an address in Southampton dissolved in 2007. Information on the company's trading dates, directors and registered addresses are freely available from both Companies House in the UK and the JSFC Companies Registry.

3.15 SENATOR S.C. FERGUSON OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING CONSULTANTS' REMUNERATION:

Question

Given that in the UK consultants are given merit awards which are awarded by a peer group, what mechanism, if any, exists in Jersey to be competitive with this and how, and by whom, is it awarded?

Answer

The UK merit award system changed some time ago to one of clinical excellence awards with 12 levels of award. In England levels 1-8 are awarded locally and 10-12 (silver, gold and platinum) are awarded nationally in England and Wales. Level 9 (bronze) can be awarded locally or nationally.

It was recognised during negotiations for the new Jersey Consultant contract in 2003/4 that similar awards should be introduced but that due to the difficulties in making awards within a small body of Consultants it was preferable to assimilate levels 1-9 into the new Jersey Consultant 20 point pay scale which rises up on an annual basis to point 17 subject to satisfactory performance against set criteria, without application.

Progression to points 18 and 19 are by formal application Consultants are required to provide evidence of achievements against the set criteria.

Progression to point 20 on the scale is by formal application with additional criteria.

- Provide evidence in support of the claim against set criteria
- Completion of 20 years service as a Consultant
- Demonstration of significant achievements in such areas as effective and efficient resource utilisation; rapport with all stakeholders; strategic awareness

Increment 20 can be removed in the light of poor performance against the performance criteria.

The award of increments 18-20 is by formal written application to a panel consisting of all 3 Clinical Managers (Surgery, Medicine and Mental Health) to ensure consistency across the 3 areas along with the Medical Director and the Senior Human Resources Officer for Health and Social Services. The award also requires the signed endorsement of the Chief Executive for all such awards.

This Jersey system has since been commended by the British Medical Association as it cuts out the bureaucracy of the UK system.

3.16 THE DEPUTY OF ST. MARTIN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE COSTS INVOLVED WITH REGULATING THE LICENSING (JESREY) LAW 1974:

Question

Will the Minister provide a similar document to that circulated during the last States meeting entitled 'Gambling Control Current Income vs. Costs' in respect of the control and licensing of the Licensing (Jersey) Law 1974, to include the details of the Economic Development Department's income and expenditure for 2009 in relation to this matter and information on the current staff that are involved in the regulation of the Licensing Law?

Answer

The Department does not regulate the Law, but rather administers it insofar as it has legislative responsibility for maintenance and updating as required. The Department is working with colleagues in other departments to provide for a modern and more effective Law that will allow for

readier identification of true costs and provide for better apportionment of these costs to applicants. These will be outlined in a White Paper that will be drafted in the New Year.

It would not be helpful to consider my Department in isolation as officers work closely with colleagues in the Judicial Greffe, States Police, Fire and Rescue Service the Treasury and others and any consideration of financial impacts must be holistic. This is being addressed within the modernisation process for the new Law.

Historically, income derived from Licensing was used to fund the Beach Lifeguard Service. Since the introduction of more modern accounting regimes, income and expenditure are not linked to each other so narrowly. Currently income received for the whole account code area is approximately £377,000, with £287,000 coming from liquor licenses. Set against that there are total expenses of £355,000 including three staff (2.71 FTE – 2010 business plan) working in this area, but the degree of time spent varies and they are not dedicated solely to this area of work.

The following table presents the breakdown of income and expenditure in a similar manner to that previously presented to Members regarding the Gambling function. Unfortunately, the account code in this area has never been disaggregated and includes expenditure for a number of different functions including: liquor licensing, policing of beaches, places of refreshment, British-Irish Council, broadcasting, digital switchover and tourism registrations.

The income is easily split as specific income codes are used for the different areas of income. However, expenditure is not as easy as this to split. Expense codes have been created but these do not reflect the income account codes and are more generic i.e. any printing costs incurred for the areas aforementioned are entered against the ‘printing’ expense account and this could be for liquor licensing or for printing of beach parking permits or for printing the permits for places of refreshment. It would amount to a significant investment to manually investigate each transaction in order to provide the level of detail pertaining to liquor licensing alone. As noted earlier, this will be undertaken as part of the White Paper process as the review of the Law continues.

Account	Yr to Dec Actual 2009
NTQ000 - Regulatory Services	
<u>Duties, Fees, Fines & Penalties</u>	
330361-Liquor Licences	(287,143)
330362-Licence Applications	0
330363-Licence Registrations	(63,552)
330368-POR Fees	(13,665)
Duties, Fees, Fines & Penalties	(364,361)
<u>Sales of goods and services</u>	
330470-Foreshore Concessions	(12,414)
Sales of goods and services	(12,414)
Income	(376,774)

Staff Costs	
411000.100-Civil Service Perm Basic	67,238
411000.800-Civil Service Perm Other	
411000.900-Civil Service Perm Pension	8,972
411000.950-Civil Service Perm Soc Sec	3,634
Staff Costs	79,844
Supplies and Services	
501502-Printing	1,310
540110-Hired Services	2,531
549001-Other Supps & Services	267,865
627100-Advertising & Publicity	618
627101-Recruitment Advertising	
640100.NNS-Meals & Entert.-Non Staff	57
640100.NST-Meals & Entert.-Staff	758
641100-Travel	52
641100.NST-Travel - Staff	1,454
641300-Mileage Claims	0
642100-Hotel Accommodation	(52)
642100.NST-Hotel Acc - Staff	61
Supplies and Services	274,653
Administrative Expenses	
661010-Other Administrative Costs	3
671510-Other Admin Fees	181
Administrative Expenses	183
Expenditure	354,681
NTQ000 - Regulatory Services	(22,094)

3.17 DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF THE MINISTER FOR HOME AFFAIRS REGARDING CURRENT PRIORITIES IN THE ANNUAL BUSINESS PLAN 2010:

Question

Could the Minister advise the Assembly what his current priorities are in the Home Affairs Department and advise why he has chosen these in particular for 2010?

Were there other priorities which he wished to address but was unable due to financial or manpower constraints, and, if so, what were they?

Answer

1. Current priorities for Home Affairs

- Implementation of the Sex Offenders Law (required as a follow up to passing the Law).
- Criminal Justice (Young Offenders) Law and Children's Law (Provision for persistent offenders aged 12 to 16) (required in order to provide appropriate ways of managing persistent young offenders).
- An appropriate response to the investigation of Operation Blast.
- Disciplinary matters in relation to the Chief Officer of Police.

- Mentally disordered offenders within the prison (working together with Health and Social Services to improve the situation).
- Discrimination Law (taking the Law through the States ready for implementation in 2011).
- Obtaining resources for front line services for 2011.
- Bail Law (a need for a statutory framework for bail).
- Jersey Field Squadron – Inter-Governmental Agreement (updating of this).
- Planning work in relation to Prison Building Project Staff Facilities and Visitors' Centre (needed to up-grade the prison and comply with 2008 staff agreement).
- Vetting and Barring Project (work needed to tie this in with changes in the UK).
- New Police Law and Police Authority (work on deciding upon the structure of these and the start of drafting).
- Repatriation of Offenders Law (important to allow prisoners to serve their sentence in their home country).
- Discussions with the Criminal Courts in relation to Criminal Sentencing.
- Post-Custodial Supervision Law (this is dependant upon ongoing discussions with the Courts).
- Planning work in relation to a new States Police Headquarters. (A new building has been required for some time).
- Part V of the PPCE Law (amendments to this with a view to implementation).
- Fire Service Law (a modern definition of the work of the Fire and Rescue Service and improvement of statutory powers).
- Explosives Law (a modernisation of this Law is much overdue).
- Law to make a provision in place of wheel clamping (to implement a States decision).

2. Other priorities which could not be addressed due to financial or manpower constraints The immediate calls on additional funding would be:

	£'000
Customs and Immigration – 2010 funding shortfall and extra staff member per frontier team	400
Fire and Rescue Service – One extra staff member per watch and incremental drift	250
Fire and Rescue Service – increase in equipment budget	100

Prison – reinstate 2010 savings	138
States of Jersey Police - reinstate 2010 savings	150
Home Affairs Department – Communications Data - reinstate 2010 savings	25
BaSS – reinstate shortfall in funding	34
States of Jersey Police – Community Police Officers	342

The above table details the immediate funding pressures in 2010. With any further funding my Chief Officer would:

- Review priorities within the Department in order to deliver the priorities identified in the Strategic Plan 2009 – 2014, in particular Priority 7 – *Protect the public and keep our community safe*.
- Review spending pressures at HM Prison.
- Establish a small contingency fund in order to address unforeseen funding pressures.
- Review the financial implications of the Sex Offenders (Jersey) Law for the Home Affairs Department.
- Consider funding Law Officer support to facilitate law drafting.

3.18 DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING CURRENT PRIORITIES IN THE ANNUAL BUSINESS PLAN 2010:

Question

Could the Minister advise the Assembly what his current priorities are in the Education, Sport and Culture Department and advise why he has chosen these in particular for 2010?

Were there other priorities which he wished to address but was unable due to financial or manpower constraints, and, if so, what were they?

Answer

My priorities for 2010 were clearly set out in the Annual Business Plan that was debated in the States earlier this year. A copy of the key objectives is attached.

I chose these objectives because they relate to the development of key service areas which are of critical importance to our community at this time. Focusing on these objectives will:

- provide individuals with the opportunity to develop their talents and work towards achieving their potential;
- support individuals in developing the skills and competencies that will enable them to play a full part in society;
- equip young people with the skills they need to succeed, particularly in terms of employment;
- encourage active involvement in sport and culture.

If additional resources had been made available for 2010, I would have taken steps to improve financial support for students in higher education, increased the funding available to cultural organisations and invested in the development of vocational education for secondary school pupils.

Notwithstanding, I have drawn these issues to the attention of the Treasury Minister and the Council of Ministers who have agreed to work with me to find solutions to these challenges.

EDUCATION, SPORT AND CULTURE

AIM

The mission of the Department for Education, Sport and Culture is to:

Strengthen our community by providing a first class education service, supporting the development of skills and promoting leisure and cultural activities that enrich our lives.

Our aims are to:

- **Promote social inclusion and equal opportunity.**
- **Ensure that our children enjoy the best start possible;**
- **Prepare our young people for the challenges of the future and encourage them to make a positive contribution to society;**
- **Encourage lifelong learning and active participation in sport and culture.**

SUMMARY OF KEY OBJECTIVES AND KEY SUCCESS CRITERIA

Objective 1: To work with the Skills Executive to ensure that vocational education is available to support the Island community through the economic downturn

Success Criteria:

- (i) New youth training scheme in place for 16-18 year olds;
- (ii) Improved data and information system leads to greater understanding of training needs;
- (iii) New graduate training scheme in place for nurses and teachers in shortage subjects;
- (iv) Training opportunities in place to provide adults with access to learning and retraining opportunities;
- (v) Apprenticeship scheme strengthened and extended;
- (vi) Careers advice, and guidance and support extended to meet anticipated demand;
- (vii) Review of Higher Education support arrangements completed;
- (viii) Broad and balanced educational curriculum meets the needs of all.

Strategic Plan Priority: 1, 2, 8 and 12

Objective 2: To continue to raise standards and improve key outcomes for children and young people

Success Criteria:

- (i) Action taken to improve literacy and numeracy profiles;
- (ii) GCSE and 'A' Level results continue to compare favourably with benchmark authorities;

- (iii) Robust performance indicators are used to identify areas for development of the service;
- (iv) ICT strategy implemented to meet agreed targets;
- (v) Early Years strategy implemented successfully and supported by private public partnership;
- (vi) Review of primary curriculum completed;
- (vii) Vocational options available for 14 – 16 year olds;
- (viii) Quality performance framework developed for Highlands College;
- (ix) Review and report on the options available for the Island's secondary education system by April 2010, in order to ensure it is fit for purpose and cost effective.
- (x) Adult education program at Highlands College maintained and extended to meet demand.

Strategic Plan Priority: 6 and 12

Objective 3: To encourage widespread participation in lifelong learning, sport, leisure and cultural activities

Success Criteria:

- (i) Bid to host 2015 Island Games successful;
- (ii) Individuals and teams successfully compete in regional, national and international competitions;
- (iii) Increased participation and attendance at sport, and leisure and cultural facilities;
- (iv) Continue to encourage and support the pursuit of sporting excellence;
- (v) Events website initiative implemented;
- (vi) Plans progressed to ensure long-term future of Fort Regent as a sports and leisure facility;
- (vii) Development of local Clubs and Associations supported to write and implement development plans to increase participation;
- (viii) Adult education programs at Highlands College maintained and extended to meet demand.

Strategic Plan Priority: 6, 7 and 12

Objective 4: To develop programmes and initiatives designed to promote social inclusion and equal opportunity

Success Criteria:

- (i) Support arrangements in place to help people with special needs secure appropriate employment;
- (ii) New guidance on improving behaviour and managing suspensions implemented across all schools;
- (iii) New management information system provides educational welfare officers with data to facilitate early intervention to reduce absenteeism and suspensions;
- (iv) Curriculum development provides educational experiences that reduce disaffection;
- (v) Support provided for individuals who do not speak English as a first language;

- (vi) Implications of 2009 Review of Inclusion across schools considered and relevant recommendations implemented;
- (vii) Increased opportunities for participation in community development programmes;
- (viii) Arrangements in place to consult more widely with young people with regard to their needs and the services available to support them;
- (ix) New childhood studies course introduced at Highlands College.

Strategic Plan Priority: 7, 8 and 9

Objective 5: To provide targeted support to meet the needs of both vulnerable children and families

Success Criteria:

- (i) Early intervention programme in place to ensure the needs of vulnerable children and families are identified as early as possible;
- (ii) School-based support for parents developed in partnership with the Parenting Service;
- (iii) Strategic review group established to monitor consistency of approach in relation to child protection;
- (iv) Tracking system in place to monitor outcomes for children who require additional support;
- (v) E-safety policy to be in place by end of 2010;
- (vi) Children and Young People's Plan developed with partner agencies;
- (vii) Contribute to the development of overall care package in conjunction with other departments and organisations;
- (viii) Curriculum development provides educational experiences that reduce disaffection;
- (ix) Targeted youth outreach work extended;
- (x) A youth mentoring network established in partnership with the Princes Trust and other youth agencies.

Strategic Plan Priority: 7, 8 and 9

Objective 6: To promote the benefits of a healthy and active lifestyle

Success Criteria:

- (i) Review of Physical Education in the primary phase completed and new arrangements to enhance provision in place;
- (ii) Partnership with Health and Social Services Physiotherapy Department developed to facilitate joint work in sports centres;
- (iii) Plans in place to enable ESC to respond appropriately in the event of a pandemic or similar emergencies;
- (iv) Exercise Referral Scheme supported maintained and extended to meet demand;
- (v) Healthy Schools programme maintained and extended;
- (vi) Safer Routes to School plan progressed as part of Transport strategy.

Strategic Plan Priority: 6, 9 and 11

Objective 7: To continue the development of programs to raise environmental and social awareness

Success Criteria:

- (i) Curriculum developed to provide greater focus on environmental and social issues;
- (ii) Environmental Co-ordinator appointed;
- (iii) Focused events such as Environment Week further developed;
- (iv) Review of Personal Social and Health Education completed.

Strategic Plan Priority: 13

Objective 8: To promote our unique culture and identity

Success Criteria:

- (i) Improved focus on cultural activities across the Island;
- (ii) Stronger partnership developed with Economic Development to promote culture, tourism and economic activity;
- (iii) Review of investment in Arts Trust and Jersey Heritage Trust completed;
- (iv) Promotion of the Island's heritage, culture and arts maintained via partnership agreements with JHT and other bodies;
- (v) Implementation of Cultural Strategy monitored and reviewed with a fully-costed plan showing the total cost of implementation prepared and presented to the States by April 2010';
- (vi) Environment established to develop creative endeavour;
- (vii) Development of local history, culture and the workings of Jersey's political system delivered through as part of Personal, Social and Health Education curriculum;
- (viii) All States departments encouraged to consider the impact on heritage and opportunities for the development of the arts as part of their daily business;
- (ix) Increased awareness of our historical and cultural heritage through the school and youth work curriculum schools youth groups, adult education and partnership agreements with voluntary organisations.

Strategic Plan Priority: 15 and 16

Objective 9: To manage staff and resources so as to improve performance and provide value for money

Success Criteria:

- (i) Financial forecasting system in place;
- (ii) Financial balance achieved and total budget and spend profiles consistent with forecast;

- (iii) Costs of each defined service area and relevant overheads identified, so that meaningful comparisons can be made year to year and with other jurisdictions;
- (iv) Management costs minimised to ensure maximum resources are directed to front line services;
- (v) Explicit link between budget prioritisation process and Strategic Plan objectives demonstrated;
- (vi) Review of internal control systems ensures adherence to financial directions;
- (vii) Prioritisation across sections of the department ensures corporate objectives are resourced and achievable;
- (viii) Effective financial planning, monitoring and reporting evident across all sections of the department;
- (ix) Annual review of demographics completed and implications for future services identified;
- (x) Review of funding arrangements for schools completed;
- (xi) Review of management structure of ESC Department undertaken by April 2010 to ensure it is fit for purpose and cost effective.

Strategic Plan Priority: 4

3.19 DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING CURRENT PRIORITIES IN THE ANNUAL BUSINESS PLAN 2010:

Question

Could the Minister advise the Assembly what her current priorities are in the Health and Social Services Department and advise why she has chosen these in particular for 2010?

Were there other priorities which she wished to address but was unable due to financial or manpower constraints, and, if so, what were they?

Answer

The priorities for my department in 2010 are those identified in the States business plan which was debated and approved in September. I am very aware, in these times of limited resources, that expenditure must be based upon sound planning, evidence of need and an assessment of where the greatest risks to patients and clients lie. It is no secret that our greatest current risks are in maintaining sustainable hospital services and in the provision of services to vulnerable children.

The additional funding granted by the States for nurse staffing, therefore, is most welcome and will enable significant steps to be taken in bringing staffing levels up to the level required in a modern and safe health service environment. In a similar way the allocation of new funding to enable the Williamson Plan to be implemented is most welcome. This plan will lead to the reconfiguration and modernisation of services for vulnerable children and their families and is a major priority for 2010. Included within it is a commitment to launch a rolling programme of independent inspection of all aspects of children's services and to this end a preliminary agreement has been signed with the Social Work Inspection Agency.

The sterling work undertaken so far, by an impressive range of individuals and services working together to meet and manage the challenge of swine flu, will continue to be a very high priority for

my department in the early part of 2010. Our ability to purchase a limited number of additional long term care beds locally and specialist placements in the UK is also welcome.

There is also a requirement that steps already taken to meet the shortfall precipitated by the abrupt cessation of the Reciprocal Health Agreement are followed up, in conjunction with Guernsey and the Isle of Man, to explore whether there is any prospect of negotiating preferential arrangements into place.

In the coming year my department will also be heavily involved in a number of other high profile issues that are consistent with the diverse portfolio of Health and Social Services. Though not exhaustive, these include work resulting from the Historic Child Abuse Inquiry, the advancement of the Integrated Care Record Programme, and the promotion of a Sustainable hospital, including the provision of additional inpatient beds to help manage increasing demand. These priorities will extend beyond 2010 and further and additional investment will be required into the future to ensure that progress on all of these fronts can be maintained. It goes without saying that had more resources been allocated then we could have stepped up this programme of investment in 2010 rather than having to delay to 2011 and beyond.

It is already evident that the initiative to bring the nursing work force up to recommended levels, whilst also increasing bed capacity, will take at least a further two years to bring to fruition. There is also pressure to underwrite and expand the senior medical workforce during the next few years as a significant number of consultants approach retirement in an environment where their successors are likely to be more specialised in their training and therefore lack the generalist skills and experience of the incumbents.

There is also a need to undertake a thorough review of how the Health and Social Services property portfolio should best be managed in the future. I will be seeking support, in conjunction with property services, to undertake a detailed feasibility study of the options available in relation to the future of the General Hospital as I am in little doubt that very considerable investment will be required in bringing facilities up to date and ensuring that they are appropriate for the 21st century.

It would also have been my hope to have taken some early steps towards implementing New Directions, a key component of which is the Health for Life strategy where significant changes will be required in the population's behaviour in relation to their own health and well being. This is recognised in the States Strategic Plan 2009-2014 where the following emphasis is made:

“A major shift in health and social care policy is needed if we are to improve Islanders' health and social well-being enough to head off the projected increases in health care costs. We need to put the emphasis on prevention, rather than cure, and make the healthy choice the easy choice”

In the first year of implementation, now not likely to be before 2011, investment will be focused upon children with emphasis being placed upon extending the Healthy Schools programme into more and more island schools. This approach will improve children's lifestyle, academic performance and subsequent prosperity as they grow into adulthood. An early priority will be to establish a weight management pathway and to introduce a healthy school meals policy. Targeted action is also to be focused on young people and their relationship with alcohol and tobacco. The longer that we delay the start of these programmes the more that problems will build in the future.

A good case in point is obesity which is now a major public health threat for the 21st century. Unless we act soon many children will become morbidly obese; the number of islanders requiring corrective bariatric surgery has risen very substantially in recent years and, given additional resources, I would have liked to have been able to invest in a waiting list initiative for these individuals during 2010, but once again this has had to be deferred.

Members will be aware that we are continually faced with above inflation increases in costs for items such as drugs and other supplies. Increased investment is always required, therefore, to maintain current levels of safe patient care.

3.20 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING PLANNING PERMISSION FOR THE PHASE 3 WAREHOUSE PROJECT OVERSEEN BY THE WATERFRONT ENTERPRISE BOARD:

Question

What was the scope of the 'Phase 3 Warehouse Project' which the Waterfront Enterprise Board was employed by the Harbours Department to manage, why was the initial application rejected by Planning, why was the project not pursued to completion, did senior officers advise that outline planning be obtained before embarking on the project and, if so, why was it ignored?

Would the Minister advise what amount was paid to WEB for this work?

Answer

The Phase 3 Warehouse Project is an extremely important development to meet the operational requirements of the port. 99% of all freight to and from the Island passes through the Port of St Helier, with approximately 70% of this passing through the Elizabeth Terminal. Plans to construct a warehouse in this location were identified in the 2002 Port Masterplan.

The potential tenant for the new warehouse is the largest logistics operator in Jersey. They account for approximately 60% of the ro-ro freight market, operating a distribution service across all temperature ranges to both the retail and wholesale markets. They rely on their depot to ensure timely deliveries in a sensitive market.

The current refrigerated warehouse is located on the New North Quay requiring freight to be transferred by road from the Elizabeth Harbour. Relocating the warehouse to the Elizabeth Harbour would remove 19,800 heavy vehicle movements annually between the ship and current warehouse. In addition, the facility is becoming outdated and does not meet European standards.

In 2004, the Waterfront Enterprise Board was employed to assist with the development of a number of sites within the Port Operational Area, including the co-ordination of development plans for the Phase 3 Warehouse, and to ensure that all waterfront developments were aligned as closely as possible for which they were paid £4,000 per month.

Initially an Application for Planning in Principle was made to:

Construct new warehouse No 3 and extend warehouse No 2. Create opening in wall to terminal area from the Albert Pier with new footbridge over. New upper level parking deck over existing car park. Associated parking and access alterations. Demolish northern part of existing Albert Pier terminal building. Alterations to customs building adjacent to Elizabeth Terminal.

In October 2005, this application was refused in principle for the following reasons:

- The Environment and Public Services Committee considered that there was insufficient justification to allow the proposed breach in the harbour wall

- The scale and size of the proposed warehouse No 3 would have a harmful overbearing impact on the amenities of the residents of the Harbour Reach development
- The proposed access arrangements to the Elizabeth Terminal would give undue priority to commercial, rather than passenger, traffic.

A revised Planning Application was eventually made in 2008 by Ferryspeed, rather than Jersey Harbours, to:

Demolish existing temporary building and structures. Construct new temporary warehouse with canopy and car parking.

The Planning Application was withdrawn in November 2009 before being discussed by the Panel due to the Officer Recommendation that permission be refused on the basis that:

- The application is unacceptable due to the impact on Harbour Reach and as it is a piecemeal approach to development which fails to make provision for its wider implications.

As part of the review process, objections were raised relating to the visual impact and scale in relation to Harbour Reach and Castle Quay.

Jersey Harbours will be supporting the application to completion.

3.21 SENATOR P.F. ROUTIER OF THE PRESIDENT OF CHAIRMEN’S COMMITTEE REGARDING SCRUTINY PANEL MEETINGS AND MINUTES OF THE MEETINGS:

Question

Would the President please list for the period starting January 2009, the number of times that each of the Scrutiny Panels and Sub Panels have met and the number of sets of minutes outstanding on 20th November 2009 to be signed and published from each Panel?

Answer

The tables below give the information requested in respect of formal Panel and Sub-Panel minuted meetings. It does not take into account occasions when Panels have met for other purposes such as briefings from Ministers or Executive Officers which are not minutes or for hearings which have formal transcription. I have included the PAC meetings, albeit they are not technically a Scrutiny Panel or Sub-Panel and are therefore outside the remit of the question.

Main Panels

Panel	Corporate	Economic	Ed/HA	Env	HSSH	PAC
Meetings	55	39	27	14	17	20

Outstanding signing	1 awaiting signing	17 awaiting signing ¹	1 awaiting signing	3 awaiting signing	1 awaiting signing	1 awaiting signing
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Sub-Panels

Panel	Sub-Panel	No. of meetings and minutes awaiting signing
Corporate	Migration and Population	19 meetings, 1 awaiting signing
	Jersey Development Company	14 meetings, all signed
	Waterfront Enterprise Board	1 meeting, signed
	Finance Sub-Panel	7 meetings, 2 awaiting signing
Economic	No Sub-Panels	
Education/HA	Prison Board of Visitors	3 meetings all signed
	School Suspensions	2 meetings, signed
Environment	No Sub-Panels	
HSSH	Income Support 1	17 meetings, all signed
	Income Support 2 benefit Levels	5 meetings, 1 awaiting signing
	Co-ordination of Services for Vulnerable Children	19 meetings, all signed
PAC	No Sub-Panels	

3.22 DEPUTY J.A. MARTIN OF ST. HELIER OF THE CHAIRMAN OF COMITÉ DES CONNÉTABLES REGARDING THE USE OF WARRANT CARDS BY THE CONNÉTABLES:

Question

Following the response to an oral question on 17th November 2009, would the Chairman inform the Assembly how, and in what capacity, six of his fellow Connétables have used their warrant cards and supply the Assembly with the dates and the purposes in which the warrant cards were used?

Could he confirm whether they were used to identify the individuals concerned as a politician or a policeman?

Answer

¹ These outstanding Minutes were approved at the meeting of 23rd November 2009

Two of the six Connétables have advised me that to date they have each used their warrant card on one occasion, the date of which was not recorded. One used it as a proof of identity only (i.e. neither as politician nor as policeman) and the other used it for identity as a Connétable. The Connétable of St Peter answered this question on 17th November 2009 and the details are recorded in the States minutes. The other three Connétables have not had occasion to use their warrant cards.

3.23 THE DEPUTY OF ST. MARY OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING SERVICES PROVIDED BY FITCHNER CONSULTING ENGINEERS LIMITED:

Question

Following the response given to a written question on 3rd November 2009, regarding the services provided by Fichtner Consulting Engineers Limited, can the Minister –

- a) explain to members the discrepancy between the figure given in P.72/2008 and P.73/2008 of £6.85 million for project management costs and the figure we have now been given of £1,492,200?
- b) provide an itemized and exact breakdown of the payments made so far and what they were for?

Answer

- a) The figure of £1,492,000 is in response to question 1240/5(4878) which asked “who are the Project Management consultants for the construction of the incinerator, how they were selected to carry out this task, the total value of the contract, the nature of the services which they are contracted to carry out for that sum”.

The “Project Manager” is a defined term in the Institution of Chemical Engineers (IChemE) form contract “The Red Book” which is being used for the Energy from Waste project. Fichtner Consulting Engineers are undertaking the “Project Manager” role and acting as the States of Jersey consultants for the construction of the Energy from Waste plant for the fee of £1,492,000.

The £6.85 million for project management costs stated in P72/2008 and P73/2008 are the budgeted project management costs for the whole project.

- b) The Project Management payments paid up until the end of September 2009 are detailed below. It should be noted that the costs associated with the project management of the scheme are only partially attributed to Fichtner Consulting Engineers. The text in italics summarises what each heading comprises of:-

EfW Feasibility costs (*Pre-approval Costs: Outline and Detailed Planning, EIA, HIA, , Site Development and Investigation, Enabling Works Design, Relocation Works Design, Specification Preparation, Tender Evaluation and Development, Contract Agreement Preparation, Architectural Design Reviews*) £2,482,922.69

EfW Client Team Costs (*Staff salaries, Administrative overheads*) £428,119.83

Technical Adviser Costs (<i>Development, Planning, CDM, Enabling Works</i>)	£141,324.10
Legal, Insurance & Financial fees	£259,658.71
EfW Project Management during Construction (Project Manager Costs)	£422,067.06
Enabling Works Project Management during Construction	£182,692.74
Air Quality Monitoring	£28,658.73
Asbestos Supervisor	£78,349.43
EfW Project Insurance	£278,265.70
EfW Feasibility costs	£2,482,922.69
EfW Client Team Costs	£428,119.83
Technical Adviser Costs	£141,324.10
Legal, Insurance & Financial fees	£259,658.71
EfW Project Management during Construction	£422,067.06
Enabling Works Project Management during Construction	£182,692.74
Air Quality Monitoring	£28,658.73
Asbestos Supervisor	£78,349.43
EfW Project Insurance	£278,265.70

3.24 THE DEPUTY OF ST. MARY OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING DATA ON ROAD ACCIDENTS:

Question

Can the Minister advise the Assembly what information, if any, is recorded about each road accident in the Island, how this data is held, the categories and columns used (assuming it is in spreadsheet form), and if not in spreadsheet form, how the data is made collatable?

Can the Minister further advise what analysis is performed on the data, and whether any form of report is generated from the data, and at what intervals?

Answer

Road traffic collision data is collected, collated and recorded by the Home Affairs Department who annually pass the data (excluding the registration numbers of vehicles) to the Transport and Technical Services Department (TTS). The Home Affairs Department has changed its system but the latest data incorporated all the fields attached at Appendix A to this answer.

Annually, TTS also plots all reported injury accidents onto mapping layers using the States of Jersey GIS Mapping facilities. The map plots are used on a day to day basis by various members of the Department's Traffic Engineering team as and when issues arise, planning applications are reviewed or various traffic management proposals are investigated or reviewed. The data also provides information to help the TTS assess where and why road accidents occur.

Officers at TTS analyse the data to provide the key performance indicators for the States Annual Performance Report as detailed in the table below:

ROAD TRAFFIC COLLISIONS 2005 - 2008

Indicator	2005	2006	2007	2008
Number of road traffic collisions reported ²	1,592	1,828	1,835	1,926
Number of road traffic collisions with injury ³	322	337	314	357
No road traffic collision victims killed/seriously injured per 100,000 population ⁴	30.6	38.5	31	39.6
No road traffic collision victims slightly injured per 100,000 population	334	337	356	463

IMPORTANT NOTE

Prior to March 2008, road traffic collision statistics were subject of a separate paper form submitted by the investigating officer.

In March 2008, road traffic collision data began to be gathered through the VIEWPOINT recording system, which facilitated closer monitoring of the accuracy of records and also eliminated the possibility of paper forms being lost. It is likely that some of the increase shown in 2008 is due to the introduction of more accurate recording processes in States of Jersey Police

² Number of RTCs reported is the number of road traffic collision incident logs recorded by the States of Jersey Police Force Control Room.

³ Number of RTCs where at least one person sustained an injury

⁴ Based on 2007 estimated population of 90,800

Appendix A

Extracted field headings in road traffic collision data base provided to TTS by Home Affairs from 2000 to 2007

Year	Form	OIC
Department	File reference number	Year code
Class code	Number code	Date
Month	Time	Hour
Number of casualties	Number of vehicles	Day of week
First contributory factor	Second contributory factor	Third contributory factor
Speed limit	Place collision reported	Parish
Exact location of accident	Grid location of accident	Public services location grid
Roadtype	Road surface conditions	Weather
Light Conditions	Carriageway Hazards	Junction Details
Junction control	Pedestrian crossing - human control	Pedestrian crossing physical facilities
Special conditions at site	Are there any casualties?	Age of first casualty
Age range of first casualty	Vehicle reference number of first casualty	Post code of first casualty
First casualty - special code	Age of second casualty	Age range of second casualty
Vehicle reference number of second casualty	Post code of second casualty	Second casualty - special code
Age of third casualty	Age range of third casualty	Vehicle reference number of third casualty
Post code of third casualty	Third casualty - special code	Class of first casualty
Class of second casualty	Class of third casualty	First casualty - type of vehicle
Second casualty - type of vehicle	Third casualty - type of vehicle	Sex of first casualty
Sex of second casualty	Sex of third casualty	Severity of first casualty
Severity of second casualty	Severity of third casualty	Car passenger position of first casualty

Car passenger position of second casualty
Second casualty - PSV passenger
Second casualty - cycle helmet
Second casualty - pedestrian location
Second casualty - pedestrian movement
Second casualty - pedestrian movement
Second casualty - school pupil casualty
vehicle movement driver 1-to
Third driver - vehicle movements from
Age of second driver
Age range of third driver

Car passenger position of third casualty
Third casualty - PSV passenger
Third casualty - cycle helmet
Third casualty - pedestrian location
Third casualty - pedestrian movement
Third casualty - pedestrian movement
Third casualty - school pupil casualty
Second driver - vehicle movements from
driver 3 movement to
Age range of second driver
First driver - other vehicle hit

First casualty - PSV passenger
First casualty - cycle helmet
First casualty - pedestrian location
First casualty - pedestrian movement
First casualty - pedestrian movement
First casualty - school pupil casualty
First driver movements-from
driver two movement to
Age of first driver
Age of third driver
Second driver - other vehicle hit

Extracted field headings in road traffic collision data base provided to TTS by Home
from 2000 to 2007

Third driver - other vehicle hit	First driver - post code	Second driver - post code
Third driver - post code	First driver - special code	Second driver - special code
Third driver - special code	First driver - type of vehicle	Second driver - type of vehicle

Third driver - type of vehicle	First driver - towing and articulation	Second driver - towing and articulation
Third driver - towing and articulation	First driver - first point of impact	Second driver - first point of impact
Third driver - first point of impact	First driver - parts damaged	Second driver - parts damaged
Third driver - parts damaged	First driver - manoeuvres	Second driver - manoeuvres
Third driver - manoeuvres	First driver - vehicle leaving carriageway	Second driver - vehicle leaving carriageway
Third driver - vehicle leaving carriageway	First driver - skidding and overturning	Second driver - skidding and overturning
Third driver - skidding and overturning	First driver - hit object in carriageway	Second driver - hit object in carriageway
Third driver - hit object in carriageway	First driver - hit object off carriageway	Second driver - hit object off carriageway
Third driver - hit object off carriageway	First driver - caught fire	Second driver - caught fire
Third driver - caught fire	First driver - overshoot/restart	Second driver - overshoot/restart
Third driver - overshoot/restart	First driver - sex	Second driver - sex
Third driver - sex	First driver - breath test	Second driver - breath test
Third driver - breath test	First driver - hit and run	Second driver - hit and run
Third driver - hit and run	First driver - vehicle location at time of accident	Second driver - vehicle location at time of accident
Third driver - vehicle location at time of accident	First driver - vehicle loc at time of collision	Second driver - vehicle loc at time of collision
Third driver - vehicle loc at time of collision	First driver - junction location of vehicle at first impact	Second driver - junction location of vehicle at first impact
Third driver - junction location of vehicle at first impact		

3.25 THE DEPUTY OF ST. MARY OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING RECYCLING FACILITIES IN SCHOOLS:

Question

How many schools have facilities for recycling with separation of different categories of recyclables? Is the separation available throughout each school or only at one point?

Answer

All primary and secondary schools recycle to some extent. This is being developed further and is becoming a normal part of school life.

Facilities are available in most schools for separating different categories such as paper, plastic and aluminium. Some schools are also involved in composting.

Materials collected are recycled in a variety of ways. Some are used in Art and Craft activities and school project work. Clothes and aluminium cans are collected by some schools to help raise funds for charitable organisations. Other schools take materials to recycling points in the Island.

Paper recycle bins are common place in classrooms and administration areas. Deposit bins for other materials are distributed in central school areas.

Two particular primary schools are currently collecting plastic bottles to build their own eco-greenhouse and another has established an eco-team comprised of pupils, parents and staff. This school has composting facilities for each classroom and eco-mentors responsible for recycling other items.

The department is keen to encourage schools in this respect and to work with other departments to promote a culture of environmental awareness.

4. Oral Questions

Deputy S. Power of St. Brelade:

Before we start Oral Questions, would you indulge me for 30 seconds. I want it on record that I think it wrong that Deputy Trevor Pitman did what he did this morning and I think it was wrong of Senator Syvret to ask him to do it, and I hope it never happens again.

4.1 Deputy D.J.A. Wimberley of St. Mary of the Minister for Planning and Environment regarding planning permission given for the Zephyrus project on the Waterfront:

Can the Minister give an assurance that no planning permission will be given for the Zephyrus project on the Waterfront until the Scrutiny Panel report on the planning processes and errors made surrounding the Energy from Waste plant is published and until the pending court case around the major pollution incident of La Collette is heard?

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

I have a duty to determine planning applications submitted to my department within a reasonable period of time. I shall not do this, however, until I am satisfied that the key elements of the development have been fully assessed. My department has not yet completed its review of the proposed development and, as a result, I am not able to determine the application at this time. I anticipate being in a position to do so in January 2010. To unduly delay determination of the application to await the Scrutiny Report on the E.f.W. (Energy from Waste) may be considered an unreasonable delay. This is particularly the case as the E.f.W. is at a different site. However, should the report be available before I determine the application I will, of course, take into account any relevant findings. On the matter of a court case, I am not aware that any decision has been taken to instigate a court case. I will of course take into account any submissions made by the Deputy in relation to the Zephyrus application prior to determination.

4.1.1 The Deputy of St. Mary:

I am a bit surprised by that answer and I am going to leave the Scrutiny aspect to others but we seem to be in the “school of not learning from past mistakes”. Has the Minister been kept informed of the progress of the inquiry into the criminal investigation into the pollution incident at La Collette or incidents - we do not know - which has taken 7 months so far? Has the Minister been kept informed and if it was a major incident, is it not irresponsible not to learn from it, and if it was a minor incident, why has it taken 7 months and we are still waiting for it to go to the Attorney General?

Senator F.E. Cohen:

I have been regularly updated by my officers on the developments in relation to this matter and I am not able to say at this time what the extent of the infractions, if any, were and of course we will endeavour to learn from the experience should this be considered to be significant or insignificant. Thank you.

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

As the regulator, I find it hard to understand why the Minister is considering moving ahead with giving a permit on the site until he has had the ruling from his officers and from the Attorney General whether or not a prosecution may take place on the Energy from Waste site because as that is a leader in whatever contaminants may be in the overall site in that area, it is a leader on any permit that may be given on the pre-site which is the Zephyrus site on the West of Albert. Therefore, I have some concerns that you may be considering giving a permit without finalising the outcome of the Energy from Waste site.

Senator F.E. Cohen:

In relation to the Energy from Waste site, this is of course a different site but I can assure the Deputy and Members that I will do everything I can to ensure that best practice is followed, but I cannot unreasonably delay determining the application. All I can do is to ensure that if the application is approved - and of course it is only "if" at this stage - that best practice is followed and that appropriate conditions are attached to ensure that the Island and Islanders are properly protected in relation to work on the site. Thank you.

4.1.3 Senator B.E. Shenton:

I have a colleague in the U.K. (United Kingdom) that has been waiting 2 years for the determination of a planning application due to the sensitivity of the project and my colleague does not consider this unreasonable. Does the Minister for Planning and Environment not agree that it is better to make the right decision rather than a quick decision?

Senator F.E. Cohen:

Yes, I most certainly do agree that it is better to make the right decision rather than a quick decision and all I can say is that I have not made a quick decision and we are not yet in a position to determine the application because the application has not been fully assessed, but I have informed the House because I believe it was appropriate to do so but we expect to be in a position to determine the application in January of next year. That of course may change. Thank you.

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

Does the Minister not think that, given his historically good relationship with Scrutiny, it appears very odd that if Scrutiny were to come up with a report which might well question some of the fundamentals of his decision and he has ignored Scrutiny, is it not his job to liaise with Scrutiny, find when they are reporting and try and get some agreement in order to work on their report and respond to it?

Senator F.E. Cohen:

I most certainly have no intention of ignoring Scrutiny. Indeed, I always endeavour to work with Scrutiny as far as is possible but this must be taken within the context of my obligation under the Planning Law. I certainly am more than happy to discuss the matter with the chairman of the Scrutiny Panel and to take on board any points he wishes to make in relation to this application before it is determined. Thank you.

4.1.5 Deputy R.G. Le Hérisier:

A supplementary. Could the Minister therefore assure the House that, if Scrutiny is reporting within a reasonable time and it does not lead to undue delay, he will be incorporating its findings into his determination?

Senator F.E. Cohen:

I cannot give an assurance in relation to timescale. All I can say is that I am unable to unreasonably delay the application because that would not be complying with my obligations under the Law. What I will do is commit to engage with the chairman of Scrutiny and to take on board any points he wishes to make in relation to this application before I determine the application. I, of course, hope that the full report will be ready in time but it may be that there are sections of the impending report that he wishes to make available to me before I determine the application. Thank you.

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

The Minister keeps referring to his obligations and the unreasonableness of any delay. Under what conditions does he believe that waiting for a report from Scrutiny on this particular subject could in any way be deemed as unreasonable?

Senator F.E. Cohen:

I am prepared to wait a reasonable time to determine the application, as I have already said, but we must remember that the Scrutiny Report does not relate specifically to this site and, therefore, it is a question of how long it is reasonable to delay determination of this application based on a report relating to another site. But I will endeavour to take on board any points Scrutiny wishes to make that are delivered to me within time and to give plenty of notice of when I intend to determine the application. Thank you.

4.1.7 The Deputy of St. Mary:

The Minister says that it is a different site. The fact is the contamination, as we all know, is far, far worse on the site Zephyrus and the processes of environmental impact statement and assessment and mitigation are exactly the same, so I find it astonishing that he is talking about having no intention of ignoring Scrutiny. I put it to him that he has every intention of ignoring Scrutiny. He does not give a toss about the Scrutiny Report. I am sorry. He has not said: "I will wait for it." It is 10 months work, over £20,000 of expert advice, it is a big report and it will have major conclusions because we already know the outline.

The Deputy Bailiff:

Your question, Deputy?

The Deputy of St. Mary:

I would ask the Minister whether he is insisting on basically sidelining Scrutiny and refusing to learn from the past, both with respect to Scrutiny and with respect to the court case?

Senator F.E. Cohen:

I regret the language used by the Deputy in his question. **[Approbation]**

The Deputy of St. Mary:

I apologise for that particular term of phrase but I am very upset and I think everyone who takes the environment and its importance to heart would be upset too.

Senator F.E. Cohen:

I have given an undertaking to the House that I will take on board any points that Scrutiny wishes to make. I will give plenty of notice to Scrutiny as to my intended date of determining the application. I will not rush it through but I cannot just give a blanket assurance that I will wait for ever for a Scrutiny Report.

Deputy G.P. Southern:

May I seek a ruling for future guidance of Members on the use of the phrase "give a toss"? Is that parliamentary or is it not because I might be tempted to use it myself if it is?

The Deputy Bailiff:

If you wish to have a ruling on the hoof, the ruling would be that it is not parliamentary language. I invite the Deputy of St. Mary to ask the second of the deferred questions to the Minister for Planning and Environment.

4.2 The Deputy of St. Mary of the Minister for Planning and Environment regarding water samples taken and tested from the Castle Quay site whilst excavations took place:

Having been annoyed once, let us see if it gets better. Were water samples taken and tested from the Castle Quay site while excavations took place when it was known that the works were within reclaimed land containing loose, dumped hazardous waste and the site was being flooded with sea water twice a day to a depth of several feet and, if not, why not?

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

The Assistant Minister Deputy Duhamel with responsibility for Environment will answer this question.

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

In order to comply with the conditions of their planning permission, the site developers at Castle Quay were required to draft a constructionally environmental management plan. One of the outputs of this plan was that a monitoring regime would be put in place to determine water quality in the area adjoining the construction site, namely the Elizabeth Marina. Water samples have therefore been taken and tested. The monitoring data has been supplied to our department's officers. Last week, this information was sent to the Deputy of St. Mary and I hope he finds it useful. I also understand that the Deputy has some further questions about the data which I am advised that the department will respond to at their earliest opportunity. I am advised that the results so far do not provide any evidence of pollution to the marina area from the Castle Quay development. In the Minister's responses to the Deputy's previous written questions on this issue he stated that no tests have been undertaken by his department on sea water in the excavation of the Castle Quay site. There is no regulatory requirement to do so under the Water Pollution (Jersey) Law 2000.

4.2.1 The Deputy of St. Mary:

The C.E.M.P. (Construction Environment Management Plan) to which the Assistant Minister referred is currently unavailable on the website, because I looked it up, so I would just quote from the outline, which was in the written question to which the Assistant Minister referred - the answer to the written question on 6th October - where it says... and this is the outline of clause 3.8: "Assurance that waters potentially coming into contact with contaminated materials will be disposed of to the satisfaction of the States of Jersey." Now, I put it to the Assistant Minister that, clearly, sea water came into contact with contaminated material and I would like him to tell the House how the States of Jersey were satisfied that the sea water was disposed of satisfactorily.

Deputy R.C. Duhamel:

The role of regulator of Water Pollution (Jersey) Law 2000 gives the officers contractual obligations in order to satisfy themselves, on behalf of the States, that the conditions that have been put in place by the Construction Environmental Management Plan are to their satisfaction and, indeed, the satisfaction of the Island. Those reports can be made available if, indeed, the Deputy wishes to look at them.

4.2.2 The Deputy of St. Mary:

I am still puzzled. The basic point seems to escape the Assistant Minister, that when the sea water runs over the polluted material and then runs back again - by the way, not into the marina but into

the bay - then there has to be proof that the States of Jersey is satisfied that that sea water is disposed of adequately. He still has not given the House any indication of how that was achieved.

Deputy R.C. Duhamel:

I am advised that there have been no transgressions of the Water Pollution (Jersey) Law 2000 and, as a consequence of that, I am not aware of any evidence of pollution, either, of controlled waters.

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

I would like to hear from the Assistant Minister if he considers it to be appropriate that sea water is not only coming into contact with the contaminants of the site, but mixing with leachate and then going out into the bay. Does he consider that appropriate?

Deputy R.C. Duhamel:

I do not consider that appropriate and I would be surprised if, indeed, that is the case. Leachate is a polluted water and, as such, should be treated according to the water pollution rules. If, indeed, these rules are being transgressed or not carried out properly then, indeed, I can understand the Deputy's concerns, but to my best knowledge, at present, no such transgressions have been made.

4.2.4 Deputy R.G. Hérissier:

Is the Assistant Minister aware of the need to maintain a detailed oversight, given the allegations that have been made that a project manager has allegedly been dismissed because of whistleblowing on environmental issues on an associated site?

Deputy R.C. Duhamel:

I am not at liberty at the moment to divulge any information, if indeed I had it, if there is potential for an ongoing legal case. We have been told on many occasions by this House that if issues are potentially *sub judice* or actually *sub judice* then we should not discuss them. My advice, at the moment, is that I am unaware that there is a court case pending and when we get to that stage then I will be able to give a fuller answer.

4.2.5 Deputy R.G. Hérissier:

Would the Assistant Minister assure the House that he is taking a very close interest in this matter and, without micro-managing it, he is ensuring he is getting independent advice and support.

Deputy R.C. Duhamel:

Absolutely; the House can be informed that I did take an interest in this issue a number of months ago, before the work started, because there were reports of transgressions and I satisfied myself that all that could be done, in order to minimise pollution or to effectively deal with it, was being done.

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

I would like to ask the Assistant Minister - although having set out in his earlier answer that discussing matters that are possibly *sub judice* should be steered away from - could he please circulate the Environmental Scrutiny Panel with the analysis of the sample that was taken on the other site, in relation to the pollution that occurred when laying foundations for the incinerator, as that has been denied us, in the first instance and our duty of care, from a Scrutiny capacity, is being undermined in that respect because of that and mine, personally, as Deputy for that district, is being harassed and blocked because we are not able to analyse what was in that sample. Having already offered the previous sample to the Deputy of St. Mary, when everything was fine and hunky-dory, is he now able to offer us the results of the other test?

Deputy R.C. Duhamel:

I am not exactly sure that the question from the Deputy is a supplementary on what we are talking about. The information does refer to water samples being taken and tested from the Castle Quay site and this, indeed, is in a different place.

The Deputy Bailiff:

That, in my view, is a fair answer from the Assistant Minister.

Deputy P.V.F. Le Claire:

On a point of order, Sir. Standing Orders were changed that supplementaries did not have to refer to the original question, in my understanding [Laughter] and as long as - I certainly remember this - and if it was the case then we can strike out 90 per cent of the States Hansard. I would like his answer.

The Deputy Bailiff:

Are you able to help me with the Standing Order to which you refer, Deputy? [Laughter]

Deputy P.V.F. Le Claire:

I could ask advice from the A.G. (Attorney General). I have my copy of Standing Orders. It is just that I do recall this. I have a peculiar memory for some peculiar things; this is one of them, unless it is incorrect.

The Deputy Bailiff:

On this occasion, Deputy, your memory, peculiar as it may be, has let you down, because Standing Order 63(4) says: "Any Member of the States may, within the time allowed by the presiding officer for the purpose, ask one or more supplementary questions relating to the subject matter in question" and, in my view, a question about water samples from a different site from the site which is the subject of the question does not relate to the subject matter of the question.

4.2.7 Deputy A.K.F. Green:

Further to my question, where the Assistant Minister seemed to be unsure that sea water was coming into contact with the contaminants and leachate, I can assure the Assistant Minister that definitely is the case. The tide comes in twice a day and floods the site and then empties out into the bay. Does the Assistant Minister think this is an acceptable situation and, if not, what is he going to do about it?

Deputy R.C. Duhamel:

The construction of the made-up land at Castle Quay was subject to environmental considerations when the ground was being made up. To my best recollection, any hazardous materials from the bottom ash component or the fire ash component - in fact I do not think there was a fire ash component from the incinerator, but there is certainly a bottom ash, which was put into that made up site - there was a lot of discussion, many years ago, as to the environmental sense of dealing with this matter in this way. What happened, towards the end of the contract, was that any hazardous materials, loose materials, were put on top of the site and not in the bottom of the site. The sea water comes in from the base; it does not come in from the air and fall as rain on to the site. The site was engineered taking that into account and, indeed, the waters that fill and deplete the marina are dependent upon the waters flowing in and out of the site. What I am getting around to saying, in a pretty long-winded fashion, is that, indeed, these issues were taken into account when the site was engineered and, indeed, for the removal of the materials which are on the top of the site, rather than at the bottom, special consideration was taken, when finding pockets of this material, to make sure that it was properly dealt with by Transport and Technical Services.

The Deputy Bailiff:

Could I remind Members and Ministers and Assistant Ministers, there is an obligation to be crisp in making your questions and supplementaries and crisp in your answers.

4.2.8 Deputy G.P. Southern:

I shall try, Sir. I shall try. Can I draw the Minister's attention to what he appears to be trying to say, that he has no evidence of pollution on this site and will he state yes or no whether a different phrase applies that he has evidence of no pollution, yes or no, on this site?

Deputy R.C. Duhamel:

I am told that there is no evidence of pollution of the controlled waters that are being caused to be polluted or not by the construction company.

Deputy G.P. Southern:

The Minister has avoided the question. The question was; does he have clear evidence that no pollution has taken place on this site, instead of just not having tested the right bit.

Deputy R.C. Duhamel:

The Water Pollution (Jersey) Law 2000 is not as black and white as the Deputy thinks. Pollution can be caused, but there has to be a mitigation process in order to clean up or to minimise any of the environmental problems that might occur. I am told that a report has been produced, by the department, investigation of possible contamination of marine biota from a land reclamation site and it states, within that report, that there is no evidence of contamination.

The Deputy Bailiff:

Deputy of St. Mary, as you have had 3 questions at the beginning, I think perhaps you would pass up your opportunity unless you are very swift indeed with your final question. We are not going to turn this into a debate. It is question time.

4.2.9 The Deputy of St. Mary:

I just want to point out to the Assistant Minister that the sea is a big place and the whole point is we are talking about toxic substances which bio-cumulate and that may take some time. Can the Assistant Minister assure the House that the C.E.M.P. has been followed in order to protect the environment? Can he assure the House that it has not been broken clause by clause?

Deputy R.C. Duhamel:

I am advised that the regulator is not aware of any evidence of pollution of controlled waters or any transgressions of the Water Pollution Law.

The Deputy of St. Mary:

The question; I did say has the C.E.M.P.'s provisions been complied with. I did not talk about monitoring water at Corbière.

Deputy R.C. Duhamel:

The whole point of the Construction Environmental Management Plan is that the construction and development company does follow the things that are laid out in order to assist the regulator in doing his job. The regulator is satisfied that he has done the job to the best of his ability and that there are no problems.

The Deputy Bailiff:

We come next to a question by the Deputy of St. Martin of the Chief Minister.

4.3 Deputy F.J. Hill of St. Martin of the Chief Minister regarding the Magistrate Designate's absence from Court duties:

Will the Chief Minister inform Members why the Magistrate Designate ceased performing his court duties as of 2nd June 2008; whose decision this was; why has he not been formally suspended; what, if any, additional costs there have been as a result of his absence since 30th September 2009; and when is he likely to return to full duty?

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

The Magistrate Designate ceased performing his duties on or about 2nd June 2008, at the request of the former Bailiff. It was then public knowledge, upon the execution of a search warrant, that the police were conducting an investigation into certain business affairs of the Magistrate Designate. The former Bailiff considered that it would be inappropriate, in those circumstances, for him to sit in court and the Magistrate Designate agreed. On the matter of suspension, I understand it is standard practice in the British Isles that a judge or magistrate who is under investigation withdraws from sitting in court. The former Bailiff consulted with the Lord Chief Justice in England and Wales on this matter before he saw the Magistrate Designate. The additional costs arising from the exclusion of the Magistrate Designate from court duties, between 1st October and 30th November, were £11,766. I cannot say when the Magistrate Designate is likely to return to full duty because that will be dependant on the outcome of the police investigation. Finally, I point out to Members that the Magistrate is not an employee but, rather, an office holder, so he does not come under the States Employment Board.

4.3.1 The Deputy of St. Martin:

I am well aware that the Magistrate is an office holder and this is one of the problems I think should be addressed by the States Employment Board. I do believe that everyone should be answerable to someone during the course of their employment. I welcome the answers given by the Chief Minister, but could I ask the Chief Minister about the police inquiries. Are there any police inquiries involving the Magistrate himself or is it the people around him? Because it appears to me that the people around him are not being charged, therefore if they are not being charged why is the Magistrate not being able to return to work?

Senator T.A. Le Sueur:

I do not have any knowledge of the police inquiry, so I am not really able to answer that question. As far as I am aware the inquiries remain ongoing and a search warrant exists.

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

The question refers to when the Magistrate Designate is likely to return to full duty: is he undertaking any duties at the moment, other than sitting in court?

Senator T.A. Le Sueur:

That is a matter I am unable to answer categorically. I believe he is still entitled to do his ordinary magistrates duties but not to sit in court. I cannot give a definite answer on that one, I am afraid.

4.3.3 The Deputy of St. John:

Could the Chief Minister confirm that the inquiry is an extensive inquiry from overseas, including America, *et cetera*?

Senator T.A. Le Sueur:

I have no knowledge of the details of the police inquiry. It is a matter for the police themselves to undertake. All I know is what any other Member can read and that is what is in the paper.

4.3.4 The Connétable of St. Lawrence:

It is a supplementary to my original question. Will the Chief Minister undertake to advise the House whether the Magistrate Designate is undertaking any other duties, as he was not able to answer?

Senator T.A. Le Sueur:

I am happy to do so, yes.

4.3.5 The Deputy of St. Martin:

I am grateful to the Connétable of St. Lawrence because I was going to ask that. I would like to go further. Could I ask that the Chief Minister reports to the States the actual situation as to where we are at the moment, because it appears that the Chief Minister does not know and I can understand that because he has not responsibility for him, but I would ask that the Members get a report from the Chief Minister for the next hearing as to the state of play as to the current situation and where we are at present and when police inquiries are likely to finish, if indeed they are involving the Magistrate himself.

Senator T.A. Le Sueur:

I appreciate the Deputy's question, but I do not think I am necessarily in a position to confirm when police inquiries might cease. That is a matter for the police themselves to judge and I am unable to really give an undertaking which, perhaps, would not be sufficient for Members' needs. I am happy to find out what information I can, but I think I have already disclosed that the Magistrate Designate is still suspended, police inquiries are ongoing and when they cease then, whatever action arises, an outcome will take place. But while the inquiries are ongoing, I do not think I can add much to my current answer.

The Deputy of St. Martin:

All I am asking of the Chief Minister is will he make inquiries with the police to see what the situation is. Quite clearly I cannot - I do not think any other Member can - but I am asking if the Chief Minister can make inquiries with the police.

The Deputy Bailiff:

I am not sure the Chief Minister is in any different position to you, Deputy, in that respect. Police investigations, as Members are aware, are a matter for the police and not for politicians. We come next to a question next by the Deputy of St. John of the Chief Minister.

4.4 The Deputy of St. John of the Chief Minister regarding contributions towards the British-Irish Council's aim of I.T. excellence:

Could the Chief Minister advise what contribution, if any, has been made towards the British-Irish Council's aims of I.T. (Information Technology) excellence, on which Jersey was asked to take the lead. What work has been undertaken, who paid for it and what costs were involved; and is the Chief Minister satisfied that the States' website meets or exceeds the B.I.C.'s (British Irish Council) standards?

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

Jersey has led a British-Irish Council work stream on the knowledge economy. There has not been a work stream for I.T. excellence. The most recent aim has been to promote and develop the sustainability of small businesses in the context of potential serious threats such as from criminal attacks or natural disasters. The focus of this work was in the area of small to medium-sized enterprises that are believed to be the most at risk. Possible preventative measures and business continuity planning were developed to strengthen business sustainability through a common set of best practice guidelines. The work has involved representatives of each of the administrations of

the British-Irish Council. Each member administration has covered their own costs, and the costs for Jersey were met within the existing budget for the Economic Development Department. The proportion incurred by the Economic Development Department is estimated to be in the order of £30,000, which would principally be a proportion of the salaries of existing staff who have contributed to the work stream. As to the internet site, I am not aware that the British-Irish Council has defined any standards with regard to internet sites. With regard to the standards met by the States' website, a company called Sitemorse - the independent company that runs monthly audits on U.K. local government websites - to check functionality, performance and accessibility, gave the States 8 out of 10 in September 2009, whereas a year previously the score was only 5 out of 10. Comparing the States' website against other local authority sites, Sitemorse, the company I have quoted, ranked the States 11th out of 429 sites for functionality, performance and accessibility. This was a significant improvement from a rank of 248th place a year earlier and I think it is a good example of how the States website has much improved as is continuing to improve.

The Deputy of St. John:

A comment if I may, more than a supplementary.

The Deputy Bailiff:

If it is a question. [Laughter]

4.4.1 The Deputy of St. John:

Yes, Sir, I will put it as a question. Will the Minister accept congratulations on moving this forward, but will he also confirm that more can be done to get us in the top league or the top 3?

Senator T.A. Le Sueur:

I am happy to receive the congratulations. I think to get 11th place out of 429 is a pretty good achievement in 12 months. If we can get in the top 10 I will be even happier and I am sure so will the Deputy of St. John.

4.4.2 The Deputy of St. Mary:

That was a very brief exchange, but I do wish to ask a question about the website. Does the Chief Minister not agree that the website, no matter what these consultants say who say that we are better than local authorities - well, maybe we are; maybe their websites are even worse - but, I am sorry, does the Chief Minister agree that the website is a major impediment to the work of States Members in that, for instance, if you search on a set of terms you get complete gibberish?

Senator T.A. Le Sueur:

I do not agree that the website is an impediment to States Members. I do agree that it is capable of further improvement and that is what is currently being undertaken.

4.4.3 Deputy M. Tadier of St. Brelade:

On the subject of information technology in the States and excellence relating to that, will the Chief Minister be using his influence to make sure that States Members can get Wi-Fi in the States Members' room rather than having to log on to the Wi-Fi of the Cock and Bottle?

Senator T.A. Le Sueur:

I think services provided to Members comes within the purview of the Privileges and Procedures Committee (P.P.C.), which I think the Deputy is a member of, but I am happy to work with them in that respect.

Deputy M. Tadier:

Any assistance that the Chief Minister could give in speeding this along would be appreciated.

4.4.4 Deputy J.A. Martin:

It is interesting to hear that we are of I.T. excellence. I was surprised given the presentation - I will not mention the name of the company - that we, as States Members, attended last Monday, where we are told that our actual ability to use this technology is about one-third of the capacity of our neighbouring island; so how are we excellent in I.T? I think that poses, maybe, a separate question, but it is very important. I cannot see we are excellent if we take half an hour to log on and Guernsey can get to England - oh I did say Guernsey - in a few seconds with their megabytes.

Senator T.A. Le Sueur:

The question I was answering was in relation to the States of Jersey website. It was not in relation to the Island's broadband or other provisions, which are a separate matter entirely on which there may well be different views. But as far as the States' website is concerned, I can confirm that we are in a very good position.

The Deputy Bailiff:

The final supplementary, the Deputy of St. John.

4.4.5 The Deputy of St. John:

I hope you will permit it. **[Laughter]** Will the Chief Minister support the introduction of Wi-Fi so Members can have computers within this Chamber, and all that goes with it, and convince his Council to support it?

The Deputy Bailiff:

That is a matter for the Chairman of Privileges and Procedures, I think. We come to the next question which is the Connétable of St. Lawrence who has a question of the Minister for Treasury and Resources.

4.5 The Connétable of St. Lawrence of the Minister for Treasury and Resources regarding the withdrawal from circulation of the Jersey one pound note:

What consideration, if any, is the Minister giving to withdrawing from circulation the Jersey £1 note?

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

I hope the Connétable will be delighted to learn the answer is none. **[Approbation]** I have no consideration of withdrawing the £1 note, indeed the new £1 note will form an important part of the new family of Jersey currency that will be launched early next year and released into circulation. I believe that the £1 note is popular with the public, it is part of our culture and it differentiates us from the United Kingdom together with the other Crown Dependencies. **[Approbation]**

4.5.1 The Connétable of St. Lawrence:

I thank the Minister for his answer. It has given me some comfort and I am sure those members of the public who contacted me, following questions at the last sitting, will be comforted by his response. The Minister referred to our culture in his answer and I wonder whether he would be able to explain how our culture is being strengthened by the issue of the new notes.

Senator P.F.C. Ozouf:

A very good question. I am trying to, in fact, reiterate and to reinforce aspects of our culture with the family of notes and what I can say to the Connétable is that I have decided, with my advisory group, to include on the rear of all of the family of new notes, the French language and also Jersey French - Jèrriaise - in terms of numbers. **[Approbation]** I am glad that Members are showing approbation. I have an example - they are not in the public domain yet - of the £50 note with me, which Members may well see. It says: "*États de Jersey Cinquante Livres*" and underneath it says

“*Chînquante Louis*” in the Jersey French language. **[Approbation]** That will be something that I hope, together with the splendid images that are on the new notes ... The £1 note will have the Liberation Statue on the front and Hougue Bie on the back, and I am afraid Members are going to have to wait for the other images as they are released early next year.

4.5.2 Deputy R.G. Le Hérissier:

Can the Minister deny a very disconcerting rumour that one of the images may well be the face of the Minister for Treasury and Resources? **[Laughter]**

Senator P.F.C. Ozouf:

If it were to be an April fool, that might be a good question. I believe that the only people that are entitled to have their image on the notes are Her Majesty - the monarch - and, indeed, anybody else, apart from that, who is dead **[Laughter]** and I do not know what the Deputy is trying to say **[Laughter]**, I very much hope not.

4.5.3 The Connétable of St. Lawrence:

Having given us assurance regarding the £1 note, will the Minister confirm whether there is any substance to the rumour that he is giving consideration to introducing a £100 note?

Senator P.F.C. Ozouf:

Yes, I can confirm that that is something that is being considered. The Connétable will be aware that some currency issuing authorities in Scotland, under the Royal Bank of Scotland and Bank of Scotland and, I think, Bank of Ulster, do issue a £100 note. I have consulted with the Financial Services Commission and other interested bodies to see if there would be any issue, as far as they are concerned, with issuing a £100 note because, clearly, that is a matter for money laundering. I am advised that that is not a consideration and so, yes, I can confirm that a £100 note, which will be separate from the new family, is being worked on by my advisory group. It will not be in general circulation but will be a special image which we are giving special consideration to - even more special images than are on the other family - and I hope that that will be a collectors' item and will be something that will further reinforce cultural identity with some very special images from our Island.

4.6 Deputy P.V.F. Le Claire of the Minister for Treasury and Resources regarding the total amount of money spent on States insurance policies to cover lawsuits over the last 5 years:

What was the total amount of money spent on States insurance policies to cover lawsuits over the last 5 years please?

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

The States of Jersey do not purchase insurance specific to cover the cost of lawsuits, however indemnity in respect of legal liability for damages and claimant costs arising from injury and property damage is provided through a combination of purchased insurance cover and self-reinsurance. The total cost to the States for liability insurance coverage is, at current, about £2.4 million per year.

4.6.1 Deputy T.M. Pitman:

Is it not a fact that in comparison with the majority of local authorities in the U.K., Jersey pays out very little; a positive thing in many ways obviously, but unfortunately even attempting to obstruct clearly genuine cases by spinning out the process to wear complainants down.

Senator P.F.C. Ozouf:

I am disappointed to hear Deputy Pitman say that. I do not believe that I have any evidence or have heard anything that there is a problem in respect of people claiming. I can say to the Deputy that between 2004 and 2008 there was a total of 330 liability claims with a total value estimated at £5 million. The year to date indicates that there have been 35 liability claims within an approximate value, potentially, of £600,000. There is a small payment that the States make by way of excess for all various issues. These are claims that cover all claims against the State including medical malpractice, employee and third-party injury and third-party damage to property. I can give the Deputy, if he wishes any other questions... I think he wanted to ask questions about the medical side of things. If he has any precise questions - it is a very large subject - I am more than happy to answer his or any other Deputy's questions.

4.6.2 Deputy T.M. Pitman:

I am pleased that we pay out smaller amounts than the U.K. in many ways. I only raised the issue because I have personal experience of an accident which was admitted as the fault of the States and, certainly, the process was both painful and very drawn out and probably caused more suffering than the actual injury.

Senator P.F.C. Ozouf:

I am sorry; I do not think it is appropriate to comment on an individual application by a Member.

4.7 The Deputy of St. Mary of the Minister for Treasury and Resources regarding the additional cost of the incinerator over and above the £106.31 million voted by the Assembly in July 2008:

Can the Minister for Treasury and Resources advise the Assembly in what sense the price of the incinerator was fixed as per P.73/2008 and can he now provide an accurate figure for the additional cost of the incinerator, over and above the £106.31 million voted by the Assembly in July 2008.

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

P.73/2008 detailed the capital cost of the E.f.W. project at £106.3 million. This included the fixed price of the engineering contract to deliver the new plant but, of course, specifically excluded the provision for project contingency, which is held centrally. As with any project of this nature, there will be additional costs and savings identified as the project progresses. The project contingency is established centrally to meet such costs. As I have reported previously, the expenditure and savings approved at the outset were £106.2 million. To date, on top of that, there is £2.9 million of additional costs as a result of changes to the design. Further, the Comptroller and Auditor General's recent report detailed his assessment of the additional cost relating to the exchange rate movements and this has now been settled because all of the currency hedge has been put in place and this adds £2.7 million to the estimated cost which is, again, coming from the central contingency. What I can say to the Deputy is that Transport and Technical Services have recently and regularly informed me of the project experience and how the project is going. I have full confidence in the way that they are managing the project. There is strong project management and I am certain that that will minimise any variations and any additional costs on the contract.

4.7.1 The Deputy of St. Mary:

The figures have changed again. The reason I asked this oral question was that I asked a written question on 8th September, to which the answer was incomplete and unsatisfactory. The Minister then wrote that the expenditure and savings approved outside the £106.31 million is detailed in Ministerial Decisions MD-T... and so on. When I looked at those decisions ... in the first place the Members needed to see the figures, not be referred to a Ministerial Decision, but that is by the by.

The Deputy Bailiff:

Crisp, Deputy, please.

The Deputy of St. Mary:

Yes, Sir. The Ministerial Decision said that the sum was for transfer of funds estimated at £5.701 million from the capital risk reserve to the project budget - this was a transfer - the actual sum to be determined once the exchange rate position had been finalised. I just ask the Minister what the actual sum transferred on 14th November was and, furthermore, I cannot reconcile his figure of £2.7 million with the figures given by the Comptroller and Auditor General, which is that we are already on £5.25 million.

Senator P.F.C. Ozouf:

The Deputy accuses me of giving unsatisfactory answers and I have to say, from where I am standing, that I doubt whether anything that I am ever going to say about the incinerator cost is going to be sufficient to convince the Deputy that the incinerator was the right project to go forward. I am keeping a very close eye on the project. I require regular updates in relation to additional costs. The figures that I have given of £2.9 million for changes to the design and £2.7 million for the euro cost are accurate figures which my officials have given me. I also need to say to the Deputy is that I am not prepared to release into the public domain the level of contingency which any capital project holds. To do so would simply put into the public domain a figure which contractors would, effectively, bid up for knowing that that was the money available to complete the project. I am not prepared to do so. It is held centrally, we are incredibly tough with T.T.S. (Transport and Technical Services) in managing this project and I have full confidence that the project is being well managed and the risks to the States are being appropriately managed.

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

Again, I am very puzzled by the figures on the exchange rate. The Comptroller and Auditor General mentioned that the additional cost in his report, as to currency fluctuations, was £5.25 million. In the contract, the exchange rate was set at £1.18 to the euro. In the whole time that this contract has been in being, to the best of my knowledge, the currency has not reached that level. The Pound has always been operating below 1.18 and, therefore, we have been losing money on the contract throughout. Hedging has been going on and, obviously, as they went closer to the 1.18 level then they were perhaps buying currency, but we have made a loss throughout the entire period and still the figures just do not add up. Would the Minister please explain exactly how much they have actually purchased and at what price, so that we can get a true figure.

Senator P.F.C. Ozouf:

This is not really a complex set of numbers which can be dealt justice in relation to an oral question. What I can say to the Deputy is that the exchange rate euro exposure has now been hedged. When the Comptroller and Auditor General published his report he estimated that there was, at the time of his report, an additional cost of £3.06 million. As a result of the policies and decisions that I made, following the C.A.G. (Comptroller and Auditor General) and the P.A.C.s (Public Accounts Committee) report, I can confirm that this figure is £2.7 million and there is no further exposure to exchange rate movements. To date we have acquired 58 million euros, a further 18 million euros are taken from the airport income euro receivables from 2009 to 2011 and they have been allocated and matched against future payments at an agreed fixed rate, which I decided during the course of the summer. Therefore, I can say to the Assembly, with absolute confidence, that the euro exchange rate matter has now been solved; it is now £2.7 million, which is lower than that of the C.A.G.s report.

4.7.3 The Deputy of St. Mary:

I am getting more and more amazed at the Minister for Treasury and Resources' replies. He is still stuck on this £3.06 million additional costs due to the euro and now it has gone down to £2.7 million, which I accept, because of the various mechanisms put in place. Will the Minister

give the House a figure for the cost of the euro going up against the pound between May, when the figure of £106.30 million was voted by this House, and the date of signing the contract? That is the figure that I am asking him to give. I know it already because it is in the C.A.G.s report and I am fed up with hearing £2.7 million when the actual figure is £5.65 million.

Senator P.F.C. Ozouf:

The Deputy can get cross. He can start getting angry with me across the Assembly, but if he knows the figures - and I am being asked to give all sorts of different interpretations and extrapolations of figures - if he knows the costs, why does he not just tell the Assembly? I do not have every single figure of every single variance in euro costs in my head in order to answer the Assembly. The point that the public wants to know is what was the cost of the additional costs concerning the euro and I have said, and I will say again, it is £2.7 million on the basis of now having hedged everything and matched the income from the euro from the airport and that is the end of the matter.
[Approbation]

The Deputy of St. Mary:

The Minister is deliberately misleading this House and the public.

The Deputy Bailiff:

Excuse me, Deputy, I must ask you to withdraw that accusation of deliberately misleading the Assembly.

The Deputy of St. Mary:

Well, it is a bit difficult, because I keep asking the Minister to give a figure to the House and the public which can be relied on. He knows the figures, the C.A.G.s report has the figure, but we constantly get the figure for after the contract was signed, which I accept is around £2.7 million, but he is ignoring the figure between the date the P.73 was published and the signing of the contract. Why does the Minister not give the public this figure?

The Deputy Bailiff:

Deputy, that is not what is currently an issue. The requirements of Standing Order 104 are that you should not impute improper motives, directly or by innuendo, to any Member of the States. You have accused the Minister for Treasury and Resources of deliberately misleading the Assembly. Are you prepared to withdraw that comment?

The Deputy of St. Mary:

I will withdraw “deliberately”, Sir. He is misleading, in my view - I am perfectly entitled to my view - the House and the public by ignoring a great slice of the additional cost.

Senator P.F.C. Ozouf:

I deeply regret the insinuation. Let me be clear to the Deputy. This Assembly agreed that the contract would be fixed at the point of signing. It is academic and simply puts more information and confusing information into the public, as to what the different strike rates were at the point at which the contract ... The point is, this Assembly approved the strike rate should have been when the contract was been signed. All of these figures were in the Comptroller and Auditor General’s report; it has been further examined by the P.A.C. and there has been significant debate about this. I would have thought now that the time has been to move on from having learnt the lessons of the euro mistake. I have hedged it. I have taken advice. The matter is now closed.

The Deputy Bailiff:

This particular question is closed. We now come on to question 6. Deputy Shona Pitman has a question to ask of the Minister for Treasury and Resources.

4.8 Deputy S. Pitman of St. Helier of the Minister for Treasury and Resources regarding ‘super yachts’:

Will the Minister provide figures to justify recent changes to regulations relating to ‘super yachts’, regarding the length of time that they can stay in the Island and G.S.T. (Goods and Services Tax) exemptions and explain what consultation, if any, was undertaken before the changes were made?

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

All countries, I am advised, around the world offer a grace period in which a range of goods, transport and other goods, can be imported without the payment of V.A.T. (Value Added Tax) or G.S.T. Previously a temporary importation relief in Jersey was set at 12 months however, following representations and arguments put to the Comptroller of Income Tax, the Comptroller agreed to amend the period of relief to 18 months, as he is empowered to do by direction under the G.S.T. Law. The principle reason for this decision was that 12 months was less favourable than the 18 months that existed in some euro countries and in competition with Jersey for this type of business. This decision by the Comptroller brings Jersey in line with the terms offered by other countries.

4.8.1 Deputy S. Pitman:

With the increase from 12 months to 18 months and the ability to now restart the stay after only 14 days’ absence. Could the Minister advise on how this potential for effective permanent residence will be treated in terms of wider taxation?

Senator P.F.C. Ozouf:

I do not think that this has any corresponding or consequential change to residency. I am advised simply that this was a technical decision. It is not a decision which I made. It is not a decision which I would be expected to make and I offer no view as to whether or not Harbours is right or other people are right, that there is a ‘super yacht’ business in Jersey which is going to be beneficial. This is a technical tax matter which 18 months’ residency, in terms of the vessel, is the standard E.U. (European Union) norm. I certainly do not regard this as having any consequential effect on any other tax matters.

4.8.2 Deputy T.M. Pitman:

With this potential for effective permanent residence, as has been highlighted, does the Minister concede that, as a consequence, there is a need to update regulations on individuals living at the marina?

Senator P.F.C. Ozouf:

I will discuss with the Comptroller any matters which the Deputy has raised. But in short answer: no, I do not believe that is the case.

4.9 Deputy M. Tadier of the Chief Minister regarding the suspension of public employees:

Would the Chief Minister inform Members of the criteria used when taking decisions on suspending public employees, and, in particular, clarify whether the service of a disclosure notice by the police on an employer would normally lead to suspension and whether employees are given full details of the reasons for suspension when suspended?

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

The normal criteria when suspending someone from duty: first where it is suspected that an employee is guilty of gross misconduct or dereliction of duty; secondly, whether an investigation is

required; thirdly, where an employee may be perceived as being able to influence the course of an investigation if he remained at work; fourthly, when there is any danger of repeated gross misconduct; and fifthly, where anybody, clients or colleagues, could be at risk. The serving of a disclosure notice by the police would normally lead to a suspension where there is clear evidence of potential gross misconduct, dereliction of duty or criminal behaviour and all vulnerable persons could be at risk. It is a requirement of our disciplinary process that employees are given the full reasons for their suspension at the time of suspension and in writing within 3 days.

4.9.1 Deputy R.G. Le Hérisier:

Would the Minister acknowledge whether or not it is still possible to effect a neutral suspension and would he not say that there are cases where the reputational damage would be such where there has to be such a suspension, as, for example, might have been the case with a magistrate?

Senator T.A. Le Sueur:

The policy of, I think, British justice, is that everyone is assumed innocent until proved guilty. To that extent, suspension is a neutral act, although some people may infer into it more than exists.

4.9.2 Deputy R.G. Le Hérisier:

Supplementary, Sir. Would the Chief Minister therefore say that it is impossible to apply a neutral suspension policy at the moment?

Senator T.A. Le Sueur:

I think I can apply the policy. It is how people interpret or take inference from a policy properly implemented. That is really a matter of human nature, which policy cannot deal with.

4.9.3 The Deputy of St. Martin:

Could I ask the Chief Minister what sort of risk assessment is carried out before any suspension is implemented?

Senator T.A. Le Sueur:

That would be a matter for the person making the suspension at the time. I set out the normal criteria for suspensions and if one or more of those criteria are met then there are good grounds for suspension. I am not sure what the Deputy means by "a risk assessment". Clearly, if failing to suspend would create a risk then that will get taken into account by the person concerned.

4.9.4 The Deputy of St. Martin:

Maybe I could help the Chief Minister. Indeed, a risk assessment is very much like an Attorney General would take before proceeding with a charge. Would the Chief Officer look to see what are the benefits of suspending someone? What are the likely outcomes? Is the suspension really worth it in the first place? So would that not be part of the consideration before suspending someone? One would have thought it is just common sense practice.

Senator T.A. Le Sueur:

Yes, I think I set out the criteria. If, for example, somebody is suspected of gross misconduct, one does not take a risk of whether suspending is a good or bad thing. There is a suspicion there which needs to be investigated, though that is considered to be a good reason for suspension. So I think what the Deputy seems to be implying is that the officer should try to pre-judge the outcome of the decision before it is made. That would be, I think, unfair to the person concerned.

4.9.5 The Deputy of St. Martin:

Could I just press the Chief Minister? I do not think the Chief Minister quite understands what I am really getting at. Surely if someone is going to suspend someone, one would look to see what

are the benefits from suspending someone? We have a situation where we now are spending well over £500,000 suspending the Chief Officer of Police, yet what are the benefits of suspending him?

The Deputy Bailiff:

The question was: what are the benefits of suspending the Chief Officer of Police?

The Deputy of St. Martin:

Yes.

The Deputy Bailiff:

That is not a question for ...

The Deputy of St. Martin:

Well, no. Can I ask the Chief Minister, then: would he not consider it be appropriate to consider the expense, what it is going to cost somebody to suspend someone?

Senator T.A. Le Sueur:

I think sometimes suspensions have to be taken even if there is a cost involved. That is something which, no doubt, the person suspending will take into account. But it should not be something which is a major influence on a decision. Justice does not come at a price.

4.9.6 Deputy M.R. Higgins:

The Chief Minister has indicated that a person who is suspended should be given the grounds for suspension at the time of the suspension. If that is the case and he believes that is good practice, how does he square this with the suspension of the Chief of Police, who was not given the grounds for his suspension?

Senator T.A. Le Sueur:

I do not think now is the time to go into the suspension of the Chief of Police, which is still under investigation.

4.9.7 Deputy M.R. Higgins:

The Chief Minister has not answered the question. The question was: how does he reconcile, if it is good for States employees and good practice and natural justice for people to be told the reasons for their suspension at the time of suspension, why the Police of Chief was not given that information?

The Deputy Bailiff:

Deputy, you are well aware that matters relating to the suspension of the Chief Office of Police can only be dealt with by this Assembly in camera. There is no point in asking such a question when you know we are not in camera.

Senator B.I. Le Marquand:

Sir, may I intervene to say that is factually incorrect, that what Deputy Higgins is saying?

The Deputy Bailiff:

You may. The Minister for Home Affairs has said you are factually incorrect and we are not going to debate it because we would have to go into camera to do so. Your assertion is that you are right, no doubt. The Minister for Home Affairs' assertion is that you are wrong. That is where matters are going to stand for now.

Deputy T.M. Pitman:

I will not give my opinion, then.

The Deputy Bailiff:

You are certainly not asked to give your opinion on that point.

Deputy T.M. Pitman:

Could the Chief Minister, nonetheless, answer and tell the House what process is in place to assist employees who are suspended for perhaps a year or even more, to give them counselling and to see them through what is, frankly, a very unsatisfactory process?

Senator T.A. Le Sueur:

I agree that where employees are suspended for any length of time it is a duty of the Human Resources Department to ensure that those staff do get adequate advice. I would say that the majority of suspensions are dealt with within a matter of 6 to 8 weeks at maximum and it is only on rare occasions that they are of any prolonged time. Where they are of a prolonged time there are now procedures in place, thanks to the proposition from the Deputy of St. Martin, which enables those suspended to be reviewed on an ongoing monthly basis. So I think that the persons being suspended, while clearly it is unfortunate for them, do have all the assistance that they reasonably expect.

4.9.8 Deputy M. Tadier:

We have heard today already that a Magistrate has been allowed to continue to work but perhaps not fulfilling all of his duties. We know that a senior member of the police force has been suspended completely and also we know that in the recent past a senior member of education was being investigated in relation to the historic child abuse case. Those charges were not brought but that individual was allowed to stay on. Does the Chief Minister acknowledge that there is at least... there is confusion? **[Interruption]** If the Minister for Housing wants to make an interruption I am willing to give way if it is a point of order. **[Aside]** Sir, I think that requires a ruling from the Chair.

The Deputy Bailiff:

Deputy, you are aware that you put a question into the Bailiff before this particular question was approved and that question was disallowed, and I certainly would expect you to stay away from the disallowed question, which you know to be out of order.

Deputy M. Tadier:

Sir, it is not true that I knew it to be out ... I will clarify. I believe that anything I am saying is all in the public domain already. I do not think I am bringing anything new here, so ...

The Deputy Bailiff:

I have just asked you to stay away from the question which has been disallowed.

Deputy M. Tadier:

The question I will ask, and I hope it is in order: does the Chief Minister acknowledge that there is a perception with the public and with States Members that the suspension policy is not being applied evenly throughout departments, and will he take steps to make sure that is not the case?

The Deputy Bailiff:

That is a perfectly fair question.

Senator T.A. Le Sueur:

I cannot speak for the perception of every individual in the Island. I believe that anyone who thinks reasonably will believe that matters are done and dealt with in a proper procedurally correct manner. I do not accept the Deputy's inference behind the Deputy's question.

4.10 Deputy S. Power of the Minister for Home Affairs regarding amendments to the Dogs (Jersey) Law 1961:

What action, if any, will the Minister be taking to amend the Dogs (Jersey) Law 1961 to make reference to dogs prescribed in other countries and effect control on dogs imported into Jersey from breeders and particularly rescue kennels in the United Kingdom?

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

The answer is: none, for the following reasons. The 4 types of dog which are prescribed in the U.K. are already subject to importation control under the Customs and Excise Import and Export Control Order. Dogs coming from Europe have to have pet passports and are examined before travel. Although there is no way of controlling the entry of dogs at the moment from the U.K., other than those which are prescribed in the U.K., I am not satisfied that there is a sufficient reason to introduce legislation to deal with this. Furthermore, even if I were satisfied that it was desirable to introduce legislation, in the light of the backlog of work which is referred in written answer 17, which includes at least 10 pieces of substantial legislation, this would be so far down my priority list that it would fall off it.

4.10.1 Deputy S. Power:

Yes, I am not going to give up. The reason for this question is that it revolves around one dog that was imported into Jersey about a year ago from a rescue kennel in Yorkshire and it attacked 3 dogs on 3 separate occasions in St. Brelade in the month of September. One dog died and the owner incurred vet's bills of £1,300. My question therefore is: does the Minister think it right that the owners of dogs who are attacked, their only recourse is a complaint to the police, a Centenier's report, a Magistrates Court appearance of the owner of the attack dog and ultimately a claim in petty debts court to get financial recourse?

Senator B.I. Le Marquand:

I consider those to be sufficient remedies.

4.10.2 Deputy S. Power:

Is the Minister aware that on Sunday night a 4 year-old boy died in Liverpool as a result of an attack by what appears to be a cross pit-bull terrier? Would the Minister not agree that the J.S.P.C.A. (Jersey Society for Prevention of Cruelty to Animals) could perform a screening role as a local competent animal authority and assess dogs that are being brought into the Island and imported from other rescue kennels?

Senator B.I. Le Marquand:

I regret very much what happened to the boy in Liverpool. But I do not think it is relevant to the dog being referred to in St. Brelade, which, in fact, does not like other dogs and it is not reckoned to be dangerous to people. Yes, it would be possible to have a licensing process by which dogs which were brought in would have to be looked at and vetted and have, I suppose, the equivalent of a pet passport and perhaps would need to have a probation report as well as to their previous good or bad character. But I consider that completely unnecessary as I am only aware of the one case referred to by the Deputy and consider that in general terms the present remedies are sufficient.

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

This is a timely reminder by Deputy Power. I have also been made aware of several incidents locally where owners cannot or will not control their dogs, leaving them to roam around and attack smaller dogs, leaving the owners and the dogs traumatised. Would the Minister consider updating the 1961 Law?

Senator B.I. Le Marquand:

Well, I will always consider something but frankly this is such a low priority compared with 10 major pieces of legislation which I have to do, that it is going to be impossible for me to deal with this. I previously answered questions on this as to the numbers of attacks reported to the police. They were very low. The fact is dogs will always fight with dogs. It seems to be the nature of the beast. That is regrettable. But if a dog is behaving in a way that is totally unacceptable, there is a provision to go to the Magistrates Court and to get an order either for the destruction of the dog or for the dog being muzzled. Now, that has happened in the case of this particular dog. I am simply not convinced this is worth masses of amount of time being put into what would be a complex piece of legislation when I have lots and lots of really important things to do.

4.10.4 The Deputy of St. John:

Given the Minister claims that this is low priority - although I am sure the many postmen which have been bitten over many years would not agree - would he agree, if he has not got the law drafting time, would he consider, as has happened in the past with the Limited Liability Law, putting this out to private enterprise to amend this Law and bring it back to his department and see if that is not a way forward?

Senator B.I. Le Marquand:

No, I would not. It is not just a matter of law drafting time. I have got to be realistic. I have got a massive programme I am going to try to attempt next year. I am not going to get more than perhaps a third or a half of it. I have got to be realistic and make proper use of my own time in relation to matters and confine myself to the matters which really are important and high priority. I am not going to be deflected from that, I am afraid.

4.10.5 Connétable D.J. Murphy of Grouville:

Is the Minister for Home Affairs aware that there already is a law which covers this situation in that the Dogs (Jersey) Law and the Policing of Beaches Law says that any dog out on public roads or public areas must be under the control of its owner? Now, that can mean, for an obedient dog, that it is within voice distance, that it does come when called; or, if not, on a leash. Otherwise there is a situation there where the Parish can instruct for the dog to be picked up from the road and taken to a place of safety until the owner comes to release it. That, of course, incurs a pretty hefty charge of about £60. So, I think the law already exists. It is a matter of applying the law.

Senator B.I. Le Marquand:

Yes, I was aware of those provisions although I had forgotten the precise details. I am grateful to the Connétable for reminding me. That is my point. We already have a system and until I can see that that system really is not working properly, it is going to remain very low priority.

4.10.6 Deputy M. Tadier:

I think we all admire the way that Deputy Power has doggedly pursued this question. But would the Minister acknowledge that the Deputy is barking up the wrong tree and that we should have a pause for thought and that, in fact, common sense should prevail here rather than any new legislation?

Senator B.I. Le Marquand:

I have no intention whatsoever about saying anything critical of my friend Deputy Power.

4.10.7 Deputy S. Power:

I thank the Minister for his dogged determination to regard it as a low priority. However, my final question is that the charging Centenier in St. Brelade, and, indeed, the J.S.P.C.A., are absolutely of the view that there are dogs on this Island at the moment that will kill. Will the Minister not agree with me that he will have to face this prospect in very short order?

Senator B.I. Le Marquand:

If the Deputy means kill people, I really have absolutely no evidence of that. If anybody had any realistic fear in relation to that, that is most certainly a matter that should be brought to the attention of the Parish authorities. I fear that the Deputy is exaggerating here.

4.10.8 The Deputy of St. Mary:

May I bring a point of fact of clarification to what the Minister has just said? I am glad I came in in time. My granddaughter ... step granddaughter, to be technically precise, is 3. A friend of hers or someone she knew in her nursery has just been killed by a dog.

Senator B.I. Le Marquand:

That may be necessary in Liverpool but it is one of the prescribed variety of dogs. As I said right at the start of my answer, we have effective control of importation on prescribed dogs, dogs which are prescribed in the U.K.

The Deputy Bailiff:

Members will no doubt understand the importance of staying in the Assembly before asking questions which have been asked already.

Deputy S. Power:

Can I just clarify? I did not infer that dogs were going to kill human beings in Jersey. I want to make it clear that there is a view by the J.S.P.C.A. and at least one Centenier in St. Brelade that a dog or dogs in Jersey right now will kill another dog soon.

The Deputy Bailiff:

Thank you for that clarification. We come now to a question which Deputy Lewis wishes to put to the Chief Minister.

4.11 Deputy K.C. Lewis of the Chief Minister regarding the impact of the Lisbon Treaty on Jersey:

Now that the Lisbon Treaty has been signed by all 27 Member States and will become law in December, what impact, if any, does the Chief Minister believe this will have on Jersey?

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

The relationship that Jersey has had with the E.U. since 1973 is enshrined in a Protocol 3 of the Treaty of Accession of the U.K. and is not changed in any way by the Lisbon Treaty.

4.11.1 Deputy K.C. Lewis:

I am aware that Jersey is covered by Protocol 3 of the Treaty but since ...

The Deputy Bailiff:

Deputy, we will just pause while the College for Girls make their exit. I am sure the gallery will clear quickly and noiselessly. Very well. Well, I am sure it is not Protocol 3 that has driven them away. But carry on, Deputy. [Laughter]

Deputy K.C. Lewis:

I think it probably will affect them more than us in the long run. I am aware that Jersey is covered by Protocol 3 of the Treaty. But since all Member States have now signed the Lisbon Treaty, handing more power to the European Union, any future negotiations will have to be ratified by all Member States. Is the Chief Minister satisfied that Jersey's interests are well protected?

Senator T.A. Le Sueur:

Yes.

4.12 The Deputy of St. Martin of the Minister for Economic Development regarding the regulation of betting offices in the Island:

Will the Minister inform Ministers how many of the 3 department officers and 3 shadow commissioners visit the 29 betting offices in the Island to conduct their regulatory function, what percentage of their time this represents, how often are betting offices and the premises of other regulated licence holders visited and what does this entail? How infractions have been identified since 2004 and what are they?

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

This question highlights the need for a statutory gambling commission to effectively regulate the industry as, I might add, was identified by the recent I.M.F. (International Monetary Fund) visit. Staff and the shadow commissioners have no right of admittance to a betting office without permission of the Constable and cannot investigate unless accompanied by a police officer. The Licensed Betting Office review was undertaken in 2007 with the co-operation of industry. This review identified significant delinquencies in some shops. Those included poor accounting, little regard for problem gamblers and few systems to support suspicious activity, in particular, anti-money laundering. Twelve licensed betting offices managers were interviewed following anomalies in their applications. One operator was investigated for selling a business without due diligence or approval. In 2005, 76 illegally-sited fixed odd betting terminals or fruit machines were found in licensed betting offices and were removed. Thank you.

4.12.1 The Deputy of St. Martin:

Yes, I am grateful for the answer to the end but I would like to have had the answer given at the beginning. I did ask how much time was spent by these officers regulating the premises, not the results. Could the Minister tell us how much time was spent, what percentage of their time?

Senator A.J.H. Maclean:

Sorry, it is impossible to give a percentage of time that officers spend on licensed betting offices particularly. Clearly the department is resourced appropriately for all the duties that it carries out with regard to regulatory services, which include, of course, licensed betting offices and all the other functions involved in that particular industry.

4.12.2 The Deputy of St. John:

In the Minister's previous comments he stated that a number of illegal betting machines were found in betting shops. Could you tell us what action was taken by his department or the police in relation to these infringements of the law?

Senator A.J.H. Maclean:

The department takes or believes that dealing with matters such as this should be done in a 'light touch' way in co-operation with the industry. There was a degree of misunderstanding with the law and the make-up of the particular machines. They were removed. The industry agreed to the removal of machines and we had them removed in 2004 when the incidence was identified.

4.10.3 The Deputy of St. John:

A supplementary. If the Minister had them removed, were they confiscated, given that they were being operated illegally?

Senator A.J.H. Maclean:

In 2004 I am not aware of what happened to the machines but I assume that they were returned to the U.K. or other operators. But I am happy to get confirmation for the Deputy in due course.

4.10.4 Deputy G.P. Southern:

Does the Minister believe that “the light touch” he refers to should apply to the potential for money laundering within these establishments?

Senator A.J.H. Maclean:

No, I take very seriously matters such as anti-money laundering. As I said at the beginning, I think it is important that we have a statutory gambling commission with the powers and the teeth to be able to ensure that provisions for anti-money laundering are properly in place. I have to say that the shadow commission to date has identified one in particular very serious incident of substantial sums of money in cash being passed over the counter at a licensed betting office. That has been dealt with, as it should have been.

4.12.5 The Deputy of St. Martin:

Again, I do not think the Minister has really answered the question, so I do not really think we know how much time the officers spent out on the field regulating and how much time they should spend in the office. Can I just ask the Minister: there appears to be, in one document, 3 officers employed and 4 in another document that has been published? Could the Minister, in fact, inform Members how many employees are employed by E.D.C. (Economic Development Committee)? We know there are possibly 3; there could be 4. We also know that there would be 3 commissioners. But also is there another officer employed just solely with the lottery, and if the Gaming Law comes into place that officer will not be engaged, will continue to be under the Gambling Commission?

Senator A.J.H. Maclean:

I am afraid I find that a rather confusing question. But I think to answer the Deputy’s question, in terms of full-time equivalent, it is 2.35. There are 4 employees that, as far as the Business Plan is concerned, are involved in dealing with gambling matters. The department has in regulatory services 8.1 full-time employees equivalent. Clearly, the Deputy should appreciate that staff members work in different areas. They are not all working 100 per cent of the time in a particular area. So there is a degree of flexibility, as you would expect.

4.13 The Deputy of St. Mary of the Minister for Economic Development regarding the benefits of funding the proposed Gambling Commission:

Can the Minister explain the benefits to Jersey of funding the proposed Gambling Commission with an initial grant of ... that should be £225,000 per year?

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

The Deputy has corrected what I was going to say: the initial grant of £225,000 - not £250,000 - will allow the proposed Gambling Commission to update the current gambling regulatory framework and bring it in line with international standards and best practice and in so doing enhance the reputation of the Island as a centre of regulatory excellence. The Commission will also introduce gambling-related educational and social responsibility programmes to protect the young and the vulnerable and keep the industry free from crime.

4.13.1 The Deputy of St. Mary:

Is one of the aims of this whole exercise not to grow the business of gambling? I just want to ask that to establish whether this is so.

Senator A.J.H. Maclean:

The intended introduction of the Gambling Commission is to regulate the existing industry. There are opportunities in the future, which is another matter altogether, to look at opportunities such as e-gaming, which is a matter I will deal with later this morning. That, indeed, would possibly in the future need additional resource, which would be solely relevant to the revenue that it would generate. But the purpose of the Gambling Commission is purely to regulate the existing industry and to update the legislation to bring it in line with modern day standards.

4.11.2 Deputy G.P. Southern:

Will the Minister assure the House that in this particular case with this particular quango we will not see the growth of funding from the States similar to that which occurred with Jersey finance, which now means that the States funds the vast majority of the activities of Jersey finance?

Senator A.J.H. Maclean:

As I was mentioning a moment ago, any potential future growth of this particular body will be relevant to the activities that it undertakes and the revenue that it generates in the future from any growth that is approved, and only should it be approved by this Assembly, in the future and that is a matter for 2010.

4.13.3 Deputy G.P. Southern:

If I may, can I just confirm that is an assurance that funding from the States will not grow in future years and we have that assurance?

Senator A.J.H. Maclean:

Indeed, in the short term I could reassure the Deputy that, in fact, it is the intention of the department to move towards cost recovery, and, indeed, the grant element for the Commission will move towards zero within the next few years, based upon increases in fees. I might also add that the issue of fees, which again we will deal with at a later stage, hopefully today, should bear in mind that we are comparable, with the new fee structure proposed, to other jurisdictions. We are a bit cheaper than Guernsey and the U.K. Thank you.

4.13.4 The Deputy of St. Martin:

Given that E.D.D. has been employing these 4 officers for some years and also for the last 3 years there has been a Shadow Gambling Commission, can the Minister explain why there has been no gambling programme of education, counselling and research carried out over that period? Why have we got to wait until we have this Gambling Commission?

Senator A.J.H. Maclean:

I would not agree with the Deputy that nothing has happened over the last 2 years. In fact, the Shadow Commission and the department have done a considerable amount of work in looking at our 1960s outdated legislation with regard to gambling. We are bringing forward in 2010 ... or the intention is to bring forward in 2010 a modern framework for regulating the industry and modern laws that are appropriate and fit for purpose. In the meantime the Gambling Commission and the department have carried out a public consultation. They worked extensively with the industry, set up a liaison group, brought in codes of practice. I think a considerable amount has been done in a relatively short period of time.

4.13.5 The Deputy of St. Martin:

Could I just press the Minister? I think I can understand how Back-Benchers get a little bit upset when we hear Ministers failing to answer the question. Will the Minister accept that there has been no education carried out at all in the last 3 or 4 years while there has been a Gambling Commission and all these officers employed? The answer is: none has been carried out.

The Deputy Bailiff:

The Minister has just said that he did.

Senator A.J.H. Maclean:

Perhaps the Deputy would like to confirm what he means by “no education”. Is he talking about education with regard to the licensed betting office staff and management or is he talking about education for consumers? Because in both regards there has been work undertaken, and, indeed, assistance has been brought in. We have brought in the Gordon Moody Association, a website has been set up and other work and frameworks have been put in place for the time when, of course, we get hopefully the statutory commission in place. So I disagree with the Deputy.

4.11.6 The Deputy of St. Mary:

The Minister said that this £225,000 and these 4 officers, *et cetera*, are purely to regulate existing industry and yet on page 5 of his report on P.139, we see the words: “Encouraging business growth, ensure potential harm is minimised and programmes are introduced to protect the young and the vulnerable.” Can the Minister tell the House whether this is his new definition of sustainable economic growth, that, first of all, you create a problem and then you try to minimise it and then you deal with the damage caused?

Senator A.J.H. Maclean:

First of all I would say to the Deputy that I am not, or my department is certainly not creating a problem. If there is a problem and there have been prevalent studies carried out in the U.K. with regard to gambling which shows that, in fact, 0.6 per cent of those who gamble are deemed to be problem gamblers, that the issue is relatively small, but it is nevertheless serious. We do need to address a problem that exists in the Island already. We know people gamble. They gamble both in the licensed betting offices and in a number of other areas. In fact, there are illegal syndicates that go on in the Island. That is another function that the Shadow Commission has uncovered. There is a great deal more work to be done but it is essential that we have a proper functioning regulator that can ensure that the young, the vulnerable and other people, problem gamblers and addicts are properly looked after.

4.14 The Deputy of St. John of the Minister for Planning and Environment regarding the use of local Architects, Landscape Architects, Quantity Surveyors and Engineers in the creation of the North of Town Masterplan:

As the town park has progressed, will the Minister give an undertaking that whenever possible, local architects, landscape architects, quantity surveyors and engineers will be employed to carry out the professional consultancy work and that this will apply to any future works in the north of town master plan, and, if not, will he explain why not?

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

I am happy to give the Deputy the assurance he requests, not just in relation to the town park project. When work cannot, for whatever reason, be undertaken within the Planning and Environment Department, then, whenever appropriate, we will appoint local practices in preference to out-of-Island consultants. However, there are 2 caveats to this assurance. (1) In the Island’s best interests, we cannot be expected to appoint local consultants and practices that do not have the necessary skills, experience or capacity to undertake the necessary work within the required timescales, and (2) for the same reason, they must be competitive on price. It should be pointed out that, as the town park project progresses, the responsibility for the implementation will not rest with the Planning and Environment Department and that we will have no responsibility for the appointment of any consultants. Thank you.

4.14.1 The Deputy of St. John:

Yes. Could the Minister enlarge, please, and give us details of the skills and capacity he is referring to, because I - having been directly in the building line for many years - believe that the professionalism of our architects and surveyors, engineers, *et cetera*, are second to none because most of them have been trained in the United Kingdom or been aligned with United Kingdom companies for many years. Will he please enlarge on those comments he made?

Senator F.E. Cohen:

I, too, have great confidence in the competence and ability of local firms but there are exceptional circumstances where local firms perhaps do not have as much experience as those elsewhere because of the nature of our Island community. One example is master planning. While there are some architectural practices in the Island that have experience in master planning, there are none that I am aware of that would claim to specialise in master planning. Thus, for master planning it is appropriate to go to a practice outside the Island. But in that principle I have also tried to adopt a policy of encouraging a partnership between a local practice and an outside Island practice, although I do accept that the local practice in the case, for example, of the North of Town Masterplan, was minor in terms of the percentage of fees attributable to them.

4.14.2 The Deputy of St. John:

Yes. Would the Minister not agree that the use of (j) category employees, as happens within the finance industry, if you have not got a specific person to carry out a specific job, would be the way forward? Therefore any monies paid would go into the local Exchequer, not off-Island.

Senator F.E. Cohen:

Where appropriate, yes, but the problem is that often the commissions are commission-specific, so, for example, it would not be appropriate to bring in a (j) category master planner for a single master planning project and then have no future employment for them on a case-by-case basis. But the principle is understood. Thank you.

4.14.3 Deputy G.P. Southern:

Would the Minister inform Members how many contributions he received from members of the public popping into St. James' Centre over the North of Town Masterplan?

Senator F.E. Cohen:

I do not have the information to hand. I will ensure that the department produces a summary of consultation responses to date and will circulate it to Members either today or tomorrow. Thank you.

The Deputy Bailiff:

No supplementary? No. That ends oral questions with notice. We now come to questions of Ministers.

Deputy R.G. Le Hérisier:

I have a got a situation where my mind is basically exploding. I felt on the earlier decision we made, and on which Deputy Power has commented, that, totally by accident rather than by design, we have made totally irreconcilable decisions. I am not for a moment impugning the integrity of Deputy Trevor Pitman in bringing the matter forward. On the one hand, the public have been informed and I am constantly assailed about this in the streets and when I get about they have been informed many times by Senator Syvret that he is in, essentially, indefinite political exile because he believes he cannot get a fair trial here and there is general corruption and so forth. On the other, by acknowledging by our procedures that he is sick, there is a clear implication that when the sickness is over he will return to this Assembly. I think the public are going to think us utter fools

in having backed ourselves, by accident, not design, into this situation. I make no comment on the merits of the case of the individual. But I think, logically, we look utterly stupid.

The Deputy Bailiff:

Deputy, if I may say this. The Assembly has taken no decision in relation to Senator Syvret this morning, no decision at all. What has happened is that, in accordance with Standing Orders, a Member has said on oath to the Assembly that Senator Syvret is malade. I asked him before he took that oath to satisfy himself that he had made recent inquiry and that Senator Syvret, he was satisfied, would have been here had he not been malade. The Member, that is Trevor Pitman, said that Senator Syvret was malade and he took the oath. That, really, seems to me to be the end to it, unless there is further inquiry, which would be made by the Privileges and Procedures Committee if requested to do so. But otherwise that is an end to it. The Assembly has taken no decision this morning about the matter at all. They simply did take a decision 2 or 4 weeks ago in relation to whether Senator Syvret's absence should be marked "excuse" and decided it should not. So that is the Assembly's position at the moment.

Senator P.F.C. Ozouf:

May I ask a question? Is it the case that ... and I think there may well be a genuine misunderstanding and there is unease among Members, certainly the Members I have spoken to. Was your suggestion to Deputy Pitman that he could take the oath if Senator Syvret was not here because he was ill and that that is what you directed and that is what you ruled, was that he was not here because he was ill as opposed to being absent for other reason but also being ill? Because there is an important issue which is, I think, at the heart of what Deputy Le Hérissier is saying.

The Deputy Bailiff:

Hansard will show that I said what I said.

Deputy M. Tadier:

Can I also make a point or seek clarification? I believe that the oath in French simply says that the individual is so sick that they cannot attend the Assembly because if they did it would put their health at even greater risk. I think simply that is what the Deputy, when he took the oath, was attesting to. Is that the case?

The Deputy Bailiff:

We are not going to have a debate on what may or may not have not motivated the Deputy in the oath that he took this morning. I think that I made it clear to the Deputy what he had to take into account before he took it. He was obviously satisfied that he could properly take it and that, as far as the Chair is concerned, is where matters currently stand. I think, as I said a moment ago, the Assembly itself has taken no decision on the matter today.

5. Questions to Ministers Without Notice - The Minister for Education, Sport and Culture

The Deputy Bailiff:

We now come to questions without notice of the Minister for Education, Sport and Culture. The Deputy of St. John.

5.1 The Deputy of St. John:

I will not reiterate what I said earlier because I know the Deputy of St. Ouen's mother is listening in. So I will change the subject. Recently, or in October 2007, a film called "Innocent Truth" on global warming had been proved to be a lot of non-truth. Judge Michael Burton of the High Court of England and Wales found the film to be a political statement, not a work of science. On 9 test points the film was found to be using facts that were either inversions of the truth or innovations.

Those reports that the case claimed they used those 9 points to prove the case and that there were at least 35 other similar errors. The judge decreed that it would be a breach of Article 406 and 407 of the 1996 Education Act to show the film to school children. Will the Minister for Education, when or if the film is shown within the Island make sure that it is clear to all concerned that it ... well, in fact, it should not be shown to school children.

The Deputy Bailiff:

Minister, if you feel able to understand that question, I invite you to answer it. **[Laughter]**

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

I will convey the concerns of the Deputy to my department.

5.2 Deputy G.P. Southern:

I remind all Members that concision does not just apply to Ministers. Will the Minister confirm that 4 teaching assistants at one secondary school have been made redundant recently because of budget considerations alone?

The Deputy of St. Ouen:

I am aware that a number of teachers' assistants were notified some time ago that due to changes at the school their employment would no longer be required. It is unfortunate that any individual is found not to be able to retain a position. However, due to a number of factors within the school, the decision was taken some time ago.

5.2.1 Deputy G.P. Southern:

Will the Minister confirm or deny that budget reconsiderations were the prime mover? Will he also assure the House that standards in that secondary school will not slip and will he report to the House further redundancies taking place in the education system as of now?

The Deputy of St. Ouen:

Firstly, with regard to the situation leading up to the 4 teachers' assistants being no longer required, it is linked, in part, to falling pupil numbers within the school and the fact that overall the school currently employ or were employing 15 teachers' assistants and it was felt, as I understand it and has been conveyed to me by the headmaster, that the school could properly provide for the children within its care with 10 teachers' assistants. Thank you.

5.3 Deputy T.M. Pitman:

As a former professional educator, I was truly disgusted by the comments by Mr. Edward Trevor, widely reported in the media. Would the Minister for Education, Sport and Culture join me in condemning the malicious, and, I have to say, wholly damaging and ignorant comments by the chairman of the Charities Association?

The Deputy of St. Ouen:

I do not necessarily believe I should be commenting other than to say that I would hope that the person concerned would reflect on what he said and to pay attention to the concerns raised by this Assembly.

5.4 Deputy S. Pitman:

I believe I have asked this question of the Minister this year at some point. But I cannot remember what he said. So I ask it again. Is a review of the impact of the student loans and increase on student fees being undertaken now and if it is not, when will he expect it to happen?

The Deputy of St. Ouen:

A number of reviews have been undertaken since I took over as the Minister for Education, Sport and Culture, and, indeed, we are carrying out a major review on all higher education funding and issues relating to that, with the aim of completing the variety of reviews that will form this overall review by July/August next year. Thank you.

5.4.1 Deputy S. Pitman:

Sir, supplementary, please. The Minister did mention that reviews have already been done. Could he endeavour to pass those on to States Members?

The Deputy of St. Ouen:

Sorry, I did not say they had been done. I said they were being undertaken and as soon as ... and I have arranged a meeting with the Scrutiny Panel that oversees the Education Department to bring them totally up to date with what we are doing, how we are doing it, so that we can ensure that scrutiny gets involved at the appropriate time.

5.5 Senator B.E. Shenton:

Can the Minister explain why, at this time of financial restraint, he went against the understanding of the Assembly and failed to introduce charges for nursery care in the public sector for more than 20 hours, thus maintaining inequality for parents of private sector children and the private sector nurseries themselves?

The Deputy of St. Ouen:

I do not believe I have failed anybody. As my understanding is, this States Assembly chose to provide 20 hours of provision to those people that were unable at the time to access early learning. As such, the department has implemented the decisions made by this Assembly, no more, no less.

5.5.1 Senator B.E. Shenton:

Can the Minister confirm that in the public sector he is providing more like 30 hours per week and not 20 hours per week?

The Deputy of St. Ouen:

There is a question, and I do understand that there is considered or could be considered to be an inequity within the current provision of service, but that was known by this Assembly when it approved the provision that people are now enjoying and I would hasten to add and underline the word "enjoying". As I understand it, every individual, including the private sector partnership that we are involved in, are more than happy with the provision that the States elected to provide these young people.

5.5.2 Senator B.E. Shenton:

The nurseries may be happy but I am certainly not happy as a taxpayer to be funding this at this time of financial restraint. I believe the House was misled at the debate because it was set out that we would provide 20 hours free for all children and that the public sector would start charging for the additional hours so that we would end all inequality.

The Deputy of St. Ouen:

I do not believe that the House was misled. Indeed, I remember quite, perhaps, perversely at the time that I voted and spoke against the provision that the States Assembly chose to accept because... and I pointed out the inequality that exists and also I questioned the amount of funds that were required. I have since been proved wrong in part. I am well aware that many parents have now elected, because of the new provision, to move and take advantage of the private sector provision rather than the public sector provision that they were offered and *vice versa*, which is absolutely as it should be. Thank you.

5.6 Deputy M.R. Higgins:

It has recently been reported that 35 per cent of students who leave primary school do not meet the appropriate standards for mathematics and 34 per cent do not meet the appropriate standards in English. Does the Minister think this is satisfactory, bearing in mind this will hamper their secondary education, and what steps is his department taking to correct these deficiencies?

The Deputy of St. Ouen:

My department and the schools continue to aim to improve the areas of numeracy and literacy within our young people. The problem that I have and the department has in providing statistical information in this area is it does not reflect the true picture. I have spent time on a number of occasions outlining the fact that there are good reasons behind some of these figures, including the fact that we do accommodate a multicultural - and we are a multicultural community - a number of individuals that we are educating for whom English is a second language, as such, that I would encourage any Member that would like to understand and know more about and get behind the figures to come and speak to me and my department, who would be more than happy to further explain why they say that the headline figures of 33 percent do not relate to what is actually happening on the ground. Thank you.

5.7 Deputy C.F. Labey of Grouville:

As it has been about a year since an agreement was signed for the proposer of the Jersey anthem, could the Minister tell this Assembly what has been done to promote it, and, what indeed has happened to it?

The Deputy of St. Ouen:

I have had a number of meetings with the composer himself and my department. We have contacted all the schools and encouraged them to use the anthem wherever possible. In fact, I had the most enjoyable occasion 2 or 3 months ago when I attended St. John's Primary School where the young people sang the anthem unaccompanied. It has also been used throughout the Island Games and indeed I believe in February or March next year they will be working with the composer producing new recordings of the anthem linked to the Island's band. Thank you.

5.7.1 The Deputy of Grouville:

Sir, could I ask a supplementary? Could the Minister inform this Assembly if he has any intention of bringing it to States Members, to this Assembly for approval?

The Deputy of St. Ouen:

I am not sure and I cannot quite remember at the moment or recollect the actual history but I believe that the Deputy herself was one of the individuals who promoted the idea of the Jersey anthem. I do believe it is necessary that we have a number of national songs and anthems that we can use and the Jersey anthem is but one. I do believe it has not been promoted satisfactorily and it is my intention to first of all ensure that that is done to enable the public to hear the anthem and then at an appropriate time it is possible that I may come back to this Assembly to get further confirmation that indeed it is an anthem that is worth being recognised as one of our national anthems.

5.8 Deputy A.E. Jeune of St. Brelade:

Would the Minister confirm that - I think they are called P.S.E. (Personal and Social Education) teachers - give instructions to pupils on such issues as A.I.D.S. (Acquired Immune Deficiency Syndrome), the consequences of drug and alcohol intake or use or abuse in all the senior schools? Thank you.

The Deputy of St. Ouen:

Much effort is place on educating our young people into issues and matters that affect their personal wellbeing and health and this includes drugs, alcohol, A.I.D.S., issues surrounding their sexual behaviour and other matters that are appropriate for our young people to learn about. Equally, we work with other agencies and partners to reinforce various messages. Most recently we have had crime days where Prison? Me! No Way! organisation has worked within all our schools to again draw the attention of our young people to inappropriate behaviour, including the use of drugs and alcohol.

The Deputy Bailiff:

Thank you very much. That ends the 15 minutes allotted to the Minister for Education Sport and Culture.

Deputy S. Pitman:

Sir, could I request before the Assistant Minister comes into her time of questions that Minister's do keep their answers succinct, because there seems to be a policy of theirs that they take their time during these question times, which means that less of us are able to ask questions.

The Deputy Bailiff:

Deputy, you are absolutely right that all Members should keep questions and answers succinct and, for what it is worth from the Chair, I thought the Minister for Education Sport and Culture was extremely succinct in nearly all of his answers.

6. Questions to Ministers Without Notice - The Minister for Health and Social Services

The Deputy Bailiff:

We now come to questions for the Minister for Health and Social Services who is malade, and questions are to be answered by the Assistant Minister, Deputy Noel. Deputy Lewis.

6.1 Deputy K.C. Lewis:

It is well known by Members that I have long campaigned against these so-called legal high drugs, Spice and Salvia to name but 2. The Minister has recently put a banning order on these, signed a ministerial order to outlaw these drugs. Is the Minister aware there are several other new so-called legal highs in the pipeline, one called methodrone, not to be confused with methadone, that already has cost the life of one student, I believe, in England? Thank you.

Deputy E.J. Noel of St. Lawrence (Assistant Minister for Health and Social Services - rapporteur):

Since October 2008 it has been illegal according to Jersey Medicines Law, to import or market substances commonly known as "legal highs". On 23rd November 2009, on the advice of the Jersey Misuse of Drugs Advisory Council, an Order was made by the Health Minister which came into effect making the substances commonly known as "legal highs" illegal in Jersey. That Order was related to the relevant chemical compounds and not the actual individual brand names of the drugs. The substances broadly fall into 3 categories; one are synthetic - excuse my pronunciation - canavoids, these are drugs that mimic the traits of cannabis. There are benzyloperazine, which is similar to the effects of ecstasy and amphetamines, and caffenoids which again copies amphetamines. The law has been written in a way that we can react quite quickly to new types of pharma-synthetic drugs coming into the marketplace.

6.2 Deputy A.E. Jeune:

It would appear that very little, if anything, has been done following the Rosemary Wool Report 2004 in respect of the healthcare of prisoners. Would the Assistant Minister give an undertaking to look at this report and see whether it remains relevant today, and what action will be taken to either

implement some of these recommendations or move forward and reconsider the health care provided to prisoners? Thank you.

Deputy E.J. Noel:

I am happy to confirm that the Minister and indeed the Ministerial team, along with our officers, have a willingness to continue to input into the prison the resources that we have at our disposal and we will strive to develop these services in the future.

6.3 Senator S.C. Ferguson:

Can the Assistant Minister confirm that when the Medical Director of the General Hospital went to London recently to view the interim Verita report he was accompanied by legal counsel at the taxpayers expense, and can the Minister explain why it was necessary to have legal counsel present? Whose interests were being protected - the Director, management, hospital or the patients- and what was the cost to the taxpayer?

Deputy E.J. Noel:

I can take the Senator's last point first, I do not have those figures available. I can get them and forward them on to her. Indeed, I can confirm that a legal representative was there and that was to ensure that the contents ... the individuals went to the U.K. to start the process of fact-checking the report - the draft report has been produced by Verita - and the purpose of the Law Officer there was to ensure that items disclosed in that document were of a nature that complies with our local legislation.

6.3.1 Senator S.C. Ferguson:

What changes were made to the report and why?

Deputy E.J. Noel:

As far as I am aware, no changes have yet been made to the report. This is in a fact-checking process which takes a period of time and, in any event, Verita themselves hold full editorial right on their own report and neither myself, the Minister or any of the Health and Social Services management can influence the contents of that report.

Deputy A.E. Jeune:

Sir, can I have a further supplementary? No.

The Deputy Bailiff:

Deputy Jeune, it is question time without notice. Deputy Shona Pitman.

6.4 Deputy S. Pitman:

Could the Assistant Minister inform Members as to what moves have been made with regards to developing a package to retain nurses?

Deputy E.J. Noel:

There has been much movement in trying to devise a package so we can have a sustainable recruitment and retention policy for our nursing staff. A draft of this has been forwarded to the States Employment Board and I believe that a revised version of suggested solutions will be coming back from the S.E.B. (States Employment Board) during this current month.

6.4.1 Deputy S. Pitman:

Could you explain what was in that draft package?

Deputy E.J. Noel:

The simple answer to that is, no, I cannot, because I personally have not been party to the drafting of those documents.

6.5 Deputy M. Tadier:

It will be to do with prostate cancer. I have been approached very recently by a constituent, as I am sure is the case for many representatives in the Chamber, again highlighting the apparent discrepancy of the fact that one has to pay to go and see a doctor - often £35 which is a lot of money for some people - and, for example, if you compare it with breast cancer screening that is offered for free at the Hospital, I believe. Does the Assistant Minister acknowledge that this is prohibitively high for some people to pay, that it does put people off from coming forward for testing, and will he be taking any measures to rectify this problem?

Deputy E.J. Noel:

I do have some sympathy with those members of the public who find themselves in the situation where they are put off going to see their G.P. (General Practitioner), for whatever reason, through cost. Members will be aware that we are continually faced with above-inflation increases in the costs of such items as drugs and supplies. Increased investment is always required to maintain our core services and as we look to the future there is no funding available to opening up a screening process for prostate cancer at this time.

6.5.1 Deputy M. Tadier:

It is nice to hear those kind words of concern, but will the Assistant Minister make it more of a priority, given the fact that he has acknowledged that prostate cancer is a killer and that £35 is, if that is the rough figure, too expensive for certain individuals? So, rather than let these people contract cancer and possibly die from this condition, which should not be life-threatening, will he and his department undertake to set up a proper program of screening which can be attended free for everyone?

Deputy E.J. Noel:

I am not able to give that commitment at this time because we cannot invest in new services without a sustainable funding stream for those services going forward.

6.6 Deputy R.G. Le Hérissier:

Would the Assistant Minister, in referring to the Verita report, would he define what is meant by the legal officer accompanying the Members in order that the report was seen to conform with local legislation?

Deputy E.J. Noel:

The area I was referring to was any matters that could impinge on our Employment Law.

6.6.1 Deputy R.G. Le Hérissier:

Is the Assistant Minister inferring that somehow the Verita people have got their interpretation wrong and there were people on hand to assist our civil servants to put things right?

Deputy E.J. Noel:

No, that certainly is not the case.

The Deputy of St. Martin:

Sir, could I just add on to that question because I think it is very important to ask why ...

The Deputy Bailiff:

Deputy there is an order for asking questions and I will put you at the bottom of the list.

6.7 The Deputy of Grouville:

Can the Assistant Minister confirm if the suspended consultant has been furnished with a copy of the Verita Report?

Deputy E.J. Noel:

The Verita report has been distributed as previously disclosed by the Minister. There are 4 named people who have received copies the report and the consultant is not one of those people.

6.8 Deputy G.P. Southern:

I am trying to hit a question that is not on a sheet prepared in front of him. Would the Assistant Minister inform Members whether the package he talked of earlier in order to retain and recruit nurses, contained a fresh offer either for 2009 pay offer or 2010, or was it only a restructuring package?

Deputy E.J. Noel:

I believe I have already answered that question when I said that I have not been party to the documents produced and so I do not know their contents.

6.8.1 Deputy G.P. Southern:

Will the Assistant Minister return to the House and inform Members whether that draft package contains restructuring or a new pay offer for 2009 and 2010?

Deputy E.J. Noel:

I am happy to confirm my belief that revised package is with S.E.B. and that they will be reporting back to Health and Social Services by the mid-point of this month.

Deputy G.P. Southern:

Is that a yes or a no?

Deputy E.J. Noel:

I do not know the contents of that package and ...

Deputy G.P. Southern:

Will you inform Members?

The Deputy Bailiff:

Deputy, first of all through the Chair. Secondly, would you please ask if you might put a further supplementary? It is usual to have 2 questions, a first question and a supplementary, sometimes a third one, but a fourth one is going too far.

Deputy G.P. Southern:

I apologise for my enthusiasm, but I do believe the point of question time is to obtain some answers sometimes.

The Deputy Bailiff:

Very well, you may now put the question again.

6.8.2 Deputy G.P. Southern:

Will the Minister agree to bring the data in that package to the House?

Deputy E.J. Noel:

I can only agree to bring something back to the House if I will be party to receiving it, so if that information comes into my domain I am quite willing to give an undertaking to distribute that information to this House, but if it does not come into my domain I am afraid that I cannot do so.

6.9 Senator J.L. Perchard:

Will the Assistant Minister give the reason for the delay in making public the Verita report and can he assure Members that the delay in the reports publication, presumably for redaction and modification, will not devalue the report and how it is perceived?

Deputy E.J. Noel:

To answer the Senator's last point first, no alteration to the content of the report will devalue it, whatever that alteration based on facts will be. There have been a number of reasons for the slight delay in publishing the findings of the report. What I would like to ask Members is to respect that Mrs. Rourke was indeed a daughter, a wife and a mother and we have had some consultation with the family and they would prefer that the findings of that report do not come out until after Christmas.

6.9.1 Senator J.L. Perchard:

Sorry, I did not hear the line ... until after? A supplementary if I may? So the reason for the delay in the publication of the Verita report is because the Rourke family have asked for its delay and the Minister did say that no alteration to the report will devalue the report. Does that mean that the report will be altered?

Deputy E.J. Noel:

There are a number of reasons for the delay. The primary reason is that it is still being fact-checked. If that process identifies that some facts are incorrect as currently stated then it is only right that the report is amended accordingly.

6.10 The Deputy of St. Martin:

Maybe on the same line, are we now to believe that there are factual inaccuracies in the report and that is why the conflicted Medical Director has gone to London, as opposed to maybe the independent ... I will not mention ... but there is obviously an independent officer should have gone, not the conflicted Medical Director. He should not have gone to London.

The Deputy Bailiff:

What is the question?

The Deputy of St. Martin:

Will the Assistant Minister agree that the reason for the Medical Director going to London is to correct something which he, the Medical Director, believes to be inaccurate?

Deputy E.J. Noel:

No, the reason why a group of health professional staff went to London was to start the fact-checking process. Until they arrived in London they had not seen the report so they would not have been going there to specifically change individual facts that are within the report.

6.10.1 The Deputy of St. Martin:

Can I just ask the Minister, why was the report not brought to Jersey so people could check it in Jersey, rather than go to the U.K.?

Deputy E.J. Noel:

The decision was made that it would be done outside of the Island, for the sake of transparency, so people could see that there has been no undue influence on the report in the Island.

The Deputy Bailiff:

I would like Members to be aware that the 15 minutes expired at 12.03 p.m. I have allowed an extra couple of minutes because I thought that there were some interruptions in the course of

questioning that made it appropriate to do so, but we now come to the last question, Deputy Higgins.

6.11 Deputy M.R. Higgins:

With waiting lists in urology and other medical disciplines being up to a year in duration, what steps are the Assistant Minister and his department taking to eradicate these waiting lists, bearing in mind that some life-threatening conditions are going untreated?

Deputy E.J. Noel:

We are doing everything that we can, within the resources that we have, to ensure that all of our population are treated as swiftly and with due care as they deserve.

6.11.1 Deputy M.R. Higgins:

Does he think a year is reasonable when people have life-threatening conditions, and that is not good enough, the answer he has just given?

Deputy E.J. Noel:

Any undue waiting time is not acceptable and we are doing everything that we can, within the resources that we have, to bring down those waiting list times.

7. Urgent Oral Questions

The Deputy Bailiff:

Very well, that brings an end to questions without notice. There are 3 urgent oral questions which have been approved by the Bailiff in accordance with Standing Order 15 and the first is a question from Deputy Southern to Her Majesty's Attorney General.

7.1 Deputy G.P. Southern of Her Majesty's Attorney General regarding the terms of redundancies at the Jersey New Waterworks Company Limited:

I am grateful for the opportunity to ask these questions. This week is, I understand, the deadline for the redundancies at Jersey New Waterworks, which is why the urgency. Has the Law Officers' Department been asked for advice by either the Minister for Treasury and Resources, as representative of the States majority shareholding in the Jersey New Waterworks Company Limited or by the Minister for Social Security as the Minister responsible for J.A.C.S. (Jersey Advisory and Conciliation Services) on the terms contained in the document JACS1 (Agreement in respect of termination of employment by reason of redundancy between Jersey New Waterworks Company Limited and its employees) with particular reference to paragraph 3 and items F and G of Schedule 1 which appear to require that the employee abrogate their rights under the Human Rights (Jersey) Law 2000 and the Health and Safety at Work (Jersey) Law 1989?

Mr. T.J. Le Cocq., H.M. Attorney General:

I regret that I am unable to give an answer to this question. It is a matter of settled principle as reflected, for example, in the Code of Practice for Scrutiny Panels in the Public Accounts Committee adopted by the States on 12 March 2008, that the Law Officers' Department do not reveal whether or not advice has been sought nor what, if any, advice may have been given and accordingly I cannot answer the question in the terms as put. Naturally I do not know what, if any, advice the Jersey New Waterworks company might have taken from its own legal advisers on any agreement that it might have entered into.

7.1.1 Deputy G.P. Southern:

That is very reminiscent of 4 years ago and a particular Scrutiny Panel, which I am sure the Chair will appreciate, however, I think I can ask whether the Attorney General is able at this stage to

advise a Member of the States - me - on whether he finds such an agreement acceptable that one can simply, in a contract, waive ones rights to protection under the Human Rights Law?

The Attorney General:

At the risk of sounding like I am being deliberately unhelpful to the Member, I do not think I can offer that advice in any form of categoric statement. Clearly, there are lots of factors that go into considering the form of any agreement and, whereas I take the Deputy's statement as to what the agreement contains as being absolutely correct, it seems to me that there are circumstances in which things can be written out, but I would not wish to make any definitive statement without knowing the full background and the opportunity to reflect on the terms of the agreement.

7.1.2 Deputy G.P. Southern:

Sir, may I have a second supplementary? Is the Attorney General aware of circumstances in other jurisdictions - particular circumstances - in which members of the public, employees or otherwise are asked to waive their rights under the equivalent Human Rights Law in that jurisdiction?

The Attorney General:

No, I am not aware of any other situation.

7.1.3 Deputy M.R. Higgins:

I would just like to follow up on Deputy Southern's questions of the Attorney General. If the European Convention on Human Rights is a convention which the United Kingdom has signed up to, and this Island has also signed up to, surely you cannot derogate from a convention in a contract, and as the Jersey New Waterworks Board is, I believe, a public authority as coming under the definition of the Human Rights Law, how can they derogate from the convention?

The Attorney General:

I do not think it is appropriate for the Attorney General to comment on the detail of an agreement, but in terms of general principle, in the short time I have had available to me to consider this, my understanding is that there are certain aspects of the Human Rights Convention, as embodied in our Statute Law, where it would be possible to contract out of. There are other aspects of the Convention where clearly it would not be possible, but I do not think I can go any further than that.

7.1.4 Deputy M.R. Higgins:

If I may just ask the Attorney General if he will come back at the next session and explain exactly what the position is? Thank you.

The Attorney General:

If I were to return at the next session, I think I would then be giving an extremely lengthy advice and I am not sure that that would be possible or appropriate in the circumstances. If there is a specific question addressed to me then I will do my best, of course, to answer it but merely to come back and explain what the position is will be the equivalent of reading out a text book, I suspect.

7.1.5 Deputy M. Tadier:

Though I am not a lawyer by any means, it would seem that if the Attorney General has just told us there are certain human rights which can be contracted out of and some which cannot be contracted out of, then the question would simply be, those that we are talking about in Jersey with relation to the Jersey Waterworks Company, are those contractual obligations the type that can be opted out of or are they of the type that cannot be opted out of?

The Attorney General:

I do not think I can answer that because I do not think it is clear to me, from looking at what paperwork I have seen, what rights are specifically relevant to the arrangements between the Jersey

New Waterworks Company and its former employees, and therefore to come back and say ... it would require me to identify what those rights were and that is something that I could not do without a lot more background information relating to the context in which the agreement was entered into.

Deputy G.P. Southern:

Sir, may I return with ...?

The Deputy Bailiff:

Deputy Southern, I am keeping you for your final supplementary and I saw Deputy Jeune.

7.1.6 Deputy A.E. Jeune:

If I could ask the Attorney General, I am assuming that it would be correct that if I am employed by somebody and I am leaving their employ that the terms that I choose to agree with them is my right? Thank you.

The Attorney General:

As a matter of general principle, of course, one is free to contract generally in most circumstances on whatever basis one wishes. There are, however, issues of principle where sometimes the court will hold a contractual agreement of that nature to be contrary to *bonnes mœurs* and matters such as that, and it is difficult to say categorically whether anything within this agreement falls within such a category.

7.1.7 Deputy G.P. Southern:

May I refer the Attorney General to the terms which I have supplied him with last night, and Article 4 says: "The employee accepts the payment specified in paragraph 2 above, in full and final settlement of the claim set out in Schedule 1 of this paper." Schedule 1 says: "Any claim made or alleged in respect of failure to comply with any obligations under the Human Rights (Jersey) Law 2000 and ..." more concretely, because we might be concerned about human rights, but the employee might be more concerned about the second part: "... any claim made or alleged in respect of breach of the Health and Safety at Work (Jersey) Law 1989." Does the Attorney General consider that that is an extreme case for an exemption and a protection for the employer at the expense of the employee, especially when it is done by inducement, because if you do make a claim under that you lose the right to your redundancy payment?

The Deputy Bailiff:

Are you going to answer that, Attorney General?

The Attorney General:

It is very difficult for me to give any kind of, I think, constructive answer. As the Deputy rightly says, I have seen the document that has been provided to me as of yesterday afternoon. To understand the document one needs to understand the context and what is meant specifically by the ambit of any particular provision within it. Quite clearly, taken at face value, a removal of a claim under the Human Rights Law would not, in my view, encompass cruel and unusual punishment, for example. That would be something that would not be possible, but there may well be areas under the Human Rights Law and under the Health and Safety at Work Law where it is perfectly reasonable in the context of a payment made in advance, to be taken it as being settled by that payment and in the event that someone wishes to return the payment, then it will be at liberty to take those proceedings. It is very difficult for me to say categorically whether any of those provisions would be objectionable as such.

The Deputy Bailiff:

Very well, we now come to a question that Deputy Southern wishes to ask the Minister for Treasury and Resources.

7.2 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the terms of redundancies at the Jersey New Waterworks Company Limited:

Enough of the legal situation and on to the political. As representative of the States majority shareholding in the Jersey New Waterworks Company Limited does the Minister for Treasury and Resources support the decision of the company to require employees as a condition of receiving a redundancy payment, to abrogate their rights under the Human Rights (Jersey) Law 2000 and the Health and Safety at Work (Jersey) Law 1989 under paragraph 4 and items F and G of Schedule 1 to the document, which outlines the terms of their redundancy?

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

May I first of all say that all reorganisations and restructurings that result in any potential redundancies, I understand, are a matter of personal tragedy for the individuals and their families. I believe that all individuals affected need to be respected, they need to be looked after and we, the States, will do everything that we can to assist those people, whether the entity is owned by the States or not. This does not, however, mean that the companies should not be in a position to make necessary restructurings of their business. Now, having said that, I expect all States-owned companies particularly to be responsible and to be fair employers exceeding the minimum statutory requirements. While I had not read the agreement until the question was sent to me at 5.05 p.m. last night, I have read the agreement, however I would not normally be expected to review such a proposed agreement as I do not believe it appropriate to do so. The details of any agreement is a matter, in my view, for the company, the individual employers and their representatives. What I can say is that I am advised that the company is liaising closely with J.A.C.S. who is the expert body in dealing with these matters and I have an assurance again from the managing director and chairman this morning that they are standing by and indeed exceeding the minimum statutory requirements.

7.2.1 Deputy G.P. Southern:

Again, I come back to the issue of whether, as majority shareholder, we should be supporting any company which asks its employees to abrogate their human rights in any situation whatsoever. Does the Minister support such action?

Senator P.F.C. Ozouf:

These certain circumstances... and I am not going to respond particularly in the context of Jersey Water because I do not believe that this should become a matter of political debate in this Assembly. We have appointed a board and I have appointed a board to run the company appropriately and to uphold the highest standards of governance, of treatment of employees, *et cetera*. Generally speaking, I can see circumstances where an agreement which is in excess of the minimum statutory requirements will give the employee an opportunity to sign an agreement which brings the matter of their redundancy or the termination of their employment to a close. It is very difficult to answer a question without me being able to discuss all the circumstances of the agreement with the individual and frankly I am not prepared to do so.

7.2.2 Deputy S. Pitman:

The Minister has just spoken of when employees are facing redundancies that they should be looked after and respected. How does he see that as congruent to the fact that as a condition of receiving redundancy payments employees of Jersey Water have been asked to abrogate their rights to allow Jersey Water to employ cheap labour?

Senator P.F.C. Ozouf:

If the situation were to be that the employees ... if the decision goes ahead, which I understand is under discussion with the company this week, if they were being asked to accept and to sign an agreement which would be the absolute bare minimum of their rights, then perhaps I could understand it, but I am advised that that is not the case and that these employees are being properly treated by the company, that substantial negotiations have happened and arrangements well exceed the statutory minimum requirements. That puts a different complexion on the suggestion that these employees are somehow not being treated well. I would expect all employers to treat their employees well, especially States-owned entities, but not excessively.

7.2.3 Deputy S. Pitman:

Supplementary. Can the Minister answer: these employees are being asked to abrogate their human rights. Is this congruent to being looked after and respected?

Senator P.F.C. Ozouf:

I am not prepared to answer questions in a sound byte political forum in a way which is being ... it has been suggested by the members of the J.D.A. (Jersey Democratic Alliance) that there is ... the people that have been asking the questions are members of the J.D.A., I think. The matters that are being made are being made political. I have full confidence in the board and full confidence in the company that they are treating their staff appropriately and they are making the right decisions in the interests of the staff, the consumers and the shareholders.

7.2.4 Deputy T.M. Pitman:

I will try not to ask any sound byte questions, just a commonsense one. I apologise if I am missing something, but how can the Minister state that it is not appropriate to review the situation when he is the representative of the States majority shareholding? If that is not possible, then what role does he serve? What is the point?

Senator P.F.C. Ozouf:

The States own and has substantial shareholdings in utility companies for various different reasons. That does not lead the Minister for Treasury and Resources to be in the position of running these entities as if it was a States department. We appoint a board, we expect the board to run the entity properly, efficiently, appropriately, lawfully and respecting the standards that one would expect in relation to looking after staff. This is not the same as running a States department, which I am sorry that the Members that are asking questions and asked questions previously 2 weeks ago are suggesting that we should somehow step over that position of running these entities. I do not believe that is the role.

7.2.5 Deputy G.P. Southern:

Final supplementary, if I may? Yes, does the Minister accept that a situation in which human rights can be abrogated with the function of increasing the dividend payments to the States is a valid position for him to take as representative of the States shareholding as a whole?

Senator P.F.C. Ozouf:

Well, that is another sound byte and somehow the suggestion that the company is making a *bona fide* business running decision operational matter and somehow that there will be an automatic improvement in the shareholders return. The managing director has been very clear in interviews in the press locally of the reasons why the business is considering this as an operational efficiency improvement, which is required in order to secure the company's position of investing in the infrastructure water arrangements in Jersey, which are very substantial. The company and the board have a responsibility to run the business efficiently and effectively, and I fully endorse and I have absolute confidence in the decisions that they are making. I urge the Deputy not to politicise effectively operational decisions that companies under difficult circumstances sometimes have to make.

7.2.6 Deputy G.P. Southern:

Can I ask a point of clarification? Has the Minister referred to a statement from the chairman of Jersey New Waterworks Company? Has he not read the letter in which he says: "We are making these redundancies in order to improve profits and to improve dividends including to the States."

Senator P.F.C. Ozouf:

The public is also entitled to a ...

Deputy G.P. Southern:

Has he read it?

Senator P.F.C. Ozouf:

The public is entitled to a proper return on its investments in utility companies. I do not believe that the decision by either Jersey Water or Jersey Telecom is linked with dividend payments. Rather it is efficient, proper, long-term planning of these companies to secure proper wholesome widespread water services across the Island to benefit the long term interests of consumers, the long term interests of Islanders and ultimately, in some cases, shareholders too. The public is entitled to a return of which there is a valuable contribution made to pay for frontline services by owned entities.

Deputy G.P. Southern:

With permission ...

The Deputy Bailiff:

No, we have closed on that question. We now come to a question which Deputy Southern has to ask of the Minister for Social Security.

7.3 Deputy G.P. Southern of the Minister for Social Security regarding the terms of redundancies at the Jersey New Waterworks Company Limited:

As the Minister with responsibility for J.A.C.S., does the Minister for Social Security support J.A.C.S. in producing a document which requires employees to abrogate their rights under the Human Rights (Jersey) Law 2000 and the Health and Safety at Work (Jersey) Law 1989 under paragraph 4 and items F and G of Schedule 1 to the document which outlines the terms of their redundancy?

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

I am advised by J.A.C.S. that the draft document referred to in the question is not one in substance that differs significantly from those used in many circumstances and on many occasions whereby an employee and employer seek to reach agreement without reference to the Employment Tribunal facilitated by J.A.C.S. I do not see these documents generally as they are a matter for the employee and employer and their advisers. It is for advisers to advise the employee of the potential consequences of signing such agreements. I understand that while the schedule is one requested by the employer in this case, J.A.C.S. officers will provide advice to all those considering signing the agreement notwithstanding that those employees could or indeed should seek advice from their representatives whom they have paid to give that advice.

7.3.1 Deputy G.P. Southern:

Is the Minister aware of whether J.A.C.S. have sought legal advice on the inclusion of an all-encompassing exemption such as failure to comply with any obligations under the Human Rights Law and, in particular, with any breach of Health and Safety at Work which may be a separate

incident and for which the Minister for Social Security must be responsible, whether J.A.C.S. has sought legal advice as to the ability of such a schedule to contain such terms?

Deputy I.J. Gorst:

It is my understanding, and I just said in my earlier answer that in fact it is for the employee and the employer to seek legal advice before entering into such a document. As I said earlier, this is a pretty standard document. It is my understanding that in fact one could argue that by being explicit in the schedule, that the employer is following good practice so that the employers are aware or seek appropriate advice prior to signing the document.

7.3.2 Deputy M. Tadier:

Does the Minister agree with the comments a moment ago of the Minister for Treasury and Resources that in fact the search for a profit and shareholder return are not linked ... the 2 are not linked even though we have just heard evidence from Deputy Southern of the existence of documentary evidence that suggest that not only are the 2 linked, but in fact that profits and shareholder return is one of the prime reasons for redundancy?

Deputy I.J. Gorst:

The Minister for Treasury and Resources acts as liaison or, in effect, shareholder of this company and therefore I assume he is party to information which I am not and therefore it is not appropriate for me to say the basis of information that he may have made that comment earlier.

Deputy M. Tadier:

But the Minister surely can state whether he agrees or not that the 2 are linked. That is simply what the question was.

Deputy I.J. Gorst:

Whether increased profits may lead to increased dividends, well of course they may, but they may also lead to increased investment in infrastructure.

7.3.3 Deputy M. Tadier:

I think the Minister was being slightly evasive there as the question was asked whether the redundancies were linked to a search for greater profits. That was simply the question. I do not think the Minister understood that.

Deputy I.J. Gorst:

Then all I can do is refer him to the answer I gave to his previous question.

7.3.4 Deputy S. Pitman:

Is the Minister satisfied with the way Jersey Water is looking after its staff and could he also say has he consulted employees as to their views on abrogating their human rights?

Deputy I.J. Gorst:

I would say it is not for me in my role as Minister for Social Security to say whether I am satisfied or not. That is a question which should have been addressed to the Minister for Treasury and Resources either as shareholder or to the board directly. Members of my department have visited Jersey New Waterworks, they have run courses, they have tried to inform those people who could be facing redundancy about their rights and services that we can offer them as a department. As with regards to the legal section of the answer, when one's lawyer has given the advice that has just been given it would be very remiss of me to say anything further.

7.3.5 Deputy S. Pitman:

Supplementary. The Minister for Treasury and Resources has said that he believes that Jersey Water are looking after their staff. Is he aware that the Minister for Treasury and Resources has consulted the staff on abrogating their human rights?

Deputy I.J. Gorst:

I am not sure. Is the Deputy asking whether I am aware whether the Minister for Treasury and Resources has consulted with the employees of Jersey New Water? The answer is I am not aware.

7.3.6 Deputy T.M. Pitman:

Very briefly, does the Minister consider that this erosion, clear erosion of best practice in the production of such documents, has very worrying long-term implications for impact on his department?

Deputy I.J. Gorst:

I am not sure which best practice the Deputy is referring to. As I tried to say, these agreements are fairly standard. I think, suffice to say, that it is my understanding that something like 75 per cent of cases that could go towards the tribunal manage to avoid the tribunal by signing agreements such as this to keep claims and disagreements outside of the tribunal process, which I believe is what this House wished for when it approved the setting up of J.A.C.S.

7.3.7 Deputy T.M. Pitman:

Supplementary. I would say that I meant this erosion of the value of human rights. Surely that is a worry to the Minister.

Deputy I.J. Gorst:

It is not for me to comment on whether this is an erosion on the value of human rights or not. Thank you.

7.3.8 Deputy G.P. Southern:

Final supplementary. Firstly, while he refers to: "This is common practice", I assume he means it is common practice here, is he aware of whether such all-encompassing phrases are used in other jurisdictions and, if not, will he agree to research it elsewhere; and (b) given that part of the function of J.A.C.S. is to protect employees, does he feel that such a set of terms being drawn up by J.A.C.S. only serves to reduce the faith that employees might have in their services overall?

Deputy I.J. Gorst:

As I said at the start, it is my understanding that this is a reasonably common approach. Some of the paragraphs contained in this agreement are paragraphs that one might find in an Acas (Advisory, Conciliation and Arbitration Service) agreement which is the U.K. body. I also understand the Isle of Man similar body, and the Guernsey similar body, in answer to that... In answer to the second part of the Deputy's question, I quite clearly said in my opening remarks that this was a draft documentation. It has yet to be agreed by employer and employee and therefore J.A.C.S. at this stage says: "I understand it would take a standard documentation add-in what might be requested, it would then be discussed by employer and employee upon advice from both sides and that employee would then make a decision." J.A.C.S. would act, as it were, as an independent arbiter and make sure that those employees are aware of all the implications of signing such a documentation and I believe that they will do just that in this case. If they have any doubt they will request that the employee seek legal advice before signing such a document.

The Deputy Bailiff:

Thank you. That brings the 3 urgent questions to an end.

Senator P.F.C. Ozouf:

May I raise a point of order? I understand that feelings are strongly held on each side of the matter as before the Assembly in relation to oral questions. However, at the end of my oral question, it appears that Deputy Southern mouthed a word to me which I believe to be unparliamentary and certainly cast aspersions on the accuracy and honesty of my answer. Could I just confirm to Deputy Southern - it was clearly seen - can I ask Deputy Southern whether or not he did mouth a word to me and whether or not, if he did so, he would be willing to withdraw and confirm that he does believe that I have acted honestly and accurately in answering questions?

Deputy G.P. Southern:

I can confirm that I said no such unparliamentary word and there is no such word on Hansard record.

Senator P.F.C. Ozouf:

What is the issue with mouthing words such as “liar”?

Deputy M. Tadier:

Can I seek a clarification and I think it will be helpful to the Assembly. A moment earlier, Deputy Southern told us of the existence of a document which stated from the Jersey Waterworks the reasons for redundancies. I believe it would be helpful if that could be furnished to every Member, because someone is being made out to be a liar here, I believe, and ...

The Deputy Bailiff:

Deputy, I am speaking to the point of order.

Deputy M. Tadier:

Sorry. I will come back then.

The Deputy Bailiff:

Standing Order 104 requires that a Member of the States should not impute improper motives directly or by innuendo to any Member of the States. That imputation can take place whether by actions or by words. As it happens, the Chair did not see any actions of Deputy Southern and did not hear any words spoken. In those circumstances I think at present there is nothing for the Chair to rule upon but there is nothing preventing a complaint being made to the chairman of the Privileges and Procedures Committee for it to be investigated if that is something that any Member wishes to do.

Senator P.F.C. Ozouf:

But I saw Deputy Southern smirk when I made the word. Is he confirming that he did not mouth the word “liar” to me?

Deputy G.P. Southern:

I am saying I said no such word.

Deputy M. Tadier:

This raises the issue of the clarity of ...

The Deputy Bailiff:

Is this a point of order you are raising, Deputy? We are not having a debate about this issue. Thank you. Well, we now return to the ...

Deputy M. Tadier:

But may I continue? It is really because of this allegation and I believe that on the one hand we had the Minister saying that profits were not the reason for the redundancies and on the other hand we

have had Deputy Southern saying that profits were the motivating reason and that we have documentary evidence to suggest that. So all I am saying is that it would be very helpful if Members could see the documentation to make their own minds up for themselves. Would the Deputy be willing ...

The Deputy Bailiff:

That is not a point of order, it does not require to be dealt with by the Assembly today.

LUNCHEON ADJOURNMENT PROPOSED

The Deputy of St. Mary:

Can I raise a point of order? It is now a point of order having reflected briefly. You have just advised the Minister for Treasury and Resources that he may take up with P.P.C. (Privileges and Procedures Committee) the issue of whether a Deputy took a certain action. Is it therefore in order also for myself to raise with P.P.C. the issue of whether the Minister for Treasury and Resources answers questions honestly?

The Deputy Bailiff:

I have not given any advice to the Minister for Treasury and Resources, I have made a statement that any Member can raise matters with the Privileges and Procedures Committee if he or she wishes to do so. I take the opportunity of advising Members that there has been lodged comments on the second amendment to Budget Statement - P.179 - by the Minister for Treasury and Resources. There have also been lodged comments by the Minister for Treasury and Resources on the third amendment and there has also been lodged an amendment to the amendment by the Minister for Treasury and Resources, P.179.

Deputy A.K.F. Green:

Can I just seek some guidance from you in the matter that we are going to debate after lunch, P.110. As a member of the scheme and someone that hopes to benefit from the payments in the next year or so, will I have to declare an interest? The States pension scheme.

Senator B.E. Shenton:

Can I just say that I do not believe that Members will have to declare an interest because it does not have any benefit to Members themselves, it is just the speed with which the debt is paid off.

The Deputy Bailiff:

That seems to be right. If the Chair takes a different view over lunch we will let you know.

Deputy A.K.F. Green:

In that case, I will have to come back on time. **[Laughter]**

The Deputy Bailiff:

That, I am sure, is a good rule for all Members. The States stands adjourned until 2.15 p.m. this afternoon.

LUNCHEON ADJOURNMENT

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

The Deputy Greffier (in the Chair):

First of all, I think I would like to, on behalf of Members, welcome the second group of J.C.G. (Jersey College for Girls) this afternoon. It is very nice to see them here. **[Approbation]** The Assembly continues this afternoon with statements on a matter of official responsibility. The Minister for Economic Development will make a statement regarding e-gambling licensing.

8. The Minister for Economic Development - a statement regarding e-gambling licensing

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

The debate about the merits of a Gambling Commission has become entwined within a much wider debate on the scale and scope of the industry that it should regulate. There are important stand-alone reasons for establishing a statutory Gambling Commission now. These include the need to properly regulate the sector as highlighted by the recent I.M.F. visit and to ensure vulnerable people are properly protected. During the last 2 weeks I have consulted Ministerial colleagues and a number of other States Members and am well aware of the concerns regarding the perceived costs of the proposed Gambling Commission. I hope to address any outstanding issues in the forthcoming debate. I am also aware that the introduction of a statutory commission is being interpreted by some as giving the go ahead to the introduction of a full e-gaming licensing regime. This is not true, indeed, it is impossible as e-gambling or e-gaming, as it is often described, is only one part of a proposed modernisation of the much wider gambling legislation. Members will therefore have the opportunity to debate, reject or accept all or part of the proposed modernisation of the legislation later in 2010, but it is important that these 2 separate issues - the Commission and e-gambling - are decoupled and each considered on their respective merits. In order for my department to progress the detail of the e-gaming element of the legislation with confidence, I propose to bring a report and proposition by March 2010 to ask the States to confirm their continued in principle support for e-gaming. For the avoidance of doubt, I believe that appropriate e-gaming legislation should be progressed, it offers safe and legitimate opportunities for economic diversification in areas of e-commerce that competitive jurisdictions are already exploiting to our cost. The proposed structure of the Gambling Commission, if approved, will be the 3 commissioners and existing support staff who are part of my department's regulatory services team. Their remit will be to properly regulate the existing sector and to deliver the essential reform of gambling legislation. Once this has been finalised, in whatever form, the resources of the Commission will be reviewed. If the States reject further growth in the sector, in particular if e-gambling is rejected, then the staff cost element of a Commission will be reduced proportionately. If, after informed debate in 2010, the States is of the opinion that reform of the gambling sector in Jersey should not include the development of e-gaming, then these resources will be redeployed within Economic Development and the Commission will continue but with reduced support and cost. In all cases, the resources available to the Commission will be tailored to the legislative framework that the States permits. That much and no more. Ultimately, Members have my personal commitment that the activity of the Gambling Commission will be delivered in a manner that guarantees the highest standards of regulation that meets the objective of eliminating net cost to the department and of course, by implication, to the taxpayer. Thank you.

8.1.1 Deputy R.G. Le Hérissier:

Would the Minister confirm that the future of I.T., particularly the speed, the width and the availability of broadband is totally intermingled with the future of e-gaming and if we do not make progress on e-gaming we will stay in the stone age or not the stone age, we will stay in a very slow lane with reference to broadband?

Senator A.J.H. Maclean:

Yes, I can indeed confirm to the Deputy that he is absolutely right. It might be of interest to Members to bear in mind that in 2005 Jersey and Guernsey were approximately the same in terms of internet capacity to the U.K. Today Guernsey has 5 times larger capacity. The reason for that is largely the fact that Alderney and Guernsey have embraced e-gaming and that of course has helped

drive initial volume and push prices down as well. I might also add on top, if I may, that we have also noted that a number of local Jersey businesses that have data centres are now opening in Guernsey where there are opportunities of lower cost to the loss of the local Jersey economy. That is the sort of position that I do not think we can see continue. That is my opinion. Thank you.

8.1.2 Deputy R.G. Le Hérisier:

Supplementary. Would the Minister tell the House whether it is indeed possible to support the growth of broadband through other industries other than e-gaming?

Senator A.J.H. Maclean:

To a limited degree, I am sure the answer to that question is yes. Indeed, one could argue perhaps that the States could indeed fund such an activity. Of course that would have to ultimately come from taxpayers. There are other activities from a business perspective that would have a limited success, but to put it into perspective, 3 e-gaming companies in Alderney/Guernsey have the same capacity for broadband perspective as the entire finance industry in Jersey. That is a sobering thought.

8.1.3 Deputy I.J. Gorst:

Would the Minister not agree, contrary to the previous question, which is put forward by the e-gaming lobby, that it is all win, win, win, investment in infrastructure, that, yes, infrastructure is important, but there are many other ways that his department could be looking towards investing in that infrastructure and making sure that we have the telecommunication systems in this Island deserving of the 21st century?

Senator A.J.H. Maclean:

Not being a gambling man myself, I do not think that I would want to describe it as win, win, win necessarily, but I would concede with the Deputy that indeed there are opportunities, indeed my department... at the top of its agenda is diversification and it is keen to see businesses invest in infrastructure and look at ways in which we can meet these needs as best we can. But the sheer fact of the matter is that in terms of opportunity factor, e-commerce, the biggest opportunity in e-commerce at the moment is e-gaming still and it has those desired benefits. Ultimately, next year the proposition will come forward and it will be a matter for the States to decide if they agree with those statistics or not.

8.1.4 Deputy I.J. Gorst:

Simply because it is the biggest opportunity available, does the Minister not agree it does not make it right?

Senator A.J.H. Maclean:

Well, indeed, there are many perspectives and indeed the moral aspects of gambling have to be taken seriously. That is one of the points and reasons why I am so keen to introduce a statutory Gambling Commission to ensure that we can look after vulnerable people; the young and so on, and to make sure that the industry that we currently have is properly regulated and, States willing, that any future growth such as e-gaming is properly regulated as well. It is absolutely essential. There are many aspects to consider and I concede that.

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

Firstly, does the Minister not consider that Jersey is 10 years possibly too late on this? Also, is it not really the case that this is one of the top priorities of his Ministerial department to look for further diversification because of the economic downturns effect on banking for a low carbon footprint high return replacement to finance?

Senator A.J.H. Maclean:

I do not agree with the Deputy that we are 10 years too late. In some respects we would have had considerable advantages if previous States had decided that that was a route that they wished to take. There are still opportunities, make no mistake, there are still companies... Even last year, one of the largest e-gaming operators approached the Island thinking we had the appropriate legislation, ultimately they have gone to Guernsey. We know, because of our very sound regulatory framework in Jersey, that we would appeal significantly to those type of operators. There is the business there and we could potentially benefit from it. Yes, it is a low footprint industry and in many respects it would fit the profile of what the Island is looking to do, keep population under control and basically a high return from the activity involved. But as Deputy Gorst was saying, there are other considerations that need to be balanced.

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

Clearly, from the pre-meetings that we have had, it is very important that we get the new technology brought in and I can see why the Minister's department is looking for e-gaming, but clearly there are other opportunities, as you have already just stated today, that we should be encompassing and promoting. Are we doing enough at this moment in order to achieve that? I appreciate it might cost the taxpayer something to pump-prime something to get them going but I am not yet convinced that we are treating other aspects seriously and we are relying upon a potential future for e-gaming and the debate next year.

Senator A.J.H. Maclean:

The Deputy raises a very important point. We are, I believe, as a department - Economic Development - looking at many other opportunities for growth in the economy, both from our legacy industries which we continue to support such as tourism, agriculture and so on, but there are indeed opportunities in areas like intellectual property. There is a significant piece of legislation which will be coming before the States, hopefully, early next year. Something like 400 Articles to develop our intellectual property opportunities. So, yes, we continue to look for good opportunities. This is not the only thing we are looking at, it just happens to be the issue of the day.

8.1.7 Deputy M. Tadier:

It really does follow on from the question of Deputy Gorst or at least the theme; in the statement the Minister highlighted the facts for setting up legislation to permit e-gaming is that our competitors in other jurisdictions are already exploiting this at our cost. I would like to know a bit more about this rationale because the Minister will also be aware that many other jurisdictions also exploit other things which we deem perhaps morally unacceptable such as drug taking in society, which they have legalised or, conscious of the youngsters we have here, I will use the suitable euphemism of houses of ill repute which are also legal in other jurisdictions. So does the Minister acknowledge that this rationale is not a valid one?

Senator A.J.H. Maclean:

What I acknowledge is that with proper and appropriate regulation - I go back again to the need for a statutory Gambling Commission - I think it is absolutely appropriate. We have an existing industry that has to be properly regulated, if the States agree, in the future to the growth of that industry with possibly e-gaming, then it will be even more important that we have an appropriate Gambling Commission in place to regulate and look after people. I think the Deputy should bear in mind we are about the only jurisdiction that does not do e-gaming, does not allow it within our legislation. I think that in itself is an interesting factor. Indeed, Malta, Gibraltar, Isle of Man, Alderney, Guernsey, all of which take it, all of which derive significant revenue because it is safely and properly regulated.

8.1.8 Deputy M. Tadier:

Supplementary, if I may? The Minister has already acknowledged that there is a wide range of views in the House and that in fact it is ultimately up to the House to decide whether or not we

would be accepting e-gaming to be hosted in Jersey. With that in mind, does the Minister not accept that we are in fact therefore putting the cart before the horse in setting up a framework in which e-gaming can be set up? Even though we have heard from the Minister that that could be disbanded and used in other areas, it seems like we are putting the cart before the horse, does the Minister agree?

Senator A.J.H. Maclean:

No, I am afraid I do not. The horse is very much in front of the cart in this instance. What I can say is that in terms of modernising the existing gambling legislation, Members will be aware that our gambling legislation dates back to the 1960s. It is wholly inappropriate, it is not effective, and in fact it offers significant risks - the risks that were identified very recently by the recent I.M.F. visit to the Island. We have to regulate the existing industry that we have got in an appropriate way. Indeed, the Shadow Commission that is in place and the support from Economic Development officers is there because of the significant work associated with the modernisation of our existing legislation. In due course, if the States decide they do not want us to propose or proceed with e-gaming legislation, then the Commission will be reduced to the appropriate size for the industry that it will be regulating in the future.

The Deputy Bailiff:

Well, whether it is the horse or the cart, the last couple of questions and answers took so long I am afraid that the 10 minutes is now up. May I remind Members that it is important to keep questions and answers crisp and concise. Minister, you have a second statement.

9. The Minister for Economic Development - statement regarding public consultation on the ferry market

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

A different subject of course; the matter of public consultation for the ferry markets. A comprehensive Green Paper looking in some depth at the issues of both the security of supply and the regulation of fares in the ferry market is now at an advanced state of production. Recognising that the transport needs of Jersey and Guernsey are similar and that the network of routes is dependent on both Bailiwicks, it has been decided that the public consultation process should be extended to be available to all those living in the Channel Islands. To this end we are working at both political and staff level with our colleagues at the States of Guernsey Commerce and Employment Department. It is hoped that the consultation will commence in January with the issue of a green paper and will run for 8 weeks ending in March 2010. Following the consultation it is intended that the Minister for Commerce and Employment in Guernsey and I will be in a position to make statements in April 2010 on both Islands' future sea route policy.

9.1.1 The Deputy of St. John:

I have real concerns with the Minister agreeing to get involved with Guernsey and I will give the reasons. The reason being that as a former Vice-President of Jersey Transport Authority at the time of tender proceedings and the process for the shipping routes between Jersey and the U.K., both the Jersey Transport Authority and the Guernsey Board agreed that P&O ferries, after the tender process, should take the route. Within a week of that joint decision being made, Guernsey changed their board members around so as to keep Condor on the routes. If ever I saw a more corrupt decision of inward interests being looked after their own, that was it. Will the Minister please tell Members how he expects Guernsey to stand by any decision that is made on sea routes and will he fall on his sword if Guernsey reneges on any deal between both Islands?

Senator A.J.H. Maclean:

I am certainly not prepared to fall on any swords over this matter. The Deputy raises some historic views regarding sea routes, I prefer to concentrate on the present and the future. The relationships between Jersey and Guernsey have improved considerably. Certainly I have a very positive working relationship with my counterpart in Guernsey and it is without doubt in the interests of both Islands that this, and I have to stress this is a consultation, the consultation is carried out jointly across the Channel Islands. We are talking after all about a network of routes and it is appropriate that we get the views of both Islands and residents from both Islands in particular.

The Deputy Bailiff:

Deputy Fox. There are numbers of Members wishing to ask questions, we only have 10 minutes. We will come back to you, Deputy, in due course.

9.1.2 Deputy J.B. Fox:

Thank you. Security of supply and the regulation of fares is a very important aspect on this particular subject, and the comprehensive Green Paper I would be asking for the Minister to ensure that it covers what the public also want in the way of questions, i.e. fair sea routes to all, as many a time they are sitting on a boat and the one next door to them from the U.K. has had a far lesser price than the short leg going across to Saint-Malo. If he could ensure that it is looked at in that respect as well.

Senator A.J.H. Maclean:

Yes, Deputy Fox has been extremely helpful and constructive in his comments to both me and the department in this regard, and I can assure him we have taken on board many of his concerns with regard to the consultation document and we will be trying to include as much of what he believes is important into that document to make it as valuable as possible. I thank him for his involvement.

9.1.3 Deputy K.C. Lewis:

I was pipped at the post a little bit by the Deputy of St. John. My question, as I consider that the ferry system is the lifeblood of the Island, if and when a new ferry operator agreement is signed by Jersey and Guernsey, will the Minister ensure that the agreements are signed simultaneously by the Bailiwicks of Jersey and Guernsey, not as previously when Guernsey signed one in advance of Jersey leaving us with little choice?

Senator A.J.H. Maclean:

I agree with the sentiments of the Deputy entirely and certainly should there be a requirement in the future for a new operator and a new agreement to be signed, it is appropriate for both Islands to sign jointly. I hasten to add yet again and stress, this is a consultation we are talking about, not the signing of agreements; nevertheless if there is a future requirement then we will make absolutely certain that it is done in an appropriate way for the good of both Islands.

9.1.4 Deputy D.J. De Sousa:

Will the Minister be considering in this process offering subsidies in the same way as some airlines have received through the airport?

Senator A.J.H. Maclean:

I do not particularly like the term “subsidy” as such but the sea routes and air routes dynamics are very different. Nevertheless, should an operator come forward with a proposition that is in the interests and benefit of the Island from an economic perspective, it will go through an economic model that we have got to assess the value to the local economy in terms of inbound traffic and spend levels. If that meets the necessary criteria, the answer is yes. We had an inquiry very recently this year which I unfortunately could not support because it was not in the interests of the Island and it certainly was not in the interests of the tax payer.

9.1.5 Deputy S. Power:

I do believe and I do agree that all Channel Islands must work together to find a final solution to this ongoing ferry situation. To what extent does the Minister feel that any public consultation across the Channel Islands will influence any pitching of fares and any supply of services?

Senator A.J.H. Maclean:

I think the consultation process is there from an informative perspective. I do not think it will be in itself a tool that will set these, or indeed services. I certainly hope that out of the consultation we will get a clearer view of the public's requirements for sea route services and that in itself will determine a key element, and that is as to whether we need to have a much stronger or indeed any form of regulation; light touch or not.

9.1.6 The Deputy of St. John:

Will the Minister hopefully learn from the past? Given that we are 70 per cent of the routes, will the Minister use his muscle and his persuasive powers to make sure that Jersey gets a reasonable return on its money, on its investment, given that currently most routes northbound stop in Guernsey on the way to the U.K. and all our travelling public are put through 45 minutes to an hour delay on their journey to get to England? Could he make sure that at least one journey per day is direct to and from the U.K. in high season?

Senator A.J.H. Maclean:

What I can say to the Deputy is that I will be listening, as indeed my counterparts in Guernsey, very closely to the results of the consultation and I would encourage him to enter into and to participate in the consultation. I think the views of the Deputy and members of the public of the Island are essential in terms of formulating the best sea route policy we possibly can in the future that meets the requirements of all Islanders.

9.1.7 Deputy A.E. Juene:

Could the Minister advise who instigated this Green Paper in the first place? Was the approach made by the ferry operators or has this come about from States Departments?

Senator A.J.H. Maclean:

Yes, I can advise. It came about from my department; Economic Development. We thought it was important to get some additional information into the sea route and, indeed, to seek the views of the public. There have been a lurking number of views around for some months and indeed years and we want to flesh those out so that we can have and develop a better sea route service if that is possible.

The Deputy of St. Mary:

Can I say that I welcome this joint consultation with Guernsey? It seems eminently sensible and I would also welcome the chance, as no one else wants to ask a question on this, to ask for another one on camping. [Laughter]

9.1.8 Deputy M. Tadier:

Following on from the question of the Deputy of St. John, and seeing as our Guernsey colleagues are not here to defend themselves, would the Minister confirm that when Guernsey people travel to France using this boat service that they also have to wait in Jersey on the way sometimes and so it is an inconvenience that works both ways?

Senator A.J.H. Maclean:

I believe that is the case and in fact Members should also remember, from Guernsey's point of view, the route to France, being slightly more northerly than we are, is more challenging. Certainly

the numbers that they see on both legs of the southern route for them are not the same as ours so of course they do have their own challenges in that respect.

PUBLIC BUSINESS

10. Pension Schemes: dealing with the past service liability (P.110/2009)

The Deputy Bailiff:

We then turn to Public Business; Pension Schemes: dealing with past service liability - Projet 110/2009 - in the name of Senator Shenton and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of the opinion to request the States Employment Board and the Chief Minister, as appropriate, to renegotiate with the Committee of Management the terms of the Public Employees Contributory Retirement Scheme (P.E.C.R.S.) pre-1987 debt payment agreement and with the Management Board of the Jersey Teachers' Superannuation Fund (J.T.S.F.), the past service liability to ensure that this liability is dealt with within a realistic time frame and, in any event, in a period of not exceeding 20 years and to ensure that this change, subject to the approval of the States, takes place within a 12 month period from the date of approval of this proposition.

Deputy I.J. Gorst:

I just wish to make the declaration publicly that my wife is a member of this scheme. I recognise that this proposition has no bearing on that whatsoever but for the sake of good order I wanted to remind Members of that case. Thank you.

Senator T.J. Le Main:

My wife is as well.

The Deputy Bailiff:

I respectfully agree with both Members but this is not a matter where a declaration needs to be made.

Deputy J.B. Fox:

But I am a recipient of this scheme.

The Deputy Bailiff:

Again, I do not, myself, think that is a direct pecuniary interest insofar as this debate is concerned.

10.1 Senator B.E. Shenton:

This is not going to be a long speech. [**Approbation**] It certainly is not going to be a technical speech for the benefit of Senator Le Main. [**Laughter**] About 3 years ago there was an amendment going through on the teachers' pension scheme and I stood up to oppose it and made a very technical speech and I think I lost the Chamber within about the first 5 minutes and, reading through Hansard afterwards, I think I even lost myself at one point, so there you go. The reason this is not going to be a technical speech is because this is very much about a moral issue as opposed to the issue of the pension fund itself. I am absolutely delighted that our gallery is full of the younger generation today because that is what this proposition is about. If I had hindsight I would have tried to organise it, probably if I thought about it, so there is obviously some intervention there. Senator Perchard says he has arranged it. Because what this is about is this generation living within its means and not passing on its debts to future generations because it does not want to bite the bullet and take the action that is necessary. In biting the bullet, it does not necessarily mean that expenditures have to increase because it could be just a look at the way we

have our savings account and our expenditure account and saying: “Well, this is a liability. Perhaps we should take it from our savings and sort it out once and for all.” I sent the Dean an email on Monday because, just to point out that this is very much a debate on moral issues and I am glad to see that he is in the Chamber because, as a father, I am not sure whether it is right that this generation should burden future generations with debts. Some of the debts will be totally irrelevant by the time they get to be paid. Indeed, under the arrangement where we pay off this debt over 82 years, by the time it is paid off I will be well over 100 years old [Laughter] and my youngest daughter will be 91, so if she has children, she will probably have children and grandchildren by then so we are not just passing it on to the next generation; we are passing it on to the generation after that and the generation after that because it is convenient for us. We do not want to bite the bullet. It is convenient for us; let us pass our debt on to future generations and that is what all this is about. I have got the Constable of Grouville sitting to my left and I was thinking, on the way here, next year when he sends me my rates bill, I might divide it by 82 and send him £10 or whatever it is and say: “Well, I will pay it off over 82 years and my children will pay off the rest” and so on.

The Connétable of Grouville:

The cash-back fees will be substantial. [Laughter]

Senator B.E. Shenton:

The other part of this proposition, or why I brought this today, this is a 2-part proposition. This is the first part of a 2-part proposition because what needs to be made abundantly clear - and I think the Minister for Treasury and Resources and the Chief Minister, if they decide to speak on this, will clarify this point, in the States of Jersey accounts - the States have assumed responsibility for the past service liability that is in the accounts; £222 million P.E.C.R.S., and J.T.S.F £103 million. These are not fixed figures because there are numerous variables in their calculation but the States does have liability in full for those amounts. In taking over that liability what the States did is they removed their liability from the pension fund deficits that were to occur in the future. Now, obviously, as an investment manager I am well aware of what the stock markets have done and I have a pretty good understanding of where those deficits have gone and there are significant deficits in the teachers’ and the P.E.C.R.S. schemes as we stand here today. Those deficits will have to be dealt with by the members of those schemes alone; the Government will not bail them out. The Government is bailing out the pre-1987 deficit; it will not bail out future deficits. I think the Minister for Treasury and Resources and the Chief Minister will make that clear today. This has significant ramifications for the members of that scheme and that will probably become clear in the New Year when I bring the second part of this proposition. So I have split it into 2 parts; I have split it into this part, which is the part where the States do have the liability and the taxpayer has the liability and the second part, which will come in the New Year, where we will deal with the deficit - the much larger deficit - which is the responsibility of the members of the schemes. The 82-year rule that was thought out, I think what happened if my understanding is correct, the Treasury were informed of how much the deficit was and they plucked a number out of the air on how long they could pay it over and it would be affordable, and that is how the 82 -year rule came out. But the Committee of Management of the pension fund would agree that this is too long a period. They have put up with it but, as they write, an 82-year repayment for a debt is a long time. For U.K. schemes there is no legal maximum repayment period but the U.K. pensions regulator said in 2006 that repayment periods longer than 10 years would trigger specific attention, so they are saying if it is more than 10 years, there are question marks. They go on to say that obviously it would be in the best interests of the scheme to repay it slightly earlier. Now, the comments of the Council of Ministers, which is one side of A4, state that to pay it off over a shorter period would mean extra money coming out of general revenue, therefore there would have to be increases in taxation or a cut in services. If I were to turn around to you and say: “I have got debts of £300 and I have got £500 in my savings account; should I pay off my debt or not?” A lot of people would say: “Well,

that would make sense.” The trouble is, if we had paid off that debt during what I was going to say the Walker/Horsfall years we could not then go around like a peacock saying how much we had in our savings account and how rich the Island was and how we had all this money because when you net off your liabilities against your assets, maybe this Island is not quite as wealthy as it makes out at times. Indeed, what used to particularly annoy me and, because he is not here to defend himself, and because I read in the paper today that he is looking extremely well and extremely happy and I would not want to ruin that for him, but the former Chief Minister used to always dismiss any claims I made about settling off your liabilities and about the fact that we may have a pension problem by just dismissing the whole thing and saying: “We have no pension problem. We are doing very well; we have got £500 million in the Consolidated Fund, are we not doing great?” But the reality is if you have got debt, you have got debt. We have debt; it is shown in the balance sheet and is it fair to pay it off over 82 years? It cannot be. So, it need not necessarily mean that it comes straight off the annual bill of the States. Now, Senator Ozouf will have a chance to speak. I should remind him that this is a legislature and laws can be changed. They also say that the current generation is suffering the costs built-up by a former generation therefore we should do nothing, so they are saying that because this generation is trying to sort out the pension problem we have picked up some of the debt the previous generations did not deal with. I mean, that is just a bit of a nonsense argument because, at the end of the day, 2 wrongs do not make a right. Just because the previous generation did not have the bottle to deal with the issues because it would be unpopular, there are no brownie points as a politician dealing with this because the people you are benefiting are future generations. This is not going to get you re-elected but it is sound financial management and it is a prudent way to manage your affairs. As I said, I am not going to go on too long. I would prefer to hear the arguments of why we should pass our liabilities on over an 82-year period, the argument of why we should not deal with it over a much shorter time frame, the argument of why it is acceptable to tell everyone that we are a very wealthy Island when, quite frankly, we are not, an explanation of what perhaps the Council of Ministers are going to do to come to terms with this problem. I did say that my speech would be short; the report is quite lengthy but I would ask Members just to examine their conscience and really ask themselves whether it is fair on future generations to burden them with debt that this generation will benefit from. Thank you.

The Deputy Bailiff:

The proposition is made. Is it seconded? [**Seconded**] Very well, it is now open for debate and I call on the Minister for Social Security.

10.1.1 Deputy I.J. Gorst:

This is a straightforward and simple proposition, or at least I thought it was until I heard 10 minutes ago that this is only the first part of a 2 part proposition, the second part of which does not appear to be included in this report or proposition at all and therefore it is very difficult for me to address what that might be in the absence of it being written down. As I have said, this should be a straightforward and simple proposition. It asks for the States Employment Board to agree that the repayments for the pre-1987 debt should be re-profiled over a different timescale to the one previously agreed. That is, in effect, a reduced timescale. Arising from that, it asks the Chief Minister and the States Employment Board to begin negotiations with the Committee of Management; that is the body that in effect act like trustees in regard to the Public Employees Contributory Retirement Scheme - I will try and refer to it as P.E.C.R.S. during the course of this speech - and to reach an agreement upon that reduced timescale within 12 months. It appears straightforward and simple on the one hand. On the other, in my view, it is not necessary, it is not affordable, nor is it achievable in the requested timescale. In effect, if this proposition were approved, it would result in States expenditure of an increased £12.3 million and rising next year and for the following 19 years. Well, if I am being pedantic, it would be in 2012 and the following 19 years because we are asked to take 12 months to reach negotiation - I will say later why I do not even think that would be appropriate - something which I believe is neither necessary nor

acceptable in the current economic climate, nor would it be achievable, and I am surprised at the Senator, that he is not aware of that because he has just finished his term of 3 years as a member of the Committee of Management. The previous agreement; that is the agreement which is in place to repay the pre-1987 debt took from 2000 to the 2005 to negotiate and approve. That may seem like a long time but it is only right and appropriate to ensure that both the employer and employees, members of the scheme and their negotiators are given time and appropriate time to reach an agreement, and that is what we are asking for them to do today. So, for the avoidance of doubt, this proposition is not about P.E.C.R.S. and the teachers' scheme in general; it is simply about how the pre-1987 and the deficit of the teachers' scheme is paid. So, I think it might be helpful if I try to answer a number of initial questions because I recognise that I have already used terms which some Members might consider to be somewhat technical, and I do not want to fall into the trap that Senator Shenton felt he fell into last time he talked about pensions and that was being somewhat technical. However, I forgot to tell him that I think he possibly did and I am probably about to follow him into that trap. So, what is the pre-1987 debt? Well, until 1988 the index-linking of the States Public Employees Scheme was funded, in effect, on a pay-as-you-go basis, that is, each year the cost of paying pension increases was met out of annual States expenditure. In 1988 the regulations for this scheme were changed. The scheme became a fully funded scheme where the contribution rate for both employees and the employer, designed to meet all the liabilities of the scheme and with an agreed mechanism for funding any deficit or sharing any surplus, should that arise. At that time, unfortunately it was not separately identified that there was a gap between the value of the assets in the scheme, including indexation and the liability for the past - that is quite important - the past service that had been built-up prior to the changes in legislation. That gap, we now know as the pre-1987 debt. That is what we are talking about here. So, it is the past service liability that was built up before 1987 and it is important that we bear that in mind in relation to what Senator Shenton has tried to tell us about future generations and the current generation. What about the teachers' debt? The scheme rules for the teachers' scheme. We are not changed until 2007 - that was the debate that the Senator felt he fell into the trap in - when changes were made that broadly mirrored the P.E.C.R.S. scheme. It was thought at one point that the 2 schemes could be amalgamated but that ended up being a non-runner. I should be careful how I use that turn of phrase. That did not happen so Regulations to change the teachers' scheme were brought to this Assembly in 2007. The actuary has estimated the current value of the debt but no agreement has yet been reached with the Teachers Committee of Management for the funding of that debt. So, how are these debts currently funded? As I said, agreement was reached in 2005, under which the States settled the debt for the pre-1987 period over 82 years. That began in 2002. The agreement to fund that has become known as the 10 point agreement, which I believe the Senator included in his report and I think the Council of Ministers included it or it was included in part of the Committee of Management's notes in our comments. For the teachers' scheme, within the current contribution rate, there is an amount which it is hoped will be sufficient to pay off that past service liability over the same time period as the P.E.C.R.S. debt. The Senator believes that that agreement is inadequate and that 82 years is too long and he is proposing today that that is reduced to something in the order of 20 years. I hope that I have not yet become technical but I am about to. The Senator makes great play of that being mismatched. I am surprised at that, knowing his background and I must remind Members that I have, for the avoidance of any doubt, served, albeit a short term on the Committee of Management of this scheme. Why am I surprised by that? Because, in my opinion, if I were standing here as a member of the Committee of Management, I would have thought that an 82-year period matching of liabilities or of assets to future liabilities was a good thing. The Senator said that he believed the Committee of Management initially accepted the 82 years but were not necessarily happy with it at that point. I believe that if I were still acting as a trustee, I would be happy with an 82-year asset more or less perfectly because of the calculation that is required every year matches the liabilities for that debt over that time period. So, I hope I have not been too technical and sent too many people off to sleep. I am still awake so that can only be a positive thing. The Senator talks about other schemes; he talks in his report about

what might be required in the United Kingdom and he tries to say that the States are not prepared to meet their liabilities. I would say the reverse is true. A number of defined benefit schemes in the United Kingdom and in other jurisdictions do remain unfunded. That is not the case with the States employees Scheme. The States have recognised this liability, they have reached agreement with the Committee of Management and, in effect, the scheme then became fully funded. I move to my second point, and that is that this proposition is not affordable. I hope that I do not need to say much more on that in the current climate and I am sure that the Minister for Treasury and Resources will take great delight in telling us how and why it is not affordable in this current climate. I must also make some observations about the Senator's accompanying report and unfortunately some observations about his speech this afternoon. As I said, the proposition before us is simple in that it deals with one specific issue. The Senator this afternoon went on to talk about proposition number 2 and seemed to confuse various issues, i.e. this proposition with proposition number 2 and he did, in my opinion, exactly the same in his report. He seems to interchange valuation methods and types within his report in what can only be a confusing manner. He confuses financial reporting standard 17, which is an accounting standard, and talks to how one should show pension liabilities or assets within one's financial statements with actuarial valuations, which is a valuation carried out by an actuary which looks at different issues from those of accounting. So, not only does he seem to confuse these, he then goes on to talk about going concern issues and continuation issues. As Members will be aware, there are many ways of valuing any given item. Financial reporting standards, hopefully, direct one in the most appropriate way to value financial assets. Actuaries value things slightly differently. It has been said that an actuary is an individual who found accounting too exciting. I could not possibly comment on that because once upon a time in my own life I quite fancied being an actuary but I have had to make do with the exciting world of accounting. Needless to say, and it is quite surprising, that the Senator has not only confused valuation methods but he has also gone on to confuse actuarial valuation assumptions with actuarial methodologies, for example, around where the new entrants are accounted for in the scheme and how we value new entrants. This, as I say, is all in his report. It does not necessarily have any bearing whatsoever on the proposition in front of us this afternoon, however it is only appropriate that I do mention it. What I think Senator Shenton really desires is some clarity around the definition of these schemes. If one reads his report, he wants to understand what type of schemes those are and he wants, really, to understand any potential liability that he thinks the States might have, going forward, with regard to these schemes. These are legitimate issues and are rightly raised within this Assembly and it is right for this Assembly to debate those issues but, as I said at the start, this proposition has absolutely no bearing on these questions whatsoever and we must be careful not to confuse them. By agreeing to this proposition we will not be paying out fewer benefits, it will not reduce the employees' contribution rate, it will not add any greater understanding around those issues that I believe that the Senator really requires clarity on. If Members share Senator Shenton's concerns or themselves have similar concerns about the longer-term sustainability of these schemes, then they are appropriate concerns for debate but they are not, as I have said previously, what this proposition is about. The 10 point agreement that I talked about earlier which was part of the structuring of the pre-1987 debt does talk about the fact that there could be re-negotiation of this debt if and when States finances improve. I believe that any Member would be hard pushed, with hand on heart to say that they believe today, as opposed to 2005, that States finances have improved. I would say that probably the Minister for Treasury and Resources might not thank me for saying that but in actual fact, the economic outlook has worsened since 2005 and therefore the potential for States finances to improve in the short term is in a worse situation than it was previously. I would just like to say also, that the Comptroller and Auditor General does have within his remit the ability to review the actuarial valuation on these schemes every 3 years once the actuary has produced his valuation and it is my understanding that part of that remit is to allow him to comment upon whether he believes it remains appropriate to structure the debt in the way that it is currently structured. He has not, as far as I am aware, made any comments along those lines at this point in time. He is at liberty to do so and were he to do so, and

to come up with reasonable, rational arguments for a restructuring of that debt, then we as a House would consider that but he has not done that. I do not believe that Senator Shenton has made the case. I hope that Members will agree that he has not made the case. One other note about confusion; the Senator, throughout his speech, did mention the way that the pension scheme was recorded in the States accounts. I am afraid that yet again he is confusing the issue. The way that the pension scheme is recorded in the accounts is, as I said earlier, under financial reporting standards. It does not bear any relationship to what the employer has to put into the scheme or how the employer is to pay back the debt. That is part of this agreement and that is part of the agreement on contributory rates. I am not sure how many people are still with me [**Laughter**], I am in that trap with Senator Shenton. He has the opportunity to get out of it later this afternoon. I fear I shall be wallowing in it for the rest of the day, other than to say, as I started, this proposition is not necessary for the reasons I have outlined, it is not affordable and it is not achievable within the timescales requested. I therefore ask Members to reject this proposition.

The Deputy of St. Mary:

Can I ask for a point of clarification from the speaker? The speaker said that the J.T.S.F. ... he said that the actuary has estimated the debt but there was no agreement and I have made a note because I thought that in the report accompanying the proposition, it has been stated that the debt is £103 million. Would the speaker care to comment on that?

Deputy I.J. Gorst:

As I said, the contribution rate has been increased to deal with what will hopefully be the amount and hopefully over the same time period as the P.E.C.R.S. debt. It is not that there is not an agreement on what the amount might be but it is on how it will be agreed along the same lines as an agreement for the P.E.C.R.S. debt.

The Deputy of St. Mary:

The liability is £103 million?

Deputy I.J. Gorst:

I do not have the figures in front of me so I cannot confirm that.

10.1.2 Deputy T.M. Pitman:

Firstly, in hearing Senator Shenton speak of turning 100, should his proposition not be successful, I do sincerely hope that the worry will not turn him grey, or me for that matter. Seriously, it does have to be said that the issue the Senator raises for us is truly huge in potential. As someone committed to the Island's youth, the concern in our providing a secure future for younger generations figures prominently in the work of the Professional Youth Service. Not just this aspect but perhaps more obvious ones such as adequate housing and protecting our environment. This issue, I am afraid, because it is less tangible and we are not confronted with it every day like the others, it is probably all the more dangerous, I would suggest. The moral issue Senator Shenton highlights of saddling future generations with debt created by ours and previous generations is surely a clear one. Further still, the ideal that it would be far better in terms of long-term fiscal confidence and in terms of modifying past governmental trends to live beyond our means, likewise. I want to support this for the above reasons, however I am concerned in listening to Deputy Gorst that what the Senator proposes just is not possible. Thus, having to admit that I was never drawn towards the exciting world of actuarial accounting either - the bottom line - I would simply ask that Senator Shenton in his summing up extensively refutes the concerns raised by Deputy Gorst because he seemed to know what he was talking about, certainly to me. Otherwise, if the Senator cannot, I am afraid I am going to have to vote against this. My only other comment would be to say that really I think the talk of proposition part 2, the sequel, really might have been better floated past us so we could see the whole picture; what the Senator has in mind because it might have swayed some thinking. Thank you.

10.1.3 Deputy R.G. Le Hérissier:

I stand up in a way just to preach the gospel of, it has to be said, partial despair not on the quality of the presentations, which have been, obviously, scintillating but more so on broader issues. Senator Shenton has invoked social justice and so forth but it has to be said there is a bigger issue in society at the moment. Private sector pension schemes are being closed at a rapid rate to define benefit schemes, as we know and there is a chasm opening up in society between those in the private sector and those in the public sector and that is where there will be much more talk of social justice or injustice, as the case may be. The second thing is, yes, it does look immoral to force the younger generation to pay for the debts incurred by, shall we say, this generation but it is not unusual because, for example, if you look at the funding of the English National Insurance system it was never a national insurance system. It was set up as that, it collapsed very quickly and it became a system paid out of current revenue and it was based on the fact that there would be rising revenues, there would be rising affluence and that would basically soak-up any problems. Obviously we have reached Armageddon in the sense that we have come to a sudden halt. For example, in Britain, and as I have said, this is part of the gospel I suppose of partial despair, the Senator says how terrible it is that future generations should have to pay. Well, all I can say to him is certainly, if he was living in Britain and we yet do not know the impact on Jersey, he has not seen anything yet because the money that is going into quantitative easing, the money that is going into resolving the credit crunch, I can assure the Senator he will probably still be listening to this debate when he is aged 150, having found the secret of eternal youth or life. I am afraid there are major problems building up in society and although he may argue this one has to be managed; it has to be managed precisely. I think he needs to look at the broader context. There are big social injustices building up where vast numbers of people, quite frankly, will not get pensions, let alone protected pensions.

10.1.4 Senator P.F.C. Ozouf:

I am grateful for Deputy Le Hérissier bringing, I thought, some relevant and realistic comments to the debate. I am also grateful for Deputy Gorst who has taken up the rapporteurship of this item from Deputy Le Fondré who is unfortunately ill today. I have to recognise that it is Deputy Le Fondré who has done a lot of work for the Treasury and the Chief Minister's Department in researching this matter. It is complicated and I very much hope that this proposition is not going to be supported. I do not think it deserves to be supported. I did ask Senator Shenton on Friday whether he would agree to not go ahead with this proposition today because I thought that Members deserved a decent presentation on all of the issues concerning P.E.C.R.S. so that we could explain all of the matters. He is kind of shroud waving with this part 2 proposition. I do not quite know what that is and I would like to know exactly what he is wanting to achieve in relation to the part 2 proposition. Certainly I am perfectly willing to engage in proper dialogue with Senator Shenton if he has any concerns or if there are any legitimate concerns because he stood in this Assembly and he said in other places that, effectively, somehow the States of Jersey is not running sound financial management. I have to say to him I think that he does understand basic financial management and I cannot believe for one moment that he believes that handing over millions of pounds for this pre-1987 debt, which it is not required to do so, which has been carefully negotiated, and which has been matched with extensive discussions with previous committee presidents, is irresponsible. Just handing over an amount of money which is acknowledged to be owed now; is that really good financial management after all of the discussions? I do not think so. Members need to be under no illusion that, first of all, the pre-1987 debt is acknowledged and accepted and it is on the States balance sheet as being so, both in terms of all of the pensions made. He asked the not relevant question in his opening remarks as to whether or not the same situation is in place for the current actuarial liability. I can confirm to the Senator - it has got nothing to do with the debate today - but I can confirm to the Senator that he is absolutely right; the public does not have the liability for current actuarial deficiencies in the scheme. That is the liability of the current contributors of the scheme and current receivers of pensions but that is an entirely different matter. We are dealing here with the pre-1987 debt and that has been crystallised; it has been

agreed. He accuses previous decision-makers and he said, I think: "Plucking 82 years out of the air." Nothing can be farther from the truth. The arrangement for the settlement of this debt was negotiated over a very long period of time with previous committee presidents, with the Committee of Management, with actuaries and it accurately and properly matched the timescale for the liabilities and is regarded, I think, by the Committee of Management as a good investment in dealing with this debt. I am not even sure that he is speaking, and he is a member of the Committee of Management as I understand it, I am not even sure, from the information that I have, that the Committee of Management has ever asked for this debt to be repaid or they are considering that there is a problem. I am really quite at a loss to understand what are Senator Shenton's arguments in asking the Assembly to repay this? The debt is acknowledged; we have a repayment position. If we accept his proposition there will be a dramatic effect on public finances. I will have to find about £12 million a year to repay this. Talking of plucking of figures out of the air, where does the 10 years come from if that is not plucked out of the air? It is not the standard practice of any public sector pension scheme, and I have to remind Senator Shenton that when he speaks about financial management, most local authorities, most governments have not even got to the stage where we were in 1987 in moving not as a pay-as-you-go but a funded scheme. We are in a hugely advanced position compared to most other places. I will not name the islands near to us and not near to us that are on a pay-as-you-go basis because the U.K. has not even begun to deal with the issues of pension liability, quite apart from all of their, some would say, reckless financial management in relation to other spending. We are in a far better position than other places. I have not heard one single argument which stacks-up in relation to supporting this. This is not a moral question; this is just common sense. We have a debt, crystallised in 1987 in what it was, accurately put on our balance sheet in terms of a debt and it has been agreed for a repayment over 82 years. It has been properly discussed, properly negotiated, accepted by the Committee of Management, accepted by our advisers and passed by this Assembly. Why are we changing it? I have not heard any answers to any of the questions that have been raised. I urge Senator Shenton to not waste the Assembly's time with this proposition. If he wants to have a debate about P.E.C.R.S. I am happy to do a presentation to States Members and before he brings forward another proposition part 2 and wastes the time of this Assembly, perhaps he will engage in constructive discussions with myself, with the Chief Minister, give Members a briefing so that we can properly understand these issues and if there is anything that we have not got right then we can do so properly by discussion but not taking valuable time of this Assembly, discussing, frankly, something that is completely crazy.

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

Just briefly, before I head off to chair a charitable trust, I have been asked for a moral comment so it seems only fair to give one in the same way that my learned colleague does on things that people consider legal. I will declare an interest; Deputy Le Hérissier gave me some good news because he has passed me a magazine cutting that says that the under-funded clergy pension scheme will only mean, according to our Graces the Archbishops of Canterbury and York, that I will have to work until I am 68 to get one, by which time I will have put in 45 years' service. [**Approbation**] It does however mean that this Island may be stuck with me for another 11 years but I do want to say something about pensioner's children and ourselves very briefly. Pensioners: there has always been a tradition in much of the British Isles that private and public sector pension arrangements were part of the whole pay and that in the public sector there was a greater element of deferred pay - which is one of the many definitions of pensions - so that you may get paid less during your working life but you got paid more in your pensionable life, whether that is still the case of course depends on the negotiations that people in both the public and private sector make. What is clear to me is that it is an absolute moral imperative that we do not seek to break faith with those who have entered into pension agreements. What our predecessors have said we will do then that we must deliver on, and one of the proposed changes in my own pension scheme was that that should be changed and I am delighted to be able to say that their Graces have put a full stop to that. It also seems to me that not just in this area but in every area of our expenditure - and I think we are often

quite good at this - is that we give our children memories of our love and wisdom and hope to build their own future and not saddle them with whatever difficulties we may have got ourselves into. I make no claim at all as to the right actuarial routes to do that. Senator Ozouf and Deputy Gorst are in a much better position than I am and I am sure that they got more than Maths O Level but I also think and I want to say there is a moral imperative to ourselves. At the moment we have built a society that is based on debt, that is based on “buy now and pay for it later”, even if the credit terms on which the poorest may have to do that are so disadvantageous as to be more applicable to loan sharks than to comfortable lending. We have a society where we say to people: “Your lives really are not complete unless you have the full list of television-advertised materials” and are then surprised when they get themselves into debt trying to keep that aspiration. It does seem to me that one of the things that is a moral absolute for us to give to our children is that you save before you have, not simply that you spend and get into debt and then expect somebody else to bail you out. We have to have a morality of sound finances not only in this Assembly but also in that which, through our schools, we pass on to our children so that balancing the books and building them a life that is not simply materialistic is part and parcel of their moral outlook. We keep covenant with the past, we build for our children and we set the example ourselves.

10.1.6 Deputy S. Pitman:

Just a few questions I have for the Senator, I would like to know how he came to 20 years to pay back this debt? I think it very relevant when Senator Ozouf asked: “Where are his arguments for this?” because, as we know, the Senator has publicly complained about long speeches in the House and I would have liked him to have a longer speech explaining such arguments. The second question, for the benefit of those who appreciate plain English rather than the technical jargon of accounting, could I simply ask the Senator to spell out for us, in real terms, what would be sacrificed if we were to support this, not just in strict financial terms but in possible service cuts and projects that would not happen?

10.1.7 Deputy J.A. Martin:

Just briefly, the Minister for Treasury and Resources... I am not sure I am going to vote for this. I think to bluntly say that next year we are going to have to find X amount to come out and we know how bad our finances at the moment look, but I do have some sort of criticism of the comments already made by firstly the Minister for Treasury and Resources, he asked: “Where does 10 years come from?” I read in the U.K. that one of the criterion is that the deficit recovery period is less than 10 years and that means then they will not ask again. Well, our deficit recovery is 82 years which, listening to what the Dean was saying, I think one would possibly be too short but certainly one is very, very much too long. It is not my subject but the debt does seem to jump from £55 million in 1988, when we discovered we had a problem, to well over 3 or 4 times that now. I am not sure how and then I worry if it was calculated wrong there when you know the recipients who are in the scheme, it might be 30 years down the line that they are going to start paying out, that the debt seems to be increasing. I probably will not vote for this but I do accept that we really do need to have much more information from Treasury and Social Security and the Committee of Management, and we do all need to be brought around to a debate, otherwise if Senator Shenton or someone else, in the next few years, brought something back I think it would be received a lot more favourably. On page 9 of the comments and I have just learned something because it says: “The negotiation commenced in earnest with the employer in July 2002. The principles and objectives of the C.O.M. (Committee of Management) in these negotiations were as follows; the States should accept responsibility for the debt [and this was the one that shocked me] and the debt should be paid over a finite period of time.” Well finite, I always thought, was limited or small but the Deputy of St. Mary tells me: “As long as it is an end that is the correct definition of it.” Obviously, as I say, I have learned the meaning of another new word today but maybe other people read that like me and did not think “finite period of time” could actually mean 82 years and at least 4 generations of our children, so possibly we are all under some misconception. Unless Senator

Shenton, bringing the proposition, can really pull the rabbit out of the bag when he sums up, also as he did say there is another string to this proposition and is this one enabling? Do we need this one for the second one? We really need more information but at the moment it seems to be coming down too quickly and, obviously, if we agree to pay out this money over this shorter period something has got to give next year and I cannot see where that is going to come from at the moment.

Deputy I.J. Gorst:

Sir, sorry I recognise I have spoken but the last speaker did refer to an implication for Social Security. I just wanted to make it absolutely clear, hopefully, that Members are totally aware this is the scheme of the States employees and nothing to do at all with Social Security and what we might consider the Social Security Fund and the old age pension.

Deputy J.A. Martin:

I was bowing to the Minister's expertise in the matter of pensions.

Deputy I.J. Gorst:

I stand corrected, Sir, thank you.

10.1.8 The Deputy of St. Mary:

In a way it is a pity that the young people have now gone because, as Senator Shenton said, this really, really is about the present and the future. I think we owe the proposer a debt of gratitude for bringing this up because it is like an elephant in the room, is it not? It is not everyone's favourite topic but it is much, much easier not to talk about it. There is a reason we do not want to talk about it, as has been articulated by Deputy Le Hérisier with his "partial despair". "We cannot afford it" we are told by the Minister for Treasury and Resources but we could not afford to deal with it in the first place. For some reason these 2 deficits grew and grew in the past and we could not afford it and now we are being told that we cannot afford it. Maybe people will put me right later in the debate, that is fine. Maybe our situation is not as bad as the U.K. or other islands but I am not sure that we should be comparing ourselves with that. There is just a problem here. It is interesting that the Minister for Treasury and Resources said: "This is not a moral question, it is common sense." What is common sense, I ask Members, in paying back a debt when you are dead or rather shoving it off to your children and, in this case, your grandchildren? The reason that the Minister for Treasury and Resources was so dismissive of this proposition, so vehement about rejecting this, is that there are uncomfortable truths here which he would rather were not spoken about. The proposer, in his report on page 7, says quite rightly: "We now have established that it is morally wrong to leave this liability for our grandchildren and that we need to face up to our responsibilities, not push them under the carpet." Pushing problems, particularly financial problems, under the carpet is a habit of this Council of Ministers and indeed previous administrations and, as we know, we have huge liabilities and it is the familiar list of sewerage, property maintenance, homes for the elderly and we shove it all under our magic carpet. We are beginning to address some of them. We are starting to realise that we have these huge cumulative liabilities. They have to be done, they are liabilities. These debts have to be paid and the magic carpet ... unfortunately, things do not just disappear when you push them under there although some would wish that they did. Of course it is nonsense and the chickens will come home to roost. I find it extraordinary that we are considering, in this accountant's speak, paying back debts in 82 years. I know it sounds normal to accountants but it certainly is not common sense to me that there is a liability that we do not discharge over 82 years. The Dean gave the commonsense view, he said: "I do not understand these complicated actuarial things but there is a moral question there" and he talked about an example for our young people. We are in a debt-ridden society and I am going to come on to young people later about guidance and about what standards we set. I think there is a moral issue here and I would welcome comments on that from the people who think that this is a

wonderful idea. I would remind Members of the statement, right at the beginning of this report: “Take from the children of tomorrow in order to have a lavish lifestyle today” and I think that is what we have done. I think we have done it in the past. Even the comments of the Treasury and Resources Minister or the Council of Ministers point out that we are already paying for the lifestyle of people in the past and what we are asking future generations to do is to carry on doing it. That is probably enough of that and I think I will stop there but I do want some of the people who are so vehemently opposed to this to face these issues and to try and explain to me that this sort of balance between the accounting world where a debt will last 82 years is fine and the real world where, as we know and as Deputy Le Hérissier pointed out, we do not know what is going to happen in 10 years’ time let alone 20 and here we are saying: “We will pay it back in 80 years, that is fine.” I just cannot conceive of the problems that that will bring. I am not sure that this proposition is the answer, as Deputy Martin said, it worries me that maybe there is no answer at all. The problem is really S.H.T.F. (shit hits the fan) but there we go. I would like some elucidation from some of the people who think this proposition is nonsense because I do not think it is.

10.1.9 Deputy M. Tadier:

Much in the same vein I will start off by saying that I have some questions that I would like to have answered, perhaps by the proposer when he sums up, although anyone else in between who speaks may also be able to cast some light. The first question is - and I apologise if some of the questions are naïve, not being an accountant - is there any interest liability on this debt which has been accrued and, if so, what is that interest and what are the implications for that if we pay the debt off earlier than the 82 years? Again, this may have been addressed in the report but I do not think I saw it as to where the money would come from if we pay off this debt in a shorter time frame. We have heard that there are going to be cost implications so where is the money going to be coming from? It is asserted in the Minister’s response that it would have to be met by a reduction in services or an increase in taxation of £12.3 million a year. I would be comfortable to support this, for example, if I knew that the money was to be taken out of one of our bank accounts, as the Senator called it either the Consolidated Fund or the Rainy Day Fund. I would be less likely to support the proposition if I knew it was going to come through an increase in taxation or cutting services, although this is a common threat that is always wheeled out. I thought that the Dean’s speech had a very salutary message, especially in front of the schoolchildren - I am sure that is part of the reason that he gave it - that we have to live within our means. This is a message which we are always being told by the Council of Ministers that we have to live within our means and I think, if nothing else, the Senator’s proposition is to be welcomed today because it does challenge some of the things that we have been told as received wisdom which may not be the case. For example, we are told that we have no debt. We are told that we have a massive bank account and that we have managed to save up over the years through wise management which may or may not be the case, that is the reason but as we have seen today we do have debts. We are told, on the one hand, that we have no debts but quite clearly there is a debt here and this is something which I do not think I knew about until it was raised in this proposition so I do thank the Senator for that. Which is it, do we have debts or do we not? Are we living within our means or are we not? I very much come down on the same side as the Dean and say that we do need to pay off our debts and it should be the generation that incurs any debts that pays them off and not leave them for our children, grandchildren and, no doubt, great-grandchildren to have to bear. One does at least go through the motions of convincing oneself that one is going into a debate with something of an open mind and certainly that is the position I started off with. Reading the comments from the Minister I was initially partly convinced by this whole idea that is it fair to lumber one generation, namely our generation, to have to pay off this debt straightaway when it could be spread out through the generations? But I do say that I came to the conclusion that because this debt was incurred before 1987 and because the funds in the Rainy Day Fund were partly also accrued by people in 1987 - and if the money were to come from there that is why I will seek that clarification - it only seems right that the money should be taken out of there because if the money was used in the first place

rather than going into that bank account it would not be there in the first place, so that seems quite fair. I think this whole idea that it is not fair on the current generation is a myth which we can get rid of. I think the last point we need to address, and it is not going to go away, is the whole idea of taxation and services. We heard it this morning, did we not? We heard that we would like to have funding for people with prostrate problems so that they can go to the doctor and we were told by the Assistant Minister that it was a very good idea but that simply the resources and the money was not there. This argument is going to come back again and again until we deal with the issue of taxation. I do not want to harp on about that at the moment. I think it is salient to mention it without necessarily going on too much but I say that until we address issues of equality such as we know that people can make a capital gains of £50 million and not pay a single penny on that in Jersey but still people have to pay money on their bread and their milk, unless we are to tackle the very root issues we are always going to be in a situation where we do not do the right thing because of lack of money. That is really something which needs to be tackled. I know there is going to be a review into funding streams and I hope that this approach to taxation is really taken on board and that excuses are not going to be used.

The Deputy Bailiff:

The Deputy of St. Mary, in your speech you used the expression S.H.T.F.? I did not understand this formula, did I mishear you?

The Deputy of St. Mary:

S.H.T.F., Sir. To spare the tender ears of Members of the Assembly, if they do not know the expression they would not want to hear what it meant and if they do know the expression they will understand the expression.

The Deputy Bailiff:

Would you assist the Chair with what the expression means?

The Deputy of St. Mary:

It does not really matter because it is a very common expression for the future that lives one step beyond the credit crunch which is when the “shit hits the fan”.

The Deputy Bailiff:

Then if that is what the expression was intended to mean it was un-parliamentary and you should kindly not use it again. I call on the Deputy of St. John.

10.1.10 The Deputy of St. John:

A long way back when the pension funds were set up by our forefathers, who probably had limited knowledge prior to Jersey becoming a finance centre and how to pull these things together, then later on in 1987, when we had become a successful finance centre, our forefathers or Members of this Chamber of the day of which probably there are only one or 2 of those Members still in the House along with Senator Le Main, who has been here for an eternity, [Laughter] they did something, did something quite sensible and realised that we had a problem and they did something about it. As I looked around the Chamber earlier when this debate started and all the young people were up there I thought well, unfortunately these young people would be paying, either indirectly or directly, for the rest of their life if they stay on the Island. Then I looked next door and I saw our youngest Member and a couple of other very young Members and I thought, back in 1987 the Deputy had only just been born or was just happening and I thought: “Well, he will be one of the people who will have to be picking up the bills”, like all the rest of us, for the rest of our days. But then I put the analogy, I thought well if by bringing this forward, as is required, it is like launching a lifeboat. In 1987 the people of the day, whether it was Senator Vibert and Senator Jeune and others who would have been looking at this, launched a lifeboat on a 40-year journey to a stricken vessel, that vessel, with all the crew that it had to bring back, would take some 42 years, in other

words a round trip of 82 years or thereabouts. To try and speed the returning vessel up on its journey with all the additional persons on board could create an awful lot of problems. In fact by vessel could flounder and sink and I put it the same when I looked at the report. I thought why advancing what Senator Shenton is proposing ... our forefathers in 1987 put something together which is ongoing and, therefore, we should not be trying to advance it especially at this time, especially at this time because we are asking the Treasury to find additional big lumps of money, equivalent to the Town Park, on an annual basis, over and above. Given that we have something that is working, the lifeboat is on its course, it still has not reached midway position to picking up the stricken vessel but it will do and it will return hopefully and everybody will get off that lifeboat safely. But please do not ask that lifeboat to go faster because I do not believe, at this time, the Island is in a position to send out the second lifeboat to assist it.

The Deputy Bailiff:

Does any other Member wish to speak? If not I call on Senator Shenton to reply.

10.1.11 Senator B.E. Shenton:

The Deputy of St. Mary, I think it was, used the phrase “elephants in the room” and I think this is exceedingly true of the pension fund situation. It is not a particularly easy subject on which to report in the media on. If you start talking about pension funds peoples’ eyes normally glaze over and they immediately start thinking about what they are going to do at the weekend or something else, anything but pension funds because, quite frankly, it is not interesting but in terms of importance and in terms of the importance for this Chamber it is exceedingly important. It is important not only for those people that are members of the public sector pension fund but it is also very, very important for the people who are not, who are the taxpayers, that are helping to fund the pension fund. I have had a problem with the public sector pension fund since the day I joined this Chamber. Senator Le Sueur offered me a place on the Committee of Management because I think he thought: “Well, he is better in the club than out” and I got a letter from him recently to say that he is not renewing my term of office, but I think this is more to do with the fact that if you are a States Member you do have a conflict because it is very difficult to know from what side you are looking at the liabilities. I absolutely applaud the Members in the past that did take some action. We are in a better position than the U.K. and a lot of other places. What I am saying though is we could still be in a better position than we are. We have to accept that there is debt, not only pre-1987 debt, which the States is liable for but also debt that the members of the pension scheme are liable for. In my opinion you cannot have a final salary scheme without parental guarantee therefore, as it stands, the public sector do not currently have a final salary pension scheme. Deputy Gorst said that it is not affordable, that paying off over a shorter period of time was not affordable. Is it not about time that we looked at the whole public sector scheme then? If we cannot afford to pay off this part of the scheme the whole of the public sector scheme needs a review. I disagree with him with regards to the fact that he believes that the pre-1987 liabilities are matched. He has obviously got a lot more faith in people living to about 107 and 108 than I do but perhaps this conversation, where we talk about FRS17 and FRS19, would be better in the coffee room, well away from the Chamber, so that we can just look like a couple of boring individuals that we are. **[Laughter]** I should point out to him - because he did put holes in my proposition - that a number of pension experts did look at the proposition before I lodged it because I wanted to make sure that it was not incorrect. Deputy Pitman spoke and wondered whether it was possible to negotiate in such a short timeframe. The negotiations that took 4 years were between the employees and the employers and so on about how they were going to deal with the debt and how they were going to deal with the liability and so on. What we are dealing with today is just from the States point of view, how quickly are we going to pay it off? It does not make any difference to the employees or the members of the scheme whether we pay it off over a shorter period or not. It is purely a question of whether this generation pays it off or whether we leave it for future generations. Deputy Lewis spoke about social justice and he is right, there is a chasm building up

between the public and the private sector. Almost on a daily basis the private sector pension schemes are being closed down and we still have some very generous public sector retirement conditions in the contracts of employment. From a social justice point of view if we allow this chasm to get much wider I think it will cause problems and I think it will cause a rift in society. He also intimated that it is okay to leave it as it is and perhaps I am misquoting him here, I do not mean to but he said something along the lines: "Well it is happening everywhere else so therefore why should we worry so much?" but I think if you are looking at anything you should try and strive for the best you can. Senator Ozouf, the Minister for Treasury and Resources, spoke. Again he said that it was not affordable but it is not just handing over the money. He said it would be irresponsible by handing over the money. I mean we are handing over the money anyway, we are just doing it over 82 years instead of doing it over 20 years. He did confirm that the Government does not have any liability for the current deficits that occur within the pension schemes apart from the pre-1987 deficit. The 10-year figure is a figure that is used in the U.K. by the Pensions Regulator when he is looking at private sector schemes because in life you find that there are rules for the private sector and rules for the public sector and this is prudent accounting. The Dean mentioned about looking after the pensioners and the moral imperative to ourselves and there is a moral aspect to this. I do not want my grandchildren and great-grandchildren to be paying off debt that this House could have dealt with and we could turn around and say: "Well we could have paid it off but we did not want to touch our savings." Well, is that the right thing to do? It will make a difference to them because obviously if you pay it off earlier you are paying off more but then you have got nothing to pay off after 20 years. It is paid off so they will not have to suffer increased taxation or anything else. That is not really the legacy I want to leave them. I agree with some Members that spoke and said that the best way to pay it off would be to take it from our savings rather than burden the taxpayer with additional taxation or with service cuts. This is just accountancy where you say: "Okay, our savings are not as high as they are because we have netted off our liabilities, full stop." You can do it over a 20-year period or a 10-year period but it is not down to me. This proposition just says we should pay it off earlier. It does not say how we should pay it off earlier. That would be up to the Minister for Treasury and Resources but ultimately it would be up to this House to decide how you would pay it off earlier, but certainly if I had longstanding debts and money in my savings account that would most probably be where I would take the money from. Deputy Martin spoke about the original proposition and the debt level that was perceived and, yes, the debt level has gone up since the original proposition because of the way it is calculated and also because with pensions - just to simplify matters - you do not know how long people are going to live and you do not know what your investment returns are going to be. There are numerous other variables but if you start increasing life expectancy obviously you have got to pay out more and your liability gets greater and there has been an increase in life expectancy, from an actuarial point of view, over recent years, which has pushed up the cost. There has been a decrease in expected investment returns which again has pushed up the cost as well. But the propositions are not linked. I mentioned about a second proposition. The second proposition is more to deal with P.E.C.R.S. going forward and the other schemes going forward because those schemes do have a liability and at the moment it is up to the members to meet that liability. I have great concerns that the members do not really understand exactly what the implications of that are. Ultimately, in order to meet that liability, you may well be looking at no increases in pensions or even a reduction in benefits. I know that is not a great message to bring to people but it is a message that is honest and it is a message that has to be said because that is exactly how the pension funds are set up. The taxpayer is not your last resort anymore and the changes that were made over the years made sure of that. As I mentioned before the Deputy of St. Mary said: "It is very much the elephants in the room." Pension funds are not exciting but I will tell you this much, they are a lot more important than Members' parking, with due respect, or sandwiches or anything else. The liability of the States running into hundreds of millions of pounds is a significant issue and we do need to discuss it and we do need to make sure that we have our eye on the ball and make changes where necessary. Deputy Tadier spoke of interest liability. It is quite difficult to

know what the actual figure will be if we do pay it off early because there have to be some quite complex calculations that go into it and it is not quite as straightforward as saying: “Well, we will save this in interest or lose this in interest” so I cannot give him a straight answer because the issue is far too complicated to give an answer like that, but obviously if you pay off a debt after 20 years in year 21 to 82 you have no repayments to make and that is what we are looking for for the future generations. The Deputy of St. John said that he did do something about it in his day - that implies his day is past - but that something was done once before and he is right, but this is not something you can just do something and then just walk away from it. As I said before we do need to take action on the pension fund, in my opinion, and we do need to take action over the next 6 months. Part of the reason for this proposition was just to focus Members’ minds that we do have a pension problem and also to focus Members’ minds on the fact that we are using a little bit of accountancy wizardry to imply that we are in a much better position than we are. I was listening to Radio Jersey on Monday very briefly and the presenter Matthew Price was moaning about something or other and his response was: “Well, of course we are a wealthy island.” Personally I think we have to get this phrase out of our heads because we have got to start living within our means and someone sent around a very good email about common sense about matching your liabilities and your income and so on; well this is the first part and we have got to start dealing with the pension problems and we have got to do it today because otherwise we are going to leave a mess for our children and not much of a legacy at all. I would like to put forward the proposition and ask for the appel.

The Greffier of the States (in the Chair):

Very well. The appel is called for on the proposition of Senator Shenton. If Members are in their designated seats, the Greffier will open the voting.

POUR: 7		CONTRE: 38		ABSTAIN: 0
Senator B.E. Shenton		Senator T.A. Le Sueur		
Senator J.L. Perchard		Senator P.F. Routier		
Deputy R.C. Duhamel (S)		Senator P.F.C. Ozouf		
Deputy P.V.F. Le Claire (H)		Senator T.J. Le Main		
Deputy S. Pitman (H)		Senator F.E. Cohen		
Deputy M. Tadier (B)		Senator A. Breckon		
Deputy of St. Mary		Senator S.C. Ferguson		
		Senator A.J.D. Maclean		
		Senator B.I. Le Marquand		
		Connétable of St. Ouen		
		Connétable of Trinity		
		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. John		
		Connétable of St. Saviour		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy of St. Martin		
		Deputy R.G. Le Hérisssier (S)		
		Deputy J.B. Fox (H)		
		Deputy J.A. Martin (H)		
		Deputy of St. Ouen		
		Deputy of St. Peter		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		

11. Draft Gambling Commission (Jersey) Law 200- (P.139/2009)

The Greffier of the States (in the Chair):

The Assembly now comes to the proposition of the draft law, the Draft Gambling Commission (Jersey) Law 200-. Members will recall that the debate on the principles of the law started at the last meeting and there was a reference back to the Minister in accordance with Standing Order 86. The debate now resumes again afresh and I will therefore ask the Greffier to read the citation.

The Deputy of St. Martin:

Before we start I just wonder whether it might be... at this time to ask Members whether to ... it would be my intention to refer to Article 79(1)(a), *et cetera*, asking for the suspension of the debates for the purpose of Scrutiny and whether we wait until we have heard the first speech or make it my reasons for asking now rather than wait for us to go through the procedure.

The Greffier of the States (in the Chair):

Standing Order 79, Deputy, does refer to the debate being suspended for reference to Scrutiny. Clearly one does not wish to waste the Assembly's time if you wish to make that proposal later but I think technically we should perhaps ask the Minister to begin the debate before you make that proposition. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Gambling Commission (Jersey) Law 200-. A Law to establish a Gambling Commission to supervise and regulate the conduct of gambling and for related matters. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

Senator A.J.H. Maclean:

Sorry, in view of what the Deputy has just said is there a great deal of point in me making my introduction? I am more than happy to do it but if he is going to do that in 10 minutes time when I finish we might as well do it now.

The Greffier of the States (in the Chair):

Well, there are 2 ways in which matters may be referred to Scrutiny. There would be the automatic right of the chairman of the panel, under Standing Order 72, to ask for this matter to be referred to his panel once the principles are adopted. That is a matter which is the panel's prerogative or there is the ability of the States to ask the panel, under 79, whether the panel is willing to have the matter referred to it. I do wonder if it would assist the Assembly if the chairman is able to give any indication of whether it is something he is interested in looking at at all, if asked to or not.

Deputy M.R. Higgins:

I think I will listen to the argument first, Sir.

The Greffier of the States (in the Chair):

Yes, I think if that is the case I think you must make your proposal speech, Senator, and we will come to the other matter in due course.

Senator A.J.H. Maclean:

Yes, Sir, thank you.

The Greffier of the States (in the Chair):

Just to say from the Chair, I think until Members have heard your full argument it may be difficult to make that decision so I think it is helpful for you to explain why you want the law to proceed and then we can perhaps hear the Deputy later on if he wishes to propose a suspension.

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

Yes indeed, Sir. I had only suggested that in case there was a likelihood that the panel have decided they might wish to do so regardless, not wishing to waste Members' time of course. On 17th November Members supported a reference back to this proposition for more information. The reference back was specifically asking for details concerning value for money and the number of commissioners relating to the proposed Gambling Commission. That information was readily available, hence our ability to return with this proposition as quickly as we have been able to. There have been several briefings and a presentation on this and related subjects over the last 2 weeks. There was a very informative presentation by the managing director of a data centre and internet provider about the wider issues and opportunities for e-commerce. In addition, we also arranged 2 briefings, together with the chairman of the Shadow Gambling Commission. These briefings offered Members the opportunity to ask questions about the Commission, its role and its value. The Chief Executive of Economic Development gave a presentation that included a full cost-benefit analysis and the chairman and officers were available to be openly questioned. E.D.D. (Economic Development Department) allocates 3 per cent of its budget to gambling and although it currently receives £148,000 in fee income, there is still a shortfall of £225,000 which is described as a grant. But it is not appropriate that the industry is subsidised by the taxpayer. So we are proposing a stepped approach to increasing fees to reach full cost recovery as quickly as possible. The important point is that fees charged are comparable to other jurisdictions, such as Guernsey and the U.K. Our increased fees will bring us broadly in line with these other jurisdictions. This is not surprising as fees in Jersey have not increased since 2001. The analysis also looked at other resource comparisons against other jurisdictions. It showed that 3 was the minimum number of commissioners that would be feasible. However, costs could be reduced by cutting back the support staff provided by Economic Development from the current level which is 4. The current level of staffing is appropriate for the current activities, in particular the work to modernise the current gambling legislation, and because the risks associated with an industry that has had little regulation is far, far greater. If Members reject further growth in the sector, in particular if e-gaming is rejected as a consequence of next year's debate on e-gaming, then the staff cost element of the Commission will also be reduced proportionately. In March 2005, the States debated P.62, the modernisation of the Island's gambling legislation. As a consequence of that debate, the Assembly of the day agreed to the principle that legislation should be brought forward for approval by the States; legislation, not only to allow the hosting of internet gambling, but most importantly to create an independent regulator. That is the sole purpose of today's debate, the introduction of a statutory Gambling Commission. In December 2006, we took the first steps to follow the States' instruction and established a Shadow Gambling Commission. Since being established it has operated in an advisory manner to the Minister for Economic Development, helping to assess the industry and advise on the modernisation of our outdated 1960s legislation. It consists of a chairman of unquestioned international repute, who has been a gambling regulator for 26 years, including the post of Chief Inspector of the U.K. Gambling Commission. He is supported by 2 other commissioners who are both local residents. The chairman of our Shadow Commission was instrumental in setting up the Alderney Commission, approximately 9 years ago; a regulatory body that is now recognised as one of the best, if not the best, in the world in that particular field. Among the activities and achievements of the Shadow Commission to date have been the public consultation into the modernisation of the Jersey gambling legislation; a public consultation that showed broad support for our gambling policy and supported the need for modernisation. The Commission has introduced a voluntary code of practice to counter money laundering. It has introduced a code of recognition of problem gamblers. It undertook a regulatory review of licensed betting offices in 2007, which identified a number of delinquencies. It has been reviewing and

advising the modernisation of the gambling legislation. It introduced the Gordon Moody Association, initially with a website dedicated to Jersey for helping local problem gamblers. It invited Tacade, an educational charity, to speak at Highlands. With appropriate funding they would like to introduce appropriate courses into Jersey. The sole purpose of today's proposition is to establish the Gambling Commission as an effective regulator for our gambling industry. I would like to remind Members that prior to 2001 the industry was not regulated at all and in recent years only very lightly. In today's world this is just not an acceptable position, which was identified and commented upon by the recent I.M.F. review of the Island. Not properly regulating our gambling industry - and I mean the existing industry - is an unacceptable risk to Jersey's reputation that cannot be allowed to continue. There is a genuine risk from our existing industry, however small and inconsequential some Members may think it is. For example, the Shadow Commission have uncovered incidents of illegal gambling and some frightening anti-money laundering infringements, including where £9,000 in cash was taken over the counter of a local betting office. The perception that this is a small industry is also misplaced, although I do accept that there are several smaller operators. The reality is that there are only 29 bookies, but collectively they turn over around £10 million a year, mostly in cash and mostly over the counter. That type and size of industry cannot be left unregulated. With the creation of the Shadow Gambling Commission in December 2006 and the development of the new Draft Gambling Commission (Jersey) Law considerable progress has been made towards achieving the Shadow Commission's terms of reference and that is to create an internationally recognisable regulatory environment. I attended an international gambling summit hosted by the U.K. Government. At that, summit jurisdictions from around the world were represented demonstrating how important the issues of and surrounding gambling have become. Importantly, a common consensus was reached about the overriding priorities when legislating in respect of gambling. These were that it should be regulated in accordance with generally accepted international standards to prevent fraud, money laundering and other crime. On the subject of crime, Members may remember the incidents in recent years of a stabbing in Jersey associated with an alleged gambling debt; a debt which was caused by an illegal gambling group operating in Jersey. Governments represented at the summit also agreed to actively explore the scope for greater international co-operation in regulation and to ensure effective measures to protect children and vulnerable people. They agreed to the sharing of research, expertise and methods of preventing problems, as well as actively promoting public awareness of how to gamble responsibly. There were also agreements to develop effective licensing regimes and to work with the financial sector to secure these priorities. All these principles are enshrined in the Gambling Commission (Jersey) Law that we are debating today. Our overriding aim is to ensure that Jersey retains its excellent international reputation as a well regulated jurisdiction and it can address the risks associated with gambling. This Law introduces a set of guiding principles. These correspond with the licensing objectives of other gambling regulators. It is apparent, and this is reinforced by other jurisdictions that already have an independent regulator, that gambling services cannot operate without regulation. This has become even more evident as our legislation, which is framed in the 1960s, has failed to keep pace with the modern world. It has failed to keep up with the developments in technology and has also failed to keep up a level of effective deterrent to those who might seek to exploit it. Gambling is not an industry that can be left to get on with things as it likes and there is no such thing as a high standard of self-regulation. At least, I do not think there is, most other jurisdictions do not think there is and, as I have already mentioned, the I.M.F. certainly did not think there was. We need a strong and dedicated regulator that can be trusted to give the Minister and the Assembly consistent and professional advice and which is independent of the States. Moreover, the Commission must maintain the powers to perform its duties in a manner that keeps the Island's reputation as a centre of excellence as its ethos. Furthermore, and in accordance with suggestions during the 2005 debate for the formation of a Gambling Trust, this Law creates a separate ring-fenced fund for research, promotion and education of responsible gambling and enables treatment for those who require it. The current industry understands the Trust will be funded from their voluntary donations. However, while there is no reason to doubt

the will of the Jersey industry to donate voluntarily, this did not prove to be such a successful incidence in the U.K. For that reason the Law provides for both a voluntary donation route and an enforced levy if absolutely necessary. The Gambling Commission will have an important workload in continuing its work to advise on the requirements to deliver the essential modernisation of our current and outdated legislation. This is a sound and necessary Law which builds on the research and hard work of a number of former committees. In presenting the Gambling Commission today, we have fulfilled perhaps the most important requirement of the 2005 States' decision regarding modernisation. Much still remains to be done. Members will know that when a new Gambling Law is presented next year it will have been scrutinised and audited by a professional and independent regulator. This Law will help the Island by improving its level of regulatory oversight. It will help the industry that it regulates by providing a clear and audible framework in which they can undertake their business. It will help the public, people who choose to gamble for recreational purposes will be confident that they have an effective regulator representing their interests. Vitaly those people who find themselves getting into difficulty because of their gambling will be able to ask for and receive help. In closing, I would like to emphasise that the new Commission will not be able to create any new types of gambling. It is solely a regulator and an advisory body. It will be resourced in a manner proportionate to its needs to effectively regulate the size and scale of the industry. I commend the Law.

The Deputy of St. Martin:

I think there may be a little bit of a misunderstanding. What I asked really is for Members to go to Article 79 of Standing Orders. Article 79(1)(a) says: "Any Member of the States may propose without notice that a debate on any proposition be suspended and the States request the relevant Scrutiny Panel consider having the proposition referred to it." Then it goes on: "A proposal cannot be made in relation to a proposition which has already been referred to a Scrutiny Panel." So that is not relevant. Also: "A budget proposition for a financial year, including any relevant taxation draft." Again that is not relevant. However, it then goes on to subparagraph 3: "If the States agree to the proposal, the debate shall be suspended until the next meeting. At the next meeting the presiding officer shall seek or shall ask the chairman of the relevant Scrutiny Panel whether he or she wishes to have the proposition referred to the panel." If the chairman confirms that the panel, having considered *et cetera*, agrees to have it scrutinised. Then if the chairman says, no, then it will not be scrutinised. Basically what today's proposition is is to suspend the debate today to allow Scrutiny to consider whether it wishes to scrutinise or not. It is not today that it has to make its decision. It is to give that time. Giving that time, I think, is very important, because there are a number of issues which have come very late to the table. I think it is fair to go back to P.120 which was lodged way back in the July recess.

The Greffier of the States (in the Chair):

Sorry to interrupt you Deputy.

The Deputy of St. Martin:

I should give my reasons to why I think that.

The Greffier of the States (in the Chair):

You have quoted very accurately the Standing Order. Can I just therefore confirm that in the speech you are making at present you are effectively making this proposal that it should be referred to Scrutiny. So the matter before the Assembly will become... not the principles that we are currently debating which it is almost like a reference back, a separate debate will start and on your proposal this should be referred to Scrutiny? Very well so your speech at the moment is not addressing the principles it is addressing why it should be referred to Scrutiny. Very well.

11.2 Draft Gambling Commission (Jersey) Law 200- (P.139/2009) - reference to Scrutiny

11.2.1 The Deputy of St. Martin:

If we go back to P.120 which was lodged in the July just as we had the recess, that particular proposal was nothing to do with the Gambling Commission, it was purely a proposition to increase the fees. E.D.C. was asking for the fees to be well over R.P.I. (Retail Price Index). In fact well over what we now have in P.141. If the results of... someone contacted me from within the industry, not in my Parish but somewhere up in St. John, and he was very concerned because he said: "If these fees are here it is going to put us out of business. There is no consultation, no nothing." So as a result of that I spoke to one or 2 other people within the industry and they likewise said there had been no consultation. I arranged for a meeting and I am ever so pleased to report the utmost co-operation with the Connétable of St. Clement, who was the rapporteur and along with E.D.D.'s officers and we had a meeting in early August with members of the industry who had come over to meet. It was discussed then that a number of issues really were not fully understood. The long and short of it was that E.D.D. withdrew P.120. Quite clearly they understood possibly their options were too much ...

Deputy J.A. Martin:

Sorry. Would the Deputy just mind for one second? We are debating P.139. The Deputy is referring to P.141. I know you cannot do it, but I am confused. Thank you.

The Deputy of St. Martin:

I can understand Deputy Martin being confused, because it is very complex. It took me ages to get into this as well.

The Greffier of the States (in the Chair):

Just to clarify, she is of course quite right that you are proposing to refer P.139 to Scrutiny. Whether they therefore decide as a result to look at the remaining ones as well is a matter for them. But the current debate is about referring P.139 to Scrutiny, yes.

The Deputy of St. Martin:

I fully understand, but I think we have got to understand where we are coming from to be able to get to where we want to get to. Having met, the industry was then told that they would be coming back at some time or other with a proposition called P.139, which was the Gaming Commission. It would also bring back some legislation which would give them the long promised agreement they could then use for the new gaming machines. It was arranged that we understood there would be another meeting or consultation before P.139, P.140 and P.141 were lodged. In actual fact I met with the Minister on Monday, 8th September asking when could this meeting be arranged and he said: "Yes, well we will see if we can get it done within the next 6 weeks." Lo and behold on the next day on 9th September there were 3 propositions lodged on the table, which were P.139 which is the Gaming Commission, P.140 for the machines and P.141 which was replacing P.120, which is to do with the fees. I subsequently lodged a number of amendments. If Members will look at the comments you will see a number of my amendments are being accepted by E.D.D. Partly because I think it is fully understood now that they may have been a little bit hasty in drafting P.139 and the amendments I have made make more sense. Certainly they allow for greater consultation, which was certainly missing all along. There were no comments lodged about 18th or 19th October, which was a day or 2 before the original date for debate. E.D.D. decided to defer the debate to allow for more consultation. It was delayed for a month. Rather than take the opportunity of discussing it with Members it was a hurried meeting. The week prior to the debate on 17th November whereby E.D.D. arranged for the Gaming Commission... and I went there along with another 8 or 9 States Members, Deputy De Sousa is nodding I do not know if she was there and a few others were there ... we had the briefing. It was a help. I will give it that. It was a help. But that is all it was. When we had the meeting, the States debate, on 17th November that is when we had the trouble. There was an overwhelming decision that there should be a reference back; more information was wanted. It is to everybody's surprise I think that once one thought there was a

reference back it would give an opportunity maybe for Scrutiny to have a look at it and certainly Members to have a look at what was being proposed. But surprisingly only 2 weeks ago this States Assembly overwhelmingly agreed to have a reference back. We now have this before us today and there have been 3 briefings... all of which I have missed because I have been away, but it is not just the fact that I have missed them, but one was last Friday and one was yesterday. But even more so, those Members who were not able to go to the briefings were then given documents to read. My submission is we do not have enough time to read them. I have had a quick scan through them. I think that is very important, bearing in mind that we have just had an executive summary, a policy statement for the operation and supply of the server-based machines and also briefing notes. I am aware that because I am up to speed with these I can understand them a little bit better. However, the whole purpose of trying to get this to go through is to ensure there is consultation with the body that it affects most and that is the 29 betting offices. They have had no opportunity whatsoever to read these, study these or even comment on them. I think it is very important they do, because as indeed we have heard again today, which follows up from the statements made in the summary, some rather serious allegations about malpractice from within the industry. None of which have been substantiated, but just allegations made. No opportunity for the betting shops themselves to respond to it or for anyone else to see whether those allegations could be substantiated. So, what I am asking for is that I apply Article 79 and ask that this matter be put over for a week for the Scrutiny Committee to consider whether they wish to scrutinise or not. It is not their decision today. What I am asking Members to do is to agree that they can go away for a week and think about whether they want to scrutinise it. That is basically what I am asking for. I have made my case. I would ask that Members support it. I make the proposition.

The Greffier of the States (in the Chair):

Is the proposition of the Deputy of St. Martin that the debate be suspended and the Scrutiny Panel requested to consider whether they wish to have the matter referred to it and to notify the Assembly next week of their decision seconded? **[Seconded]** The matter now before the Assembly therefore is the proposition of the Deputy of St. Martin that the matter be referred to Scrutiny. Does any Member wish to speak on this proposition?

11.2.2 The Deputy of St. John:

I would like clarification of what the proposer is saying. He mentioned certain allegations being made. Could he enlarge on it or is he referring to what the Minister told us in the Chamber this morning? Because if he is, the way it was put to Members this morning was quite clear and I would not expect the proposer of this reference to Scrutiny to basically mistrust the words of the Minister, the way he gave that information this morning. It does concern me.

The Greffier of the States (in the Chair):

In my understanding you were referring to matters mentioned by the Minister.

The Deputy of St. Martin:

Yes, it was a comment. But also they are in black and white in the executive summary. Some of these refer to 2007. If the Deputy of St. John would have read it, like I have, it talks about the deficiency in both regulation adoption and good practice in Jersey. Well, if anyone is to blame it must be the department employing these officers who are not doing their jobs.

Deputy J.A. Martin:

It is just a procedural matter from you, Sir, because the Deputy very rightly read out the Standing Order. My concern in Article 79(4)(a). If it did go today to Scrutiny, at the next sitting if they do not want to scrutinise it the States may either resume the debate immediately or decide in which meeting the debate will take place. Next week is the last sitting. Procedurally, what does that mean? I would just like a ruling from you.

The Greffier of the States (in the Chair):

No, Deputy, what it means is if the proposition today is accepted the Standing Order makes it clear that in the next meeting the presiding officer will turn to Deputy Higgins and say: "Has your panel considered the request? Do you wish to have the matter referred to you?" If he says: "No, thank you." The States then decide either to continue immediately or to fix a date in the New Year. If Deputy Higgins says: "Yes please, we do wish to consider it" then the matter is referred to Scrutiny. As you say, it would either be a case of doing it next week or deferring to the New Year.

Deputy J.A. Martin:

What would come procedurally first, the budget debate or this proceeding, because I am told the budget is set in stone?

The Greffier of the States (in the Chair):

The budget comes first, yes. Does any Member wish to speak on the proposition?

11.2.3 Senator S.C. Ferguson:

Yes, I would just pick up the Deputy of St. Martin's point about the various activities and misdemeanours and possible money laundering. The chairman of the Shadow Gambling Commission was quite open about this in the briefing that he gave yesterday. I have no doubt that if the Deputy of St. Martin had attended either of the briefings - I do not know whether he attended the one on Friday - then he would have no doubt been able to discuss this with him. The rationale and the explanation we got was fairly cogent and obviously factual. We obviously did not ask which betting shop the money laundering and so on had come from, because I think that would have been perhaps not the correct thing to do. I think it would also be helpful if the chairman of the Economic Development Scrutiny Panel gave us an idea of whether he thought he might be scrutinising this proposition.

11.2.4 Senator B.I. Le Marquand:

Picking up from what the previous speaker has just said, this is really quite a simple matter. If the Scrutiny Panel wants to scrutinise this then they can say so now. After the debate on principle has finished it then goes to Scrutiny. The only way in which this proposition could work would be if the Scrutiny Panel wanted an extra week in which to make up their minds as to whether they want to scrutinise. If they are clear they do not want to scrutinise, please could they say so and then we could move on with the debate because there would be no point in this proposition whatsoever. So there is only a point in this if they do not want to definitely call it in, but would like to have another week in which so to do.

11.2.5 Senator A.J.H. Maclean:

I am afraid I have to take exception to one or 2 of the comments that the Deputy of St. Martin has made with regard to his proposition. In particular I would like to draw Members' attention to his comments about a lack of consultation. That could not be further, I am afraid, from the truth. There has been considerable consultation over the last few years with the way in which we are going with the gambling industry in the Islands, the need to modernise the legislation and the need, indeed, to increase these which have not been moved since 2001. I should add that the current chairman of the Shadow Gambling Commission has liaised strongly with the local industry. In fact he was instrumental in setting up the Jersey Bookmakers Liaison Group, which I think Members would agree perhaps is fairly indicative of somebody who is prepared to liaise and consult. That is exactly what has happened. Of course, I would not expect the industry to welcome wholeheartedly the prospect of their fees increasing. I do not think anybody likes the prospect of paying more for whatever service it is that they are dispensing on the subject. Nevertheless, I have not noticed, certainly in my capacity as Minister, through my department or indeed in the wider media, a rush of complaints from the local industry about the proposals that we have been putting forward. I thank

the Deputy of St. Martin for the interest he has taken in this matter. He has done some very good research and very good work and in fact a number of his amendments, which we hopefully will come to later on, my department and myself are more than content to accept. They are a useful addition to the debate in total. I would also say that the Deputy of St. Martin mentioned a parishioner of his who had spoken to him as a bookmaker who was not satisfied. A non-parishioner, my mistake, I was going to draw a parallel to a parishioner that I know he has who is very keen that this matter does get progressed. Nevertheless, I feel that, if I may, just quickly touch on the areas in which my department has dealt with the matter of additional information, the reference back, which occurred on 17th November. We had already held a briefing for Members prior to that. Nevertheless, the industry themselves, when I say the industry certainly a managing director of one of the largest data centres and internet providers in the Island, gave a very useful and interesting presentation to Members about e-commerce, the wider implications, e-gaming and indeed the need for strong regulation. We have provided 2 briefing sessions. I apologise to Members, probably a deluge of information has been passed through to Members, including an open invitation to contact either myself or the department for any further information that is required. I feel that really in the time that we have been dealing with this matter we could not have provided very much more. I certainly do hope that Members reject this proposition and allow the debate to continue and to be decided on its merits. We do need a Gambling Commission, we need a Gambling Commission now and I believe we should proceed with that particular debate. Thank you.

11.2.6 Deputy A.E. Jeune:

Two weeks ago this Assembly sent this work back to the department saying we do not have enough information. I seem to recall I made some comment about we should all learn from what was happening then. I question, did we? The department has given presentations again to ensure that Members had an opportunity to question them on any of the queries they might have had. Did they take it up? Did Scrutiny attend? I ask that question. I agree we should make informed decisions, but we also have a responsibility to respond to the offers of that information in order to make informed decisions. Thank you.

11.2.7 Deputy P.V.F. Le Claire:

I just wondered, being pragmatic about this, whether or not the Deputy of St. Martin could not possibly foresee that if we entered into debate on this it probably would not conclude prior to the end of business today, which would enable the Scrutiny Committee to think about this overnight and come to some decision among themselves that we could possibly look to the alternatives in the morning rather than debating this into the small hours. I just wondered if he had thought about that option. At least that way we would get through the beginning. Otherwise we are going to be in this debate when we could be moving on to the substantial issues. It would be very important I think and helpful if the chairman of the relevant Scrutiny Panel spoke next so that we did not have to keep on going around the houses here.

11.2.8 The Deputy of St. Mary:

I will be brief. I did go to the first of the second ones. I arrived when the discussion should have been in full swing, but clearly there was not much discussion. The second one I was not able to go to. But I do have the briefing which was handed out, which I assume summarises the presentation which was given yesterday and Friday; States Members briefing paper. I have to say that whatever Deputy Jeune has just said about: "One should go along and get the information", the question that we asked the E.D.D. to bring... That is why it was referred back. It is always the question when you refer back: "What is the specific information required?" The information required by the House was value for money. It was cost benefit analysis. It was: "What are the benefits of having a gambling industry and growing it, intending to grow it, by providing full regulation and so on, and what are the likely costs or possible costs. There is no information about that in this document.

I know the Minister has spoken already, but I am very surprised there is nothing in here. I do not know if it was included in the briefings.

Senator A.J.H. Maclean:

If the Deputy would give way, I could perhaps clarify the position for him.

The Deputy of St. Mary:

I would be grateful.

Senator A.J.H. Maclean:

He did indeed, as he said, turn up to the briefing. Unfortunately the briefing started at 12.15 p.m. and he arrived at 2.15 p.m.

The Deputy of St. Mary:

No, that is not factually correct.

Senator A.J.H. Maclean:

Well, sometime after 2.00 p.m. I cannot be absolutely precise. But the Chief Executive of Economic Development gave a full cost benefit analysis. Indeed the information was also provided in the briefing on Monday and I have since circulated those details to Members by email.

The Greffier of the States (in the Chair):

Do you wish to make any further remarks, Deputy?

The Deputy of St. Mary:

No, Sir, thank you.

The Greffier of the States (in the Chair):

You are not in a position to give any indication to the position of the panel on this at the moment? No? Very well.

11.2.9 Deputy J.A. Martin:

It was 1.40 p.m. because he came and sat next to me, like he always does. **[Laughter]** I told him he was very late and he had missed a very good and informative ... and there were lots of questions asked. I did ask the Shadow Commissioner: "Would it pay for itself?" Now, either it gets bigger if we introduce e-gambling and it will pay for itself or if we do not introduce any more gambling, as it has been said this morning as well, it will shrink. So I had my questions answered. I thought it was very informative. The Deputy says, obviously, there were not many questions. I think there were 5 or 6 States Members and as many officers and members of the Commission and we asked plenty of questions. Deputy Fox was there and he made the point that his phone had not been ringing off the hook and he thought there had not been enough consultation. But normally I would say betting shop owners, if you are trying to hit them in the pocket, become as noisy as the next man. I have read their comments. In brief and in summary, they support this. Now, do we reference this back? I am getting a bit of a feeling, especially where I know where we are next week - the budget - we are trying to put this off until after Christmas. I think we obviously have to make some tough decisions. We have put this off. Myself and some other States Members attended a presentation at St. Paul's the other Monday; yes I know it was a company that was doing it, but I did not disbelieve them because they were a company. To hear the Minister for Economic Development tell me that there are 3 companies in Guernsey that have as much - and I will not go down the mega road - bandwidth than the whole of the finance industry in Jersey and if anybody does not think this is relevant they are really burying their heads in the sand; really burying their heads. **[Approbation]** Do not make a decision today. I was convinced by the Commission, the credentials of the proposed commissioner are exemplary, he talks commonsense, he has been involved with the police and he

knows there is a problem over here. We heard: “Go in any bookies, go to the races, hundreds and hundreds of pound notes, £50 notes are crossing hands.” Now, we are supposed to be a well-regulated finance industry. Want to launder money? Let us put out in the press that we do not care how much money goes across. We do not regulate that? Now, which is the moral high ground here? Getting back to this debate, **[Laughter]** I am certainly not putting this off. It went away last week and I took the criticism of Deputy Jeune - I could not attend the last one - I went, I was there at 12.10 p.m., we were still talking at 1.45 p.m. It was very informative. Whatever your moral issues are today, we are not deciding on the rights and the wrongs of e-gambling. That is another decision and that is a case for the Economic Development Department to make. Please do not use Standing Orders. We will hear very shortly from the chairman of Scrutiny. I do not know what he is going to say. Again, I hope he has consulted his panel. Is he prepared to put in all the work again over Christmas, because he will have to do a lot of work from now to Christmas to be back in here in early February with a full Scrutiny Report? Does he need another week to think about whether he wants to do it? I doubt it. He has had all this time to do it. I say I cannot support this. It is a total abuse of Standing Orders and I really am sorry that we are where we are. It is time to make decisions, be them tough or not. Vote against it if you do not want it, but do not refer it to Scrutiny. **[Approval]** Thank you.

11.2.10 Connétable L. Norman of St. Clement:

I was hoping you were not going to call me then. What a terrible act to follow. What an excellent act to follow. **[Laughter]** Up until today I have been very grateful for the input of the Deputy of St. Martin into the Gambling Commission. Truly I mean that. He has been extremely helpful and generally supportive and some of the amendments that he has brought forward have improved the Commission Law which hopefully is before us today. But today when he comes out with comments that the licensed betting office industry has not had the opportunity to comment gets my blood boiling. In the last few weeks I have had 2 meetings with representatives of the licensed betting offices, endless emails I have exchanged with a number of them, a number of telephone calls with some of them and so have the officers of the department been working with the licensed betting office organisations. So to criticise the officers of the department because some irregularities have been found in some of the independent betting offices, I think is grossly unfair. Because they are not regulators, they are administrators, they are civil servants who do not even have the right of authorised entry into these betting shops. The deficiencies lie not within the department, but within the regulatory framework which we are going to put right if the States approve the Gambling Commission Law which is before us today. To say that the licensed betting offices have not had the opportunity for comment is absolute nonsense. They are important allies in the development of the gambling legislation. Deputy Hill himself sent us around the 2 page summary comments from the licensed betting office, which he told us a few minutes ago, they were not able to give us. As Deputy Martin said, they tell us the licensed betting office industry supports in principle P.139 the introduction of the Commission, P.140 the updating of the gambling machines and P.141 the increase in fees. The licensed betting offices have commented and they are supportive of the legislation which the Economic Development Minister is bringing forward today.

11.2.11 Deputy R.G. Le Hérisier:

I have had the wind taken out of my sails by Deputy Martin again. I, like her, think we have the information, we listen to the case and if it is not put well then we reject it. It is as simple as that. The department has worked incredibly hard. There are areas where they are lacking and it is up to us to wheedle out those areas. I have had a long exchange with the Minister about the whole issue of social responsibility, which is the soft side of the so called cost equation and a very, very important one. I had a long discussion at the session with the visitors. What worries me ... I think the Deputy of St. Martin has done an incredible job in wheedling out weaknesses. But it strikes me that there are 2 debates going on. One is an elephant in the room debate. The other is the more obvious one where the Deputy is fighting what he sees as over luxurious regulation of the industry.

I think we are in danger of getting stuck on that. The second one is that old conundrum in Jersey of the morality of gambling. I do sense that is in the background. I really, quite frankly, do not want to go down that route again. It is going to rear its head. It is rearing, its head is lifting. I can sense it in the background all the time. But I never saw this debate as being about that. I really feel, as with Deputy Martin, we have to move on. We have delayed it once. They came up with the goods. If we do not agree with what they put forward as the case then it is our job in this Assembly to deal with that issue at this level. I hope Scrutiny does not take it, but it is entirely up to them. Thank you.

11.2.12 Senator J.L. Perchard:

Briefly. I have very little to add to that contribution made by Deputy Le Hérissier, Constable Norman and that of Deputy Martin. Other than, and I think Deputy Higgins will know this better than I, the International Monetary Fund, when reviewing Jersey's financial services industry, commented on the lack of regulation that is supporting our gambling industry in Jersey. This P.139 does nothing more than formalise the structure around regulation of our gambling industry. It is not, as Deputy Le Hérissier said, about the morality of gambling. It is not, as Deputy Martin said, about e-gaming. It is about a proper world-class financial services industry having proper regulation and laws supporting gambling on the Island. It is as simple as that. I urge the States and, in particular, Deputy Higgins not to put off again another topic for January probably, when we know the Order Paper is already piling up for January. This could be dealt with today. Those Members that have problems about e-gambling industries and about gambling at all will have an opportunity to air that at a later time.

11.2.13 Deputy J.M. Maçon of St. Saviour:

Being a member of the panel, I did attend the briefing on time. I think I was about 2 minutes early, but I was there on time. For the previous one I was in a Planning Application Panel meeting, so I was unable to attend. I did put questions towards the panel at the presentation. It was informative. It did help. There were of course still questions. I think the question is, if we refer this to Scrutiny will we be better informed? Of course we will be better informed. Scrutiny always helps in that aspect. But the question we must ask ourselves is do we really need that in order to make a decision? I think has been said, by Deputy Martin, Deputy Le Hérissier, the Constable of St. Clement and Senator Perchard. This is a hot potato. Yes, it is contentious. But the question is we have got to tackle it and we have to put our cards on the table and we have to decide what we are going to do. In conclusion, I think we have to make a decision whether we like it or not. I would however challenge what Senator Perchard said in that, yes, we have what is before us, but we cannot see it in isolation, it is part of a chain. There are parts which will come. I think the concerns of: "If you have a Commission will it grow? How many staff will it have?" These are all concerns, because once we know we have something, bureaucracy as it is always tends to expand, and that is a legitimate concern and it should absolutely be raised. That might be something which is a legitimate area for Scrutiny. So I do not think you can consider this all in isolation. I think that the whole role of e-gambling... although the term e-gaming is used. However, of course, we are not talking about M.M.O.R.P.G.s (massively multiplayer online role-playing games) we are talking about gambling. I think that, yes, Scrutiny could obviously improve the information that we have, but I think, as Deputy Martin said, let us just tackle this as it is. Thank you.

11.2.14 Deputy M.R. Higgins:

I will put the Chamber out of its misery. The reason why I have not spoken until now is since we, the Economic Affairs Scrutiny Panel, came in today we have been lobbied left right and centre to scrutinise this legislation that is coming through. We were not going to originally, but people have been coming to us and so on. I did send a note to Senator Maclean earlier that we were going to set up a sub-panel, because a number of Members were concerned to do so. However, a lot of discussion has been taking place by note, outside the Chamber and so on, and we will not be

scrutinising this piece of legislation. However, I will state to the House, e-gaming is something totally different. When that comes forward, we probably will have a look at it. **[Approbation]** So as far as the Commission is concerned, we will not scrutinise, but we are not saying a definite “we will”, but I am pretty certain we will be looking very, very closely at e-gaming.

The Greffier of the States (in the Chair):

I call upon the Deputy of St. Martin to reply.

11.2.15 The Deputy of St. Martin:

I am rather disappointed to hear what Deputy Higgins had to say, because one of the reasons for this today was to give a bit of breathing space and to think without having the feeling of being rushed. One of the reasons he did ask if I would serve on the panel and I felt it would be wrong, because I would have been too conflicted. I just felt it would be wrong for me to be on the panel scrutinising it. No doubt if I had said yes it may well have been scrutinised, but I felt it was wrong to do that. I think there are a few points I would like to clear up. It is very important, because quite clearly there is no point in me going on when I am not going to win the vote. **[Approbation]** I think it is important to read out a couple of things, because what is unfortunate is we seemed to have missed the point by Senator Maclean; and in fact the Connétable of St. Clement - thank you for your compliments. I know I have worked hard and we have worked well. I think that where the wheel has come off has been since the propositions have been lodged, since the last week or so, because I circulated the comments from the industry because I believe that this should be a law. I do not have a problem with that. But it is the strings attached that we are concerned with. I think really both the people who read out and made reference to this particular document, did not read out it all, they were very selective with the point. As indeed one would. I am going to be selective now, because I am going to say that what is on here. They have been saying, yes they all agree, but there is a proviso. We do not believe we asked to pay for the development of the gambling industry into new opportunities, such as commercial bingo or e-line gambling, or for the staff that might be necessary should these new opportunities be created. The cost of this development should be covered by the States should they believe that such development would be beneficial to the Jersey economy. What they are saying, quite rightly, why should they subsidise something which there is no benefit to them at all and that is the issue here. Also, I think it is very important just to refute what the Connétable of St. Clement and Senator Maclean had to say. I will read out an email, only this morning which has been sent to me, because, as I mentioned, I only got back last night from a few days away and I was really busy to try to deal with this, and what I did, I sent the documents to the industry in the U.K. and I said: “You have not had an opportunity now to respond to the 3 lots of papers that have been circulated in the last 2 or 3 days” - and I mentioned those earlier - and they said that, you know: “We are in a very difficult position where our survival depends on gaming machines but face the unreasonable demands and the high costs, it may be easier to say, ‘Thanks, but no thanks’. This would leave Jersey with a Commission and no additional revenue. Sadly, I suspect the independents would be the first to go. We will be talking our end to decide how to formally respond over the next couple of days. [They are not going to have an opportunity to respond.] Many thanks for keeping us informed about these new proposals, which had not been discussed by E.D.C. who, I thought had been charged with consulting the industry.” Well, I am sorry, that is in black and white, signed by, again, one of the members ... I can give the name. He will not mind. It is Mr. Ian Chuter of William Hill, one of the big gamers from the industry. This was sent to me at 9.20 a.m. this morning. So it looks as though it is pointless me going much further. Do I need put it to the vote?

The Greffier of the States (in the Chair):

Do you seek leave to withdraw it?

The Deputy of St. Martin:

I wish to withdraw it, Sir.

The Greffier of the States (in the Chair):

Are Members content for the Deputy to withdraw the proposition? Very, well: that is withdrawn and therefore debate resumes on the principles of the Law. Deputy Le Claire

11.3 Draft Gambling Commission (Jersey) Law 200- (P.139/2009) - resumption

11.3.1 Deputy P.V.F. Le Claire:

I am happy to support this so I think that we should get on and get to the vote and get this supported and if there are any other debates that we need to have in the future, we will have those then.

11.3.2 Deputy J.B. Fox:

The reference back last time was right because it gave us 3 opportunities but 2 excellent presentations which cleared the air, and gave us all the opportunity to be able to have the full understanding that is required on such a large, complex and, some of it could have been, controversial subject. I would like to say that yet again, with anything that is in a pre-meeting, there are the usual people that go and there are those that do not go and it is the ones that do not go that seem to end up by asking all the questions in the House. On this occasion in particular - and I am not going to talk generally - all the answers as far as I was concerned were given to the satisfaction of all those that attended and Deputy Martin clearly illustrated that in her last speech, with which I concurred 100 per cent. Congratulations. You summarised it perfectly and I would agree with Deputy Le Claire that I am fully satisfied and I am sure that all those who attended are and let us get on with it. Thank you.

11.3.3 Deputy J.M. Maçon:

Just following on from my previous speech, again it is the issue regarding expansion of the Commission because, as you know, once you have a Commission, these things always tend to grow. Again, this is part of a chain of other things. Again, because we do not have it all on the table ... and I remember Deputy Fox said at the presentation: "If things are piecemeal, how can we look at it in the round?" We do need to think and consider this within the background of what is coming and how easily things can expand and how things can be thoroughly bureaucratic and how you can then find chairmen and commissioners awarding themselves huge amounts of money, and we have Senator Le Sueur saying what wonderful people they are and how they are well-qualified and equally robust. It is a problem when we go down that road and how can we better that process? My concern is, how do we manage to control - reduce the size of - the way we always find that these institutions when we have commissions tend to expand so quickly.

11.3.4 Deputy M. Tadier:

I think it is relevant that I just say a few words seeing as I was the one who made the reference back. I think it has been said already that the reference back was, under the circumstances and in the context of 2 weeks ago during the debate, the right decision to make. Firstly, I would like to thank the department for putting on the presentations. I think I was pointed at before because I did not attend these presentations for good reasons, because they were such short notice and I had 2 longstanding engagements already; certainly on the Monday we were involved with Scrutiny and also I went to Hautlieu School, and I know the Minister, Senator Ozouf, also came, and on Friday I had some constituents I had to accompany to another presentation, which already had been put on before. Nonetheless I was able to receive the slides which were sent out and they were very useful to me. So I think the point I would like to make, and I think it has already been made to a certain extent, is that the information has now been given, whether or not individual Members are satisfied with that information really is another question and the opportunity now is to vote for or against. But the information has been given and I would simply like to thank the Minister and also the staff of the department; it was very short notice and I think it has been helpful to the Assembly.

11.3.5 The Deputy of St. John:

Any law that makes gambling that much safer must be right for our children and the people of this Island. This is exactly what the Assistant Minister has been trying to do for the last several weeks. We heard it all in various speeches from across the Chamber a couple of weeks ago and that was because Members had not attended the original presentation. I am pleased to see now that the majority have but I am still concerned that one or 2 Members are looking at this from the religious side of things, and obviously their own feelings must be taken into account, but that said, what has been proposed is a tightening-up of legislation. I think really I would expect, and I sincerely hope, that this goes through with 100 per cent support. We are putting in strong legislation to control gambling and that is where we are coming from on this particular issue. The other items that will come on a later date, in the early part of next year, will be the ones that Members with strong feelings, should be voting on. But please do not keep this one out. This is the important piece of legislation.

11.3.6 The Deputy of St. Martin:

I have always been law-abiding and I do not have a problem with supporting the gambling law. I do not have a problem with that, as Members know. I have put a number of amendments forward. As the Constable of St. Clement said, he is supporting them and I think the law will be all the better for it because what we are looking for is consultation, consultation, consultation. I am afraid that is the bit that has been missing since P.139, *et cetera*, has been going on. However, we are where we are, as you say, but I would like to ask the Minister a few questions because I think quite rightly there are concerns by the industry that they are subsidising something for the future and no doubt we will be coming back with e-gaming. In a statement this morning, the Minister read out that if indeed there is not the support for e-gaming, no doubt there will be a reduction in the number of staff required, *et cetera*. One must ask: "Why do we need that number already when we do not have e-gaming? So, why can those fees not be reduced?" I would like to get to the cost because what we are doing here, we are committing the States to £225,000 a year and we are told it is going to be reduced. Well, if I came here and said: "Can I have £225,000?" I would be laughed out of court but, of course, I am not a Minister. That is probably why I am not a Minister. Can I ask about how will this money be raised if indeed P.140 is not supported, because P.140 is another debate, but it is a very important debate because it is a debate which the industry wants. Again, that is to do with the gaming machines. If in fact this House votes for the Gambling Commission, then votes against the gaming machines, where is the money going to come from because the E.D.D. is relying on that money because we do have that yet. Personally I think we should have debated P.140 first, then P.139 afterwards. Also, can we have some idea of the cost of the chairman of the Commission. We have been told he is a great fellow and I have no reason to disbelieve that because quite clearly his C.V. (curriculum vitae) stands before him. However, it was mentioned, I think the Connétable of St. Clement said it: "Of course, the 2 other commissioners are also local." But they are not also local to the commission of the U.K. Maybe we could have clarification from the Minister that at the moment the commissioner is paid £48,000, and I gather he lives away. I will stand corrected if I am wrong. If that is the case, every time he attends Jersey is that at his expense or the States' expense? If one looks at the summary that we have all been given, and I know some may not have had an opportunity, but it talks about how often the chairman will come. We are going to pay the commissioners 2 days per month at £500 a day. The chairman is going to be paid £400 but for 10 days per month. Well, if the chairman is flying over here for 10 days a month, or if he has to stay, does the States pay the hotel cost? I would just like to know how those costs are because they do not seem to have been included anywhere in the costs. The last thing I would like to add is that I do think it is rather unfortunate that these allegations have been made at the 11th hour without any opportunity for anyone to refute them. Maybe the Minister could, in summing up, tell us how many prosecutions have come as a result of these allegations. Very, very important because, I think, of the good name of the industry: how many prosecutions have followed the allegations that have been made: make it nice and easy; since 2005? So with that, I will be

supporting the principle. I have my doubts about how it is to be funded but I would, again, ask Members to support the principle.

11.3.7 Senator T.J. Le Main:

I do not intend to repeat everything that has been said but I would like to congratulate Deputy Martin on what I thought was the crux of the matter. This is not only about controlling the gambling. It is also about having a regulatory commission which will provide opportunities now currently being lost to Guernsey and otherwise and the huge potential in I.T., which will provide these opportunities for people to invest in Jersey. I was really pleased again, as I have been in the past, for Mr. Evans of Foreshore Limited in advising Members and in fact giving me advice which I was unaware of. I do not think for one minute that we can afford at all, now - and I opposed with concerns on the last debate on this issue - to ignore the demands of the private sector, the huge investments they are currently making and the huge opportunities that are going to be before us in the next few years. Also we cannot afford to ignore the recommendations of Michael Foot and the I.M.F. in having this in our portfolio as a world-class financial services provider. I am totally now on board. I was not quite sure before but I urge Members, in the best interests of (a) the investors in Jersey: the businesses like Foreshore, the businesses like Jersey Telecom and other providers, that will give us opportunities to extend the kind of business that we see as the future and, as has always been explained, particularly by Mr. Evans, the opportunities of finance may not always be with us as current, but certainly there are other opportunities available. We cannot afford to miss these opportunities. This opportunity today must be grasped with both hands and we must approve this Commission to allow the businesses that are going to invest in Jersey to be able to operate here in a competitive manner. I, like others, remain and will remain ... some of my concerns will be addressed when the Minister comes back in March next year with e-gaming. I am not sure about e-gaming: the actual point of e-gaming has a moral and social difficulty with me. In this particular point at the moment, I believe that this has to be supported and I will be supporting this wholeheartedly and urge other members to do so.

11.3.8 The Deputy of St. Mary:

That was most enlightening. The speech went full circle and came back to: "We are not talking about e-gaming" and I hope the Minister will say that again in his summing up because if we are talking about e-gaming, then I think the vote might go differently but I did understand that we are not. We are talking about obviously regulating the existing set-up properly. So, I just wanted to make one point really. I get a newsletter from C.A.R.E. (Christian Action Research and Education), which is a Christian social responsibility organisation and there is an article in there which says, and I have not checked the claim, but there are 350,000 in the U.K. who have, in their words "been ensnared by gambling." I probably guess that that means that they are problem gamblers, not necessarily addicted. But the fact is that if you apply that percentage to Jersey, you get 450 people who have "been ensnared by gambling." Now, I can see the Deputy of St. Martin nodding his head and saying these statistics simply do not apply here and it is completely different, but I am just pointing out the potential scale of the problem, which brings me to my next point which is about the levy. The problem is that gambling is expensive. It is interesting that the Minister said earlier, and I am not sure in which bit of the debate, but he said earlier: "There is no such thing as adequate self-regulation" which I thought was very interesting in this context. Yet there is provision in the Regulations, provisions that we may go down the route of a compulsory levy but up till then we will rely on voluntary contributions. That is how I understand the Regulations as they stand. I just want to point out that this whole issue of social responsibility will, or might be, expensive. First of all you have the research. You have to find out whether it is 450 or whether it is 2. You have to find the problem gamblers and you have to help them if we are treating this in a proper manner, which I understand that we all want to do. So I just want to flag that up. We are talking about the principles. One of the principles is proper protection. Proper protection is going to cost and it has to be funded and I am not sure that this sort of compulsory

levy is strongly enough in there. It is in there but possibly the Minister would like to comment on the balance between not going to compulsory and going to compulsory in the light of how much we will need to spend to protect vulnerable people. Thank you.

The Greffier of the States (in the Chair):

No other Member wishes to speak. I will call on the Minister to reply on the principles.

11.3.9 Senator A.J.H. Maclean:

Perhaps it is best that I start at the beginning to confirm to the Deputy of St. Mary and any other Member who might be confused, that this matter today is about a Gambling Commission and only about a statutory Gambling Commission. It is not about e-gaming. That is a matter I have made a statement about earlier on today and it is a matter that the Assembly will have plenty of opportunity to debate in early 2010. I would like to thank Members who have shown support, in particular Deputy Le Claire, Deputy Fox, and a number of others: Senator Le Main who has been converted on this particular matter; and if nothing else I hope it shows that the level of interaction between the department and Members in our attempts to provide briefings has at least hit the mark in one respect and I hope it has been useful for other Members as well. Deputy Maçon asked a question about expansion and he was absolutely right to do so. He is concerned clearly about the Commission, as proposed, growing into an expensive, uncontrollable monster but I can assure him that the Commission, as proposed at the moment, we believe is appropriate. It is appropriate for the job that it has to do, which is the modernisation of our gambling legislation dating back and framed, the majority of it, in the 1960s. In fact, I can say that the only piece of new legislation for gambling that came before this Assembly was when we brought the Disaster Recovery Regulations only last year. So that is the first piece of legislation regarding gambling that this House has dealt with since the 1960s, which is quite a sobering thought. It is in fact a very good reason and the main reason behind bringing a statutory Gambling Commission to effectively regulate the industry that we have. With regard to Deputy Maçon, the department is particularly conscious of obtaining cost recovery. We want to move to cost recovery as quickly as we can. It is important that fees are increased as they have not been since 2001 but it is also important, from the industry's point of view, that we are not unreasonable about fees. They have to be relevant. They have to be fair. They have to be on a level pegging with other jurisdictions and that is what we have tried to achieve although they appear at face value to be a significant increase, we believe they are reasonable compared to other such fees you see in other jurisdictions. There are protections with regard to the Appointments Commission as well, as far as who is appointed on to it and what payment is made to commissioners, and I will cover details of costs in a moment. Thank you to Deputy Tadier, who has now left the Chamber. The Deputy of St. John is right: yes, it is a strong regulation. That is exactly what we are looking to put in place. It is important for the reputation of the Island but it is also important, the social responsibility angle, the protection for young and vulnerable people, that we get this right and we put in place appropriate mechanisms for protecting them. The Deputy of St. Martin asked a number of questions. He is concerned, I know, about the size of the Gambling Commission as proposed, over 3 commissioners and the 4 support staff from Economic Development and he has asked why that number of staff as we stand at the moment. Well, the level of work that is required, and this is probably a key point for consideration, in modernising the extensive legislation that exists and bringing it up to date, is an enormous piece of work and it requires certainly senior staff and certainly staff at a level where they have the necessary expertise and experience to be able to deal with such legislative changes. He talked about the machine regulations and the linkage between costs of the machine regulations but we have, of course, 3 propositions to consider. We have the Gambling Commission which we are debating at the moment. We also have the fees and the machines. There will be an increase in fees regardless of whether the machines go through. The department will be moving towards cost recovery and if, once the legislation has been modernised, we review the Commission - which is the stated intention I made earlier on today, then indeed the Assembly here vote not to grow the industry with e-gaming

or in any other way that may be proposed, then indeed the Commission and, in particular, the support to the Commission, will be reduced proportionately so the cost will come down and it will be proportionate to that which it has to regulate. The Deputy of St. Martin has also asked about the cost in relation to the commissioner or commissioners but in particular his interest was in the chairman who resides - he is quite correct - outside of Jersey, in the U.K. He was also right about the pay. That is in line with many other similar bodies for the amount of time that he commits to the role as chair of the Shadow Gambling Commission and we hope the Gambling Commission, an annual sum of £48,000. The costs with regard to travel and accommodation when in the Island are an expense of the Commission and would be met - reasonable expenses - in that respect, for and in relation to the duties that he carries out for the days that he is committed to do so. The Deputy of St. Martin has also asked for prosecutions. I know it is an area I think he has tried to link the work of the department, the Shadow Commission and indeed, I suspect, to draw a line with the Commission itself. Of course, prosecutions are a civil matter, not criminal. They are a matter, I would suggest, that would be more for the Attorney General although I do not know if he would wish to comment at this stage. In terms of prosecutions, I am not aware of prosecutions that have come forward to conclusion and it would be the position of the department of where possible to work with industry and dissuade and ensure that the right level of education is in place to ensure that we do not have the need to prosecute but if it did, I would suggest it would be more likely to be a civil matter. Senator Le Main, I have already mentioned: thank you.

Deputy C.H. Egré of St. Peter:

Can I just ask for a point of clarification because I have heard the Minister mention twice about a civil matter and I have seen the Attorney General wince twice. Could we have some clarification on that please?

The Attorney General:

I did not wish to appear to be wincing, I have a rather painful shoulder. But no, in fact, just for a point of clarification, obviously any matter of a prosecution is of itself a criminal matter and I do not know if the Minister mis-spoke in characterising it as one of a civil nature but it is obviously a criminal matter.

Senator A.J.H. Maclean:

I think from a clarity point of view, the regulation would be a civil matter: that probably clarifies that a little better. I thank the Attorney General for his comment. Finally, the Deputy of St. Mary made reference to problem gambling. In fact, he mentioned I think 350,000 that he had seen ensnared, in some publication. I think of more relevance is the U.K. prevalence study which was carried out, I think it was last year, which showed that 0.6 per cent are problem gamblers. Interestingly in that study, I believe that only 7 per cent of the 0.6 per cent are attributed to e-gaming and internet gambling. That may be a matter, of course, we will discuss next year when we get on to those issues. Of course, we are not discussing that now. I would also mention the lottery. There is a known case of scratch cards being addictive and that is a matter that perhaps Members should bear in mind. Again, there is no protection for people in Jersey currently who have gambling problems, addictions, and so on. We have a lottery. We have scratch cards. In the U.K. and elsewhere, they have been proven to be addictive. Social responsibility is key. It is important, I think, to answer hopefully the Deputy's question, that the balance is right. I would like to see the industry make voluntary donations so that we have the appropriate funding to be able to deliver an effective social responsibility programme which is exactly what we should be doing. It would only be if that were to fail that we would, within the law, have the ability to prescribe an appropriate levy which would meet the requirements to deliver an effective social responsibility programme and no more. It is not a tax-raising measure in its own right. I think I have answered all Members' queries and I would like to once again thank those that are going to be supportive and have been supportive by their speeches and I would maintain the principles.

The Greffier of the States (in the Chair):

The appel is called for. Can I ask Members to return to their seats and if Members are in their designated seats the Greffier will open the voting for and against the principles of the draft law.

POUR: 45	CONTRE: 0	ABSTAIN: 0
Senator T.A. Le Sueur		
Senator P.F. Routier		
Senator P.F.C. Ozouf		
Senator T.J. Le Main		
Senator F.E. Cohen		
Senator J.L. Perchard		
Senator A. Breckon		
Senator S.C. Ferguson		
Senator A.J.D. Maclean		
Senator B.I. Le Marquand		
Connétable of St. Ouen		
Connétable of Trinity		
Connétable of Grouville		
Connétable of St. Brelade		
Connétable of St. John		
Connétable of St. Saviour		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Deputy R.C. Duhamel (S)		
Deputy of St. Martin		
Deputy R.G. Le Hérisier (S)		
Deputy J.B. Fox (H)		
Deputy J.A. Martin (H)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy of St. Peter		
Deputy P.V.F. Le Claire (H)		
Deputy S.S.P.A. Power (B)		
Deputy S. Pitman (H)		
Deputy K.C. Lewis (S)		
Deputy I.J. Gorst (C)		
Deputy of St. John		

The Greffier of the States (in the Chair):

I think I know the answer to this question Deputy Higgins but I must formally ask you: you do not wish this matter to be referred to your panel at this stage

Deputy M.R. Higgins (Chairman, Economic Affairs Scrutiny Panel):

No, Sir, you are correct. We do not wish it referred to Scrutiny.

Senator P.F. Routier:

May I propose the adjournment, Sir?

The Greffier of the States (in the Chair):

Yes, it seems an appropriate moment to adjourn. The Assembly will re-convene at 9.30 a.m. in the morning.

ADJOURNMENT