

STATES OF JERSEY

OFFICIAL REPORT

THURSDAY, 18th NOVEMBER 2010

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

[09:30]

PUBLIC BUSINESS - resumption

1. Napier Report into the suspension of the former Chief Officer of the States of Jersey Police: action on findings (P.166/2010)

The Bailiff:

We return to the debate upon Projet 166 and the Deputy of St. Mary was in the course of his speech, so I call upon the Deputy of St. Mary.

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

I think it was right that this proposition was brought and it is of great significance for the States and for the people of the Island. For the States because it goes to the heart of the way we treat our employees and whether, when it comes to severe questions like suspension, they know that they will be treated fairly and honourably. In that connection I am reminded of the often-made remarks of the Minister for Health and Social Services when she enjoins us not to carry out witch hunts, that the purpose of any kind of investigation is to improve the public service - and Amen to that - and that implies a culture of openness, a culture of willingness to learn, and a culture of fairness and that is what is at stake with this proposition. The other thing that is important is the people of the Island. Do they have confidence in our senior politicians? Do they have confidence in our senior Civil Service? Do they have confidence in the institutions by which we are governed and the processes which lead to decisions? An aspect of that is of course a fair hearing and a fair trial. Which of us would want to think that next door through that wall in the Royal Court now, the very high profile trial which is now going on into the alleged crimes of the couple, would any of us wish that to be pre-judged? We expect that trial to be fair and when the *J.E.P. (Jersey Evening Post)* puts headlines on their front page they say very carefully on the very first line it will be "alleged, alleged, alleged" and that is what we expect. That is a fundamental and absolutely non-negotiable aspect of our civilisation, that there is a right to a fair trial and if they walk away free that is fine and if they walk away not free that is also fine; it is up to the court and that applies to all of us. It applies to our children, it applies to our family members and it applies to every member of the public that the right to a fair hearing and a fair trial is guaranteed. In this case we have natural justice denied and we have a catalogue of serious failings, which I listed at the beginning of my speech. Before I take Members through the astonishing comments of the Chief Minister a word about truth; this was an aspect that I had dwelling in the back of my mind but it came to me in no uncertain terms when I went to see the film last night at the Amnesty Film Festival for Human Rights, and I must say I pay tribute to the organisers of that event because it is a very good festival. What I learned from the film and the discussion afterwards was that truth can be unsettling. It is uncomfortable sometimes for the person hearing it and it is uncomfortable sometimes for the person telling it. The film maker who was on video link from New York made a very interesting comment; he said: "I am trying to reflect reality. It is not the truth, it is my version of reality. Or you can opt for fairy tales. You can be comforted in what you hear and what you take in but actually you are in fairyland." The issue here in this debate is truth and we came across it yesterday, did we not, when the proposer used the words that the Chief Minister had misled the House and was pulled up for it and this happened a couple of times. This interesting inability we have; we cannot use certain words in the House and that is because this issue of truth is so fundamental. Members have to ask themselves, as I take them through the comments of the Chief Minister, why the resistance? Does the Chief Minister think that if I resist responding to Napier in a proper fashion, if I lie low it goes away and then the reason for the failures will not come out? The reason that version one of events; that on 10th November 2008 an interim report arrived from the police and that led in very short order to a suspension 2 days later. That was the original version and that was defended. It was defended by the then Minister for Home Affairs. It was

defended by the Chief Minister by refusing to release the details about the letters. So, that bombshell version was protected and then it was found to fall apart, so then we got to the spider's web underneath which we see revealed in Napier. The Chief Minister reminds me of the mythical - I think, possibly real, but I think mythical - Dutch boy with his finger in the dyke. He has to not respond to Napier. He has to not take any action because then he thinks that the deeper truth will remain hidden. I am sorry to disappoint the Chief Minister, regardless of the outcome of this debate, it will not remain hidden and it will come out. So, it might be appropriate to give in gracefully. Napier does not go into much detail about this aspect of the whole affair, about explaining why this catalogue of failures existed, but there is one passage where he hints at an interpretation. He goes as far as he can. He is talking about why the opportunity to head-off the suspension was not taken. Why there was no attempt to talk to the retired Chief Officer of Police. He says in paragraph 55: "I am inclined to think that the answer is that there was at the highest level of the administration a belief that the suspension and the taking of disciplinary action against the Chief Officer was not only what was likely to occur by reason of the decision of the Minister after the changeover from Senator Kinnard to Mr. Lewis, but also what should happen." "Also what should happen." Regardless of process, regardless of the requirements of the code, which we learned yesterday are legal requirements, regardless of that, the other imperative came first that there was a view that suspension should happen and that is as far as Napier goes.

[09:45]

That is slightly beyond the scope of this debate. What we are asked to look at is what Napier actually said, the catalogue of errors. I am just saying that behind that catalogue there has to be an explanation. Now, I have been asked to clarify something I said yesterday about the court judgment. I pointed out that the only thing left as a justification for the immediate suspension, even without any process and disregarding and breaking the disciplinary code, there were possibly 2 ways out of it: one was to invoke 2.3.3, and we know that cannot apply because there was a long lead-in time and people knew and had concerns and therefore should have spoken to the Chief Officer of Police. The other excuse was - and it is an excuse in my view - is the possibility that the criminal proceedings that would be taking place might be prejudiced if the press conference on the 12th did not go ahead, and that would only go ahead if we did not get muddled-up in a process with the Chief Officer of Police. I referred to the court judgment, and I will refer to it again, J.R.C. Jersey Royal Court, I think that is, 035A and I have been asked by the Attorney General to clarify what I said, because what I said yesterday was that the judgment showed that there was no prejudice to the jurors' consideration of the case because of, and he cited Abu Hamza, than whom no one could have had worse publicity and yet a fair trial was not denied because jurors have the wit to know that what is on the front page of the *Daily Express* is not the same as what they hear in court. Now, that was one of his reasons that he gave. The first reason he gives to reject the application of the advocate for the defendant was an appeal and the advocate had said there could not have been a fair trial because of what was entrenched in the consciousness of potential jurors, and therefore they would feel obliged to find someone guilty. He gives 6 reasons for saying that the jurors would be perfectly capable of making a right judgment and the first reason: "In November 2008 the new senior investigation officer held a press conference. This is the famous press conference of 12th November 2008 in which he put the record straight about the findings under the building. That press conference received wide publicity and the tone of press reporting has changed. Indeed the prosecution might now argue that they risk encountering jurors who believe that the police have said that everything that has gone before was wrong. So, it might have even turned it around to jurors being biased in the other direction. In my judgment this press conference went a long way to repair the damage that had been done by earlier press publicity." Now, that is of course a contentious view of that press conference, but nevertheless that was a reason given by the judge or the commissioner for saying that jurors would still be able to arrive at the right decision. Then he has 4 other reasons for saying that jurors could arrive at the right decision. Now, I will not read them all out obviously, but the point is there were 5 reasons, of

which that was the first given, but then he goes: "I approach this case in the same way as the Court of Appeal in Abu Hamza". That is the fourth reason and the fifth reason finally this: "We should trust the jury. The principle they will have to apply here is that general allegations involving other people do not form part of the evidence against a specific defendant and he is only to be convicted if the evidence that is relevant to him convinces them of his guilt." It is not an abstract legal concept, nor does its application require any kind of mental gymnastics; it is a simple principle of fairness, readily explained and easily understood and applied by the ordinary juror. So, that is the fifth reason and then he says: "For all those reasons I do not find that the publicity in this case was such as to prevent any of these defendants receiving a fair trial." So, when the Chief Executive says: "I did not want to tackle the now retired Chief Officer of Police because it might lead to a delay in the press conference of 12th November and that might lead to issues around getting trials handled correctly." I do not think that squares with that judgment. I do not think that given 5 reasons, one of which was the press conference, all of which were valid, that the Chief Executive was on very solid ground. I am sorry I had to go into that rather lengthy explanation of the court judgment but I was asked to do so and if I had not done it the Attorney General would have done it as well. He may even still wish to intervene. Now, on to the comments of the Chief Minister. I do find them really ... I do not know what adjective to describe them with and to put them in context, let us look at the last thing he says first. This is the conclusion: "The time has come to declare that enough is enough. We cannot turn back the clock or rewrite history but we can declare a conclusion to this sad and distasteful episode and I hope that all Members will wish to do just that." It is the move-on mantra: "We have had a disaster, let us not learn from it, let us move on to the next disaster" and we cannot, as a responsible Assembly, act like that. As I have already said it will not go away, so let us not move on, let us ask ourselves whether that is an appropriate response to issues of such gravity. So, in part (a), one his comments on one, this is on page 2 of the comments, it is about the notes and he gives a version of the notes. Officers have been advised to continue to use their discretion on these matters but where there is any doubt to err on the side of caution. Now, in questions yesterday I think I heard no guidelines were in place then or now on this matter. I think I heard that. I stand to be corrected, but that is what I wrote down in my notes as oral question 1 was asked on Tuesday. We also learned that the notes of that meeting, when they had been typed-up, were not signed by the retired Chief Officer of Police, so you have handwritten notes which turn into typed-up notes and are then not agreed by the protagonists. Is this a serious matter? Are we going to change this for the future? What does Mr. Napier say: "Subsequent to the meeting, the handwritten notes of the meeting taken by Mr. Ogley were destroyed. That I was told by Mr. Crich was in accordance with normal practice. I have to say that in all the circumstances it is my view that it would have been wiser to have retained all that was available by way of record of that crucial meeting, but I accept Mr. Ogley's account that he transcribed the notes immediately after the meeting and that they were subsequently typed-up for the parties to sign." And we know that they did not. One party did not sign. So, that is the first, and the proposer is asking for this to be sorted. Paragraph 2: "I do not believe that the actions taken in respect of the suspension of the former Chief Officer of Police were contrary to legal advice." Words fail me. It is absolutely clear what the legal advice was: "I reiterate my advice that if this action, suspension, is being considered in advance of the full report of the Metropolitan Police there must be sufficient objective evidence available to justify what is proposed. I would urge that particular caution be exercised to check that there are no provisos or caveats to any of the conclusions reached, upon which reliance is to be placed." You cannot get more clear and unambiguous than that and what actually happens is that the Chief Executive of the States of Jersey writes to the Minister for Home Affairs - paragraphs 36, 93 and 96 - of Napier, recommending to suspend the Island's Chief of Police on the strength of one letter from the Deputy Chief of Police, which itself relies on an interim report which the Chief Executive has not seen or checked. That is against the legal advice and yet what we have in the comments we have doubt cast on this. In fact, we have: "I do not believe that the actions taken were contrary to legal advice." What are we to make of comments like that? Then we have: "The action was taken in full awareness of such advice but also in the

light of all other relevant information and considerations. I have had regard ...” and so on. At 4 we have the issue of the author not coming to present the findings: “Such a presentation was not part of the terms of reference in the view of the author. The report speaks for itself.” Now, I would suggest to Mr. Napier, and by the way I think we owe him a big debt of thanks and I would appreciate a little foot stamping please because he did a very good job [**Approbation**] and I notice that that foot stamping was a bit partial. Do some Members think that that £50,000 was actually pocketed by someone who did not do the job properly? No. Right, okay. It was a well-written report. It was thorough and it shed light on a number of issues. Now, perhaps Mr. Napier does not realise the nature of politics here and he lives in the best of all possible worlds, but I hope that he is invited again and I hope that we are able to ask questions; there are unresolved things in the report and it would be good if he simply came and did what Verita did and presented his report to us and through us to the public. Then we have 5. This is about the code. This is an astonishing comment: “Procedures are regularly reviewed as part of normal activities.” That is fine: “I am satisfied that procedures and training for disciplinary matters are regularly reviewed. As an example, I am of the opinion that there is room for improvement in the disciplinary code for the Chief Officer of Police.” Full stop, end of paragraph: “I am of the opinion that there is room for improvement in the disciplinary code for the Chief Officer of Police.” I have a note in the margin: “And ...?” What happens then? Where is the time line? Who is going to do it? Who is going to revise this poorly-written code? 6, on page 3: “I have already indicated an answer to questions in the States that I was addressing any disciplinary issues arising from the suspension of the former Chief Officer of Police. That process is now complete and as indicated in my answers in the States the outcomes remain confidential.” He wrote that on 15th November, so that is in 2 months. I remember being told week-in, week-out in this Assembly that the Chief Minister was digesting the report and now we have achieved disciplinary action in a matter of weeks. I hope that that disciplinary action also had due process, because I really cannot see in that timescale how that would have been possible, and we are not to know anything about it at all.

[10:00]

I am reminded of the initial announcement by the Minister for Home Affairs back in December 2008 when he announced that the Chief of Police of this Island had been suspended and we were not even given copies of the disciplinary code because it was confidential. In the debate on the Constable of St. Helier’s motion, I think in January of the following year, 2009, copies of the disciplinary code mysteriously appeared on our desks and I am glad they did because then we could see that it had been broken and broken. Even I, who had only been there 1½ month’s could see that natural justice was built into the code and had been flouted. Finally, paragraph 3, which is the nub of this whole issue. Again, words almost fail me, but not quite. This is astonishing. Paragraphs 107 and 108 summarise the views expressed in earlier paragraphs and in themselves can be encapsulated in Mr. Napier’s own words: “The basis on which he [the former Chief Officer of Police] was suspended on 12th November 2008 was in my view inadequate” and the Chief Minister adds my emphasis on “in my view”: “I accept that this is a conclusion which he is entitled to draw from the information provided to him, however, in my view [i.e. the Chief Minister’s] it is not the only conclusion which can be drawn.” Well, the first point to make is that on Tuesday in question time the Chief Minister said: “I accept Napier.” No ifs, no buts: “I accept Napier.” Yet his comments say: “I do not accept Napier. He has a view, which is this, and I have a view, which is that.” Chief Minister, we are still in the dark and it is not good enough. Then he goes on and indeed various other parties both before and after the event have come to the conclusion that suspension was justified, even though the procedure could have been improved upon and here we are back in the world of guilty without fair hearing. We are back in the world of: “You are not innocent until proven guilty if something else does not fit.” It is not good enough. He is still relying on this bizarre belief: “I am satisfied and subsequent events have shown that the suspension was justified.” It is not about subsequent events; it is about a fair hearing. Subsequent events are extremely contested. There was no fair hearing. Napier raises serious concerns and this is the

conclusion, and these have to be addressed, and by the way, we would not be having this debate, we would not be listening to a long speech by the Deputy of St. Mary if things were in the clear, if things were dealt with properly in the first place. Napier raises serious concerns and these have to be addressed. The Chief Minister is duty-bound to respond and tell us how he will ensure that these expensive and damaging errors will never happen again. The Chief Minister should abandon his opposition to this proposition. The comments are insults both to Napier and to the intelligence of this House. We know from paragraph 107 the catalogue of errors, natural justice is at stake, justice for everyone in this Island, especially our public servants is at stake. We have to get this right. I urge Members to support the proposition.

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

You will be relieved to know that I do not need a lectern. Firstly down to the excellent forensic analysis I think the Deputy of St. Mary has given us, and secondly, my recollection of history reminds me that shaven-headed politicians who like making speeches behind lecterns end up hanging upside down from lamp posts in Northern Italy, so I would hate to follow there. Thanks to the Deputy of St. Mary's speech I really just want to focus on 2 points, and I want to focus on what is necessary to move us forward because I am a conciliatory type of politician, as you all know. We cannot turn back the clock we have just heard and that is very, very true. Nevertheless I think what I have to say at the start is that 2 wrongs do not make a right. We surely cannot accept being seen as a government for whom the means justifies the end. I do not believe honestly that anyone can credibly dispute that the process underlying the suspension of the former Chief Officer of Police was handled correctly, fairly, or by the book. But what I do believe is that this fact simply has to be viewed as separate to whatever findings might be attributable to the former Chief Officer of Police, whatever he did wrong, whatever he did not do wrong. For me moving this forward, because one thing the Deputy of St. Mary has absolutely spot-on, is if we do not conclude this it is not going to go away. I will not let it go away. The people who phone me, I have had nothing but support in raising these issues and I raise the issues just because I believe in natural justice. Refusing to issue an apology for the failings of the suspension process I believe is not only unjust, but I honestly think it sends out a message, and I think it is a wrong message because I do not want to believe that the Chief Minister is arrogant. I do not think he is that and I think it shows a lack of class from this Government, and I do not think the Chief Minister deserves to be accused of a lack of class, but there are people who think that that is the case. I know Members find it very hard to believe that when I was young I was very stubborn and I would do almost anything not to admit that I was wrong, and really it was working with young people that really hammered home just the strength of being big enough to stand up and say: "Yes, I did get that wrong. Sorry." Because when you do that other people can admit they have got parts wrong and you can move on. Admitting you are wrong can have great results. I mean, look, Take That have just reformed. I mean, what bigger example do we need? I know some Members are probably too old to even know who Take That are, but there we go. I would like to say to the Chief Minister, how difficult is it really for him? He has been in politics a very long time; he is leader of this House. He has achieved a lot in his political life. I may not agree with him on a lot of his political views, but he is a very experienced politician, he has taken flack lots of times in the past and like every one of us in this House knows if we stick our head over the parapet on any particular issue, as many of us do at some point, we are going to take a slap and we are going to be criticised. How difficult is it to say: "I hold my views as to what the former Chief Officer of Police was guilty of and his shortcomings, although of course he never faced any disciplinary charges, I hold to those views, but look, Napier has made it quite clear the suspension policy was a mess. It could have been better." So, I would ask the Chief Minister to really reconsider. How difficult is it for him, such an experienced politician, the leader of this House, to stand up and say: "I am sorry." Because I think if he did that that is one of the 2 key steps that we can move this on because it is not going to go away, I am afraid, and we are all sick of talking about it. I am sick of talking about it. The second step necessary, and maybe the Chief Minister finds this more difficult, but I think it does need to be

done and it has to be said that getting such information has been like pulling teeth. The Chief Minister admitted the other day that some disciplinary action had been taken against some or one of the responsible for the failings of the suspension process. I often find the rules of this House where I would say if you know someone is not telling the truth, or you feel that they are not telling the truth, you cannot actually say it, but sometimes I think the rules are a bit absurd. We all know which individual we are skirting around here when we talk about confidential emails. If you look at the key players in this whole sorry situation, the former Chief Minister has gone, the former Minister for Home Affairs has gone, the Acting Chief Officer of Police now is effectively gone. There is only one individual left who was heavily involved and, like it or not, that is the Chief Executive Officer. The public are not stupid, we are not stupid, we know who is at the centre of all this and I really find the second key step to moving this forward is the Chief Minister has told us finally that disciplinary action has been taken, but he will not tell us what and he will not even say against whom. Yet we have seen, and this is something I feel very strongly about, the disciplinary process, which is always meant to be confidential, involving the former Chief of Police, played out in horrible detail and, speaking metaphorically, he has been crucified in the media, yet he has never faced disciplinary charges - never done that - yet we have sat here and watched that man absolutely annihilated. Now, he may be guilty but he has not been found guilty, yet details of the disciplinary process, which apparently for everyone else is confidential, has been dragged out through the gutter. He has been kicked, maligned, as I say metaphorically speaking with no offence to anyone, he has been crucified. So, okay, we cannot turn back the clock that is quite true, but why is it now that one of the key people being responsible for failings in this whole process... and I am not saying they were done deliberately, but however they did, I think they were maliciously done, but we have no proof of that but they were certainly failings. No one can deny that and I challenge the Chief Minister to deny that. Napier makes it quite clear; the Deputy of St. Mary has laid that out for us quite superbly. So, that is the second step to moving this forward. If only the Chief Minister would stand up and say: "I hold to my views but I recognise Napier is right, I apologise that this process was flawed. I do not believe in a system where the means justify the ends, and actually this is the individual who made a mess of things, he could have done things better. I have disciplined him. This is what the disciplinary action was." I think those 2 things can put this to bed. What is so difficult, Chief Minister? With due respect, and I do respect the Chief Minister as a politician. I do not support his politics, but as I say again, he has been in it a very long time, he has surely taken tougher decisions than this: 19,000 about G.S.T. (Goods and Services Tax), someone said. That could not have been an easy thing to stick to his guns but he took some flack. Is this any more difficult if we are going to move forward? Two little steps, one giant step forward for natural justice, if we could do it. So, those are the 2 moves that I would really implore the Chief Minister consider sharing with us. I do not think it even needs him to feel that he has strayed from his firmly held beliefs; his beliefs are clearly different to mine, but as I say it does not reflect on him in any way. I think he can only gain credit from taking these 2 steps. The only other third thing I would like to say to the Chief Minister, and where I really have to fault him, is the other day he told us that he considered terms of reference to be fluid. I have to say when he said that I could just picture in my head the response that any Scrutiny chairman is likely to meet when they try to stand up and argue that their terms of reference are fluid. The key point here is that the Chief Minister also went on to tell us that Mr. Napier had access to every bit of evidence that was relevant to what transpired in that flawed suspension process and I have to say to him, as I did the other day, under a Committee of Inquiry, which is what many of us wanted, Mr. Napier would have been able to talk under the correct conditions of protection to an honourable Member of this House who has been brave enough to stand up and say: "Look, I overheard something which, whichever side of the House you are on, is very worrying."

[10:15]

We all have our different views and we might not all get on, but I think we all accept that the others are honourable people, so surely if an elected States Member is willing to say that he was happy to

stand up in a court of law and say: “Look, I overheard a conversation between 2 politicians who are no longer here which suggests that there were serious intentions to try and remove the Chief of Police” surely that is something worthy of investigation. That cannot be just dismissed as: “I am aware something had been said” and there is no secret it is Deputy Le Claire I am talking about, and I know he is an honourable man, and I do hope he will stand up later and confirm this. This is evidence that really must be brought into the public domain because it does throw some light on ... it does not wipe away anything that the former Chief Officer of Police may have done, but I am afraid it does, or should, contribute to the Napier findings. So, I would really take the Chief Minister to task on that point and hope Deputy Le Claire will stand up. But, as I say, the 2 key points for me, rather than go over this again and again is just, let us have an apology for the damage, the flawed process, and let us please, for the public, who always accuse us of never holding anyone accountable, let us have some consistency. Let us just say if it is the Chief Executive, he has been disciplined and how he has been disciplined, and I do think for the good of this House the Chief Minister should say something because I can tell him that I have had phone calls; there are strong rumours going around that the Chief Executive offered to tender his resignation over this, and if that is true then it clearly was not accepted and I think that needs to be put to bed because those questions will continue to buzz around. So, let us put this to bed, rather than see it back here in another month, 2 months, as a censured motion or whatever, which we know would be lost, but we are going to keep hearing about this until natural justice is allowed to play out, because natural justice has to apply to everyone and I will leave it at that.

[Interruption] [Aside]

1.1.2 Deputy M. Tadier of St. Brelade:

I would suggest to Senator Maclean he can probably get a C.D. (compact disc) from the Greffier and then he can play back the Deputy’s speech again and again before bedtime. I think the last speaker made a very clear case as to why at least pragmatically the Chief Minister should be issuing an apology and really he can do that without any negative effect on him reflecting badly, I believe. I want to take it a step back to yesterday. I was outside listening in the coffee room to the Deputy of St. Martin’s speech and I popped-in next door and there were several figures all sitting around having a chat and the radio was turned down low and I said to one of the Members, who is not in the Chamber at the moment, and he will remain nameless: “I am surprised you can hear what is going on in here” and he said to me: “We do not need to” so clearly the implication is: “We do not need to listen to the Deputy of St. Martin giving his speech” either: “Because it is the Deputy of St. Martin, we do not particularly care much for what he has to say”, or the other implication, which I think was actually the case: “We know how we are going to vote on this one and so we do not need to listen to it because it is all extraneous, it is all a bit of a bore really at the end of the day.” Clearly it is not a bore. It might have dragged on this whole case longer than any of us would have wanted to, but I think it is exactly because there has been an element of stubbornness on one side. It could be resolved today very quickly, very clearly and it really could put this matter to bed for once. Something that has been perhaps lost in the whole to and fro in the entrenched positions, is that we have lost sight of who are the real victims here and we know that at Haut de la Garenne there was abuse that took place ...

The Bailiff:

Be careful, Deputy, there is a trial going on.

Deputy M. Tadier:

It is certainly alleged, and the evidence that has come to our light certainly from speaking to constituents, we all know of people who have alleged, I believe, abuse. Not simply at Haut de la Garenne but other places. I think it is important to listen to the words of those victims so if you will indulge me I am reading out a press release that was sent out 2 days ago from the Care Leavers’ Association and it does have a direct relevance to what we are discussing today. It says:

“The Jersey Care Leavers’ Association is aware of the request by Deputy Bob Hill for a formal apology to be made to the former Chief Officer of Police, Mr. Graham Power, Q.P.M. (Queens Police Medal). We would wholeheartedly support this but are dismayed and surprised with the response that the Chief Minister has given to Deputy Hill and would wish the following comments to be noted. As has been quoted before, at no time were we given any false hope of convictions by Graham Power or Lenny Harper and the team investigating the abuse scandal. We were invited to come forward with information as part of the on-going investigation and at all times we were treated with dignity, respect, and understanding in our dealings with the investigation team at the time. It is indeed due to the sympathetic manner we were dealt with that we felt at ease talking with this team and thanks to that some convictions have taken place. The whole context of the relationship with the new incumbents to the police when Mr. Power was suspended and Mr. Harper retired changed noticeably in regard to any trust that had been built-up previously. Hence we see no requirement at all for an apology either from Mr. Power or Mr. Harper. On the contrary, we have a lot to be grateful for to them. We are rather concerned that yet again it appears that the people of Jersey and the financial aspects appertaining to the investigation seem to take precedence over the real issue, i.e. child abuse and the victims who have not seen any justice or closure. It would be hoped that the people of Jersey and States Members will realise that this is a matter that can never be put to rest by those who suffered at the hands of the States of Jersey and to state that enough is enough can only add insult to injury. It must be noted that the team of Mr. Power and Mr. Harper secured convictions and indeed cases are still pending thanks to their good work. For that the Jersey Care Leavers’ are thankful. It is rather unfortunate that the Chief Minister does not see fit to offer praise and support where it is very, very due - to the very gentlemen he refuses to apologise to.” That is signed by Carrie Modral from the Care Leavers’ Association. Those are her words; they are not my words, but I thought it appropriate to read that out to bring it back because part of this debate here is about the... and it is in 2 parts; one is about the procedure, irrespective of any wrongdoing which is alleged, and the other one is the fact that there has been an allegation that in hindsight the suspension was justified and that there was wrongdoing. So, it is good, I think, to put perspective from the actual victims, or some of the victims, who have put this press release forward. Now, I remember reading a copy of the *J.E.P.* The headline a few months back was: “The current Minister for Home Affairs issuing an apology.” I just quickly glanced at it and I thought: “At last somebody has given an apology to the victims about the fact that while they were in care of the States decades ago that this alleged abuse was allowed to have happened.” But then I read it in finer detail and it was the Minister for Home Affairs apologising to victims that their hopes had been raised and that really did shock me because, as we have seen in this press release, the victims themselves did not feel that apology was necessary. The apology that they did want to see I think was for the fundamental fact that they were alleging abuse at the time and hopefully that apology will come, I suspect, when the court cases are not pending. I do not need to repeat what has been said. As I said, I think the 2 previous speakers have said much and I think it has also been said. I do want to look, however, at the implications for Jersey in all of this. We know that it is not simply Islanders who will be looking at the States today; there is an international observation taking place as well, and although this is not my perspective necessarily, let us look at some facts here, how somebody from the outside might perceive it. We have allegations of historic abuse. We have a suspension process which takes place of the Chief Officer of Police who was leading that investigation, who did, with his deputy at the time, get many people to come forward to testify who had not for decades because they were scared of a system and they were scared by the very nature of the fact that they had allegedly been abused. So, these 2 men did get that to happen. Subsequently the Chief Officer of Police was suspended, subsequently the process for his suspension was shown to be flawed very clearly in a report which was commissioned no less than by this very House, although we did have a choice of the Committee of Inquiry, or to go for this option, and we did this in good faith hoping that when the conclusions were reached that action would be taken on those conclusions. We then see that notes have been destroyed, which is certainly not best practice and it is not normal practice either, which had not been signed-off by all

parties involved. They had been destroyed which is certainly anomalous. We have legal advice which appears not to have been taken. We have the Chief Minister himself who withheld information regarding the dates from the Chief Officer of Police at the time who wanted that information, only subsequently for the Chief Minister to be made to give that information by the court anyway. So, we have all these games and machinations going on. Lastly, although it is not directly related, this is how some members of the public and certainly elsewhere will see it, we have a former longstanding politician who tried to expose child abuse and what he saw as alleged corruption in the system being jailed for 10 weeks. So, it seems that people who are trying to get involved in this case either to expose corruption in the system, this is how some people will perceive it, and now we have a chance for the Chief Minister to stand up and quite happily at least first of all, I think, is to acknowledge the fact that there were mistakes made in the proceedings and on that basis after acknowledging it, to say: "We apologise not necessarily because we think you are innocent or guilty, although the Chief Minister has confirmed that in the eyes of the law the Chief Officer of Police is still innocent and he will not be proven otherwise", is simply to say: "Yes, we do acknowledge that there were mistakes in the way that you were suspended. It was not best practice. We have learned from that and we apologise for that." It is simply, I think, the grown up thing to do and it will, as Deputy Trevor Pitman has said, help to put this matter to bed, because otherwise we could continue to be in this Groundhog Day. We must think of the victims themselves and I think we must put pride aside. Certainly there is an ethos that used to go back with old school Prime Ministers that you never apologise, never admit you are wrong because it shows weakness. I do not think we are here today because I think politics has moved on and I certainly do not think that is the way that the Chief Minister perceives things either but I think we can quite happily give an apology. We can do it on the basis that irrespective of whether we think the suspension was or was not justified we can do it on the basis that the suspension was not carried out with the right process. Now, it will be interesting to hear perhaps if there are other reasons why the Chief Minister would not give an apology. If there are legal reasons, if there is anything to do with compensation. I do not think that is the case but perhaps we will hear from the Attorney General on that in due course.

[10:30]

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

It is difficult to know where to begin to say what I want to say and to say what is expected of me by people who have knowledge of what I know, to say it in an objective manner. I had better prepare Members; I will be speaking for about 20 minutes or so and I will try to make it as concise as I possibly can. I do so with some trepidation because I am a bit nervous about what I am going to say and I have been a bit concerned about how and in what forum what I have got to say is said. But I am the politician that is referred to in the Chief of Police's affidavit. I did want to say what I had to say or have to say in a forum where it could be disseminated by people who are independent that had full facts in front of them and could take an understanding of what I have got to say into a context that would be greater than that which I can afford to assess it in or have the intelligence to assess it in. Unfortunately I have been denied an opportunity in both of the in camera debates to say what I have got to say because I think it should come out so I did not say it in those 2 opportunities. I was supportive of a Committee of Inquiry because I thought that would give me an opportunity to say it; that was not supported. When I was contacted by Mr. Napier to speak I willingly offered to speak, even though the terms of reference had been changed to withdraw the affidavit. But I was told he had to return due to work pressures of other work he was under and I was only later contacted after the Chief of Police suspension had been dropped. My initial response was why would I want to make enemies of these sorts of people for myself and my family when all of those involved are now sitting in other countries on final salary pensions being paid by ourselves? Why would I want to subject myself to the States and the powerful people that man it and politicise it? It is a very small Island. Many times people coming forward with information, as witnessed within the Napier Report in Jersey, only do so when they are put into a position where

they are forced to tell the truth. That is the only place they feel sometimes comfortable in doing so because their brother works for the States or their uncle supplies stuff to the States or their business associate is a friend of someone else. The Island is extremely small. What I have got to say may not be of such gravity that really warrants any of this preface, but I did want to make it clear that until now I have not spoken of these things because of fear for it being turned around in the media in 48 hours and ridiculed as some arrant nonsense. But I do think it is important because throughout Napier he jumps backwards and forwards through a series of events making comments where he can but always conditioning those comments with the fact that he has not been able to substantiate them. So what is it? Not long after Deputy Andrew Lewis took over as the Minister for Home Affairs I walked through the Chamber to the top of the stairs and in his company was the former Chief Minister, Mr. Frank Walker. They were discussing the former Deputy Chief of Police, Mr. Lenny Harper. The Chief Minister at the time said: "Why did you not get rid of him?" I found that a little strange at the time for that to be expressed but I entered into the conversation by standing with them and partook in the conversation. The response - which I think is the important thing, the key thing - from the Minister was: "We were going to get rid of him but he only had a week to go so we thought it best just to let him go." If one reads the Napier Report, one can see the evidence - and I have tried to stay out of this as much as I can because I did not want to interfere with the process - one can see there were concerns about the Chief Office of Police and the handling of the investigation of the sexual abuse inquiry and those were expressed within the report and highlighted within the report, which is available on the internet if anyone wants to read the whole thing. What it says in there is that the current Chief Executive Officer went to the States Employment Board to seek to understand what powers there were for him to approach the Minister or for the Chief of Police to be suspended and the States Employment Board said, quite rightly, under the laws and the processes set out, that job was the job of the Chief Minister. So now having read the Napier Report some considerable time later, maybe it was at that point that I entered into their company, that the Chief Minister was exercising what he was meant to be exercising, which was getting to an understanding as to why the Minister for Home Affairs, who had just been appointed, had not taken action against the former Deputy Chief. I do not have any criticism of the former Chief Minister for doing that. I think, on reflection, what he was doing was what was set out in a process of the States Employment Board where it was his job to go and ask this. I accept that maybe the former Assistant Minister who had just taken the job over at the time was out of his depth but I think that he made a mistake in the process that he conducted, not only the suspension of the Chief of Police but also not taking account of the issues and taking a grasp of it when he had the opportunity. Yesterday we heard from the current Chief Minister that he wished there was an opportunity to bring back the Deputy Chief of Police who he had highlighted had a letter in the *J.E.P.* so that he could apologise to the people of Jersey because he felt that was the person that needed to be doing the apology. Well, I am sorry, I cannot agree with that. Not only do we have the information from the Care Leavers' Association, people who have been in the States care who have written to all States Members through Deputy Tadier, but we also have my knowledge and now shared knowledge that the States knew. In fact if there is any doubt about my knowledge, it is in the Napier Report. It is quite clear. I have highlighted sections, I may yet go through them because I do not know if every Member has read the Napier Report, to elucidate and substantiate what I am saying. But it was a fact, it was a known fact, that at the highest level of administration with the Assembly and throughout probably certain ruling sectors of Jersey, there was great dissatisfaction about the way that the handling of the inquiry and the media in particular - the media handling - had been occurring. I was thinking just before I stood, what is it like, what can you compare it to? I remember just the other day my son, who is 5, broke something in the front room and came running into the office and said: "No, do not come, do not come, stay there, stay there, stay there, stay there" and then disappeared back into the front room to cover his tracks. I came in feeling really sorry for him because I thought there was nothing in the front room that can be broken as much as my heart is at my son's distress. I came in, it was something so ridiculous, it was not damaged really that much, it could be fixed and it did not warrant that concern from my

son, but it was the way that he dealt with it, like a child. He did not want anybody to see it, he wanted it under wraps, he was scared of me seeing what had happened, he was fearful perhaps that I might be angry about it. He was maybe fearful about the fact that he had done it. Human nature in a child. I am sorry to say, and I do not mean to ... I know I do this from time to time and Members must get a bit cheesed-off with me but I am sorry to say that this whole event, this whole series of events has been because Jersey as a society is growing up and like any child as it grows it comes to realise there is a difference between the innocent truth of a child and where things happen where the innocence of a child is blurred by facts and knowledge. Jersey has now gone through a period of great distress from not only the survivors, the States of Jersey, but also the people of Jersey in addressing child abuse. It is something many nations, much more mature than ours, are only just finding the courage to step forward and say sorry to their populations for. It is something only recently countries such as Ireland and Scotland, the U.K. (United Kingdom), America, Canada, Germany, France have been able to come together with the wherewithal to stand in front of the television sets and for their Presidents and their Prime Ministers to apologise to the victims, to give them some closure and to give some justice in the eyes of the ordinary people for the terrible events that have occurred. We have been warned not to speak of the events that are occurring in another place, and that is very appropriate, and I do not intend to talk about another place but I clarified with Her Majesty's Attorney General yesterday, lest we forget, there have been 2 convictions in relation to the Haut de la Garenne inquiry. This is not allegations that are unsubstantiated, these are allegations that have gone through the process and have warranted convictions. Is it unpleasant for Jersey to have experienced this? Of course it has been unpleasant. Deputy Lewis, in my view, was put in a position with the best of intentions where he was hopelessly out of his depth. The former Minister, he is a talented individual, a talented businessman, more capable than I most would consider, but nevertheless in such a grave set of circumstances he was naturally out of his depth. Disappointingly, as evidenced within Napier, he was not given the support or the direction that he should have been afforded by the officers. Within the Napier report it is clearly evidence that the decision to suspend, drawing heavily on the Wiltshire Report, was counselled by the Solicitor General and the Attorney General's office not to rely upon that report if it was in any way qualified. We know now from the Napier Report that it certainly was qualified; it was only an interim report. We also know that prior to that interim report even being made available paper work to suspend the Chief Police Officer perhaps had begun as early as 28th September but definitely it occurred and started to be written in the first draft by the Chief Human Resources Officer on 8th November, some 4 days ahead of the suspension process. I think I have probably taken up as much time as Members would want to hear me. I do not need to refer to the Napier Report, line by line, paragraph by paragraph, reading it out. Quite clearly, as has been stated by the Chief Minister, the Napier report speaks for itself.

[10:45]

In summation what it says is this: "In making these findings I do not underestimate the need for decisive action at the time to minimise the risk abuse of process arguments, undermining the criminal proceedings that were pending. I also recognise that it is easy to be wise after the event in criticising decisions that were certainly difficult to take at the time. Nevertheless it seems to me that the balance between safeguarding the public interest and ensuring Mr. Power's rights as individual and senior officer holding within the police force could have been better struck. Further, once the press conference had taken place, the need to find a way of removing Mr. Power from operational control of the force while a preliminary investigation was undertaken might have been achieved otherwise than by active suspension. He might, as previously indicated, have been offered the opportunity of immediate special leave; the suspension only being used as backup if that option had been declined. Whether Mr. Power would have been prepared to accept any such arrangement I do not know but no attempt to explore a voluntary standing-down was, so far as I am aware, ever explored with him." I hope as we progress on our difficult path as an Island into a more mature future that we have politicians who are elected that have the courage to look past the

ballot box and into the future and who do not need boards, faceless boards who are unaccountable, to make the decisions that they have been put in power to do and where they are clearly accountable themselves to the electorate. I hope we have politicians in the future that can call to task the actions of failing civil servants and not let them slide-out into retirement, to rubbish them, their work and the entire process for which they were employed. We had a duty of responsibility as the States to ensure that if we felt that there was serious failings, as highlighted within the Napier Report, of the Deputy Chief Officer of Police, that he be allowed, while still in position, to defend himself against those allegations. Of course maybe that would not have been so helpful had he still been in post and his Chief Officer still been in post. It certainly was not possible when the Minister was Senator Kinnard who was defending both of them. When she was gone all that was necessary was to pick them off one by one and rubbish and cover up the whole event like my son did in the front room, when really what we should have been doing was taking ownership of it, accepting it, apologising for it and moving forward.

The Deputy of St. Mary:

May I ask a point of clarification after that brave speech. Something was left out that I think is quite important.

The Bailiff:

If it is left out it is hardly clarification, is it?

The Deputy of St. Mary:

What was the date of that encounter? It is very important in terms of the devilment.

Deputy P.V.F. Le Claire:

It was an afternoon, I cannot remember the exact date and this is why I have been reluctant to mention this before. The reason why I remember it and the reason why I have mentioned it, and the reason why I have qualified that I was hoping to bring this into a context where it could be sworn under oath because I did not want to abuse my parliamentary privilege knowing full well that at the time I did not make a note of the date. At the time the information and the occurrence were cemented in my mind. I am not trying to make political gain from this, I am not trying to apportion blame.

The Bailiff:

I think the clarification sought was simply whether you could assist on the date, Deputy.

Deputy P.V.F. Le Claire:

I appreciate that. The exact date I am afraid I did not record. It was shortly after, if not the day, that the announcement was made that Deputy Lewis had taken over as the Minister.

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

Certainly the last 3 speakers have begun to set up a line of thinking and debate that strikes a very large chord within me. To underline the 2 issues that we are here to debate I would just like to say a few things. For me, in keeping with other Members, the 2 issues at stake today to be debated are under (a) an issue of duty, duty on behalf of our Chief Minister to inform the House in order to provide openness and accountability to settle an issue and something that all Members, in any particular measure of power or seat of power should be able to, without question, accept. We should not be obstructing the bringing to this House and the sharing of information in a way that will settle issues or at least allow other Members who have not been party to the central decision-making to understand how those decisions have been made. That is what this House is for. So, I think, that it is incumbent upon the Chief Minister, as requested by the Deputy of St. Martin, to accept his duty and to do what he began in a more formal way, a more complete way, to answer the questions that the Deputy of St. Martin has put. This will, as other Members have indicated, have a

settling effect in order to determine whether or not anything has been learnt from the reports that this House has spent money on acquiring and to lay down future procedures to ensure that these things do not happen in the same way again. So I think (a) is clear cut. There is a duty for the Chief Minister to accept what we all require of him. Likewise under (b) for me it is a question of honour. This House is made up of honourable Members, although we do not have it as part of our title I think we all like to think that we act honourably, not just outside of the House but inside the House. In looking at (b) if there is a way for the Chief Minister to come forward with an apology, to use his own words - I do not think the words are being put in the Chief Minister's mouth by the Deputy of St. Martin - then I think that is a fair thing to be undertaken. I did wonder whether or not there were any legal issues as to why the Chief Minister would not wish to issue a formal apology when the majority of this House, perhaps, would wish him to do so. Under page 8, Financial and Manpower Implications, the Deputy of St. Martin has indicated that he does not believe that there would have been any financial or manpower implications to the States arising from his proposition. In thinking about that, I sent a note to the Chief Minister yesterday asking him if he had considered whether or not his reluctance to bring forward an apology in his own words was due to the fact that perhaps there might be legal consequences in terms of further claims for compensation in some shape or form. It certainly could not have been for unfair dismissal because this was just a suspension or, indeed, perhaps for defamation of character or other issues. He sent me back a note saying that he did not know and to ask the Law Officers for their opinion. I did that. Perhaps I should ask, in a few minutes' time, for the Attorney General to perhaps say a few words as to whether or not there might be any legal consequences or certainly financial consequences of the Chief Minister agreeing to be. But certainly the legal information I have so far is that perhaps there would not be. Indeed, if that is the case then I see absolutely no reason for the Chief Minister to object or to be reluctant to act upon what I hope will be the wishes of the House in instructing him or asking him to make an apology on our behalf. As I say, it is not just an issue for the Chief Minister, I think, in this respect, it is an issue to reflect the wishes of the House by majority and that is all of us. Nothing would be worse than perhaps for the Chief Minister to continue to be intransigent, not to accept (b) gracefully and with honour and with the leadership qualities that we all know he does possess and would hope that he would display on this occasion, but to find ourselves in a position whereby this proposition were supported and yet the Chief Minister would still object - as he is probably quite entitled to under our Ministerial system - to carry out the wishes of this House and continue to pour boiling oil on waters. So I think in order to nip these things in the bud, so to speak, although we have expended a large amount of time so far discussing the nitty-gritty issues, I think it would be helpful if the Chief Minister, even at this late stage, were to indicate his acceptance to come forward to make the formal apology that is asked for and, indeed, to do his duty under (a) in respect to all of us. Before I expect the Chief Minister to answer my request I would like to settle the questions perhaps in some other Members' minds as to whether or not there are any legal implications which would arise out of the Chief Minister making such an apology. I would like to ask the Attorney General perhaps to say a few words in that respect.

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

The question I am asked is whether an apology issued in the terms suggested by the Deputy of St. Martin in his proposition may have legal consequences in terms presumably of a financial claim against the States. I think it is always impossible to be totally unequivocal but my view is that, no, it would not have any financial consequences. There could not be a question of constructive dismissal or anything of that nature because, as the Deputy has rightly observed, there was no dismissal. Any apology of the terms would not amount to an admission of an act of defamation on an earlier occasion, an act of suspension cannot be an act of defamation so I cannot see anything that could come out in that direction. Indeed it would be far too late in any event. The view that I hold is that, no, there is not likely to be any financial consequences.

Deputy R.C. Duhamel:

I would like to thank the Attorney General for those comments and ask the Chief Minister if perhaps he could nip these issues in the bud and accept the proposition.

The Bailiff:

You have no right to question the Chief Minister, it is up to him. The Connétable of St. Lawrence.

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

I would like to refer to page 7 of the proposition and the first paragraph after the bullet points in which the Deputy of St. Martin states: "Members may consider it reasonable that the Chief Minister considers whether disciplinary action against the Chief Executive is appropriate." Then I refer Members to part (6) of part (a) of the proposition which reads: "The Chief Minister has been requested to advise whether any disciplinary proceedings have been taken as a result of the findings of the Napier Report and, if so, to update Members on the outcome of those proceedings." Very briefly I would just like to remind Members that some months ago I was elected as a new member to the States Employment Board and I take the view that all matters that I deal with and that I hear as a member of the board should be treated in confidence. I would just like to clarify for the House that the matter of any disciplinary proceedings to be taken as a result of the Napier Report have not been brought to the States Employment Board for discussion, and the reason is that the disciplinary code for the Chief Executive is set out in an addendum to his contract. The code requires that such matters are dealt with by the Council of Ministers or their delegate and accordingly it is not a matter in which the States Employment Board can be involved.

[11:00]

I just remind Members that had it come to the States Employment Board I am sure that all Members would have treated it with the confidentiality that would have been expected of them and which we, as a good and responsible employer, must treat all matters that we hear of at the board whether they are disciplinary proceedings or any other proceedings, and I just want to confirm that whether they have been taken against the Chief Executive, it has not come to the States Employment Board, it is a matter for the Council of Ministers or their delegate, in this instance that is the Chief Minister, but I am sure all Members will recognise that whatever has taken place must be treated with the confidentiality with which it deserves. Thank you.

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

Thank you. Members will be aware of what I have said in this Assembly before in that Jersey has not always failed children in its care. There are those who will state that what is now known as Haut de la Garenne for them gave them safety and security when they needed it most. Almost 60 years later good relationships between those children and some of the house parents and those in charge still exist. Having said that, I thank the Chief Minister for his comments to this proposition and I trust all Members have read them. What I do not understand is - and I am hoping that the proposer will be able to clarify in his summing up - why a senior manager attended a meeting, I am assuming not knowing what it was about, not knowing who he was going to see and therefore did not take somebody with him. Normal senior managers, good managers will check: "Why am I being called to this meeting? What is it for? Who is going to be there?" If you do not know and you get there and there is more than one person and you are alone, you would say: "I am adjourning this meeting until I am able to come with a witness representative or whatever." We are told that this was a highly commended senior person. To me it is just basic management. I do not understand and I would be very grateful if that could be clarified. It has been said that no disciplinary action was taken. We all, I believe, understand that that is because the former Chief Officer of Police resigned before that could take place. What I do not understand is why, if the individual felt so aggrieved, he had not resigned earlier. It will be clarified whether he resigned or retired. But why when the incident took place, why he did not resign and take a case of

constructive dismissal through appropriate channels. I would be really grateful if I could understand that. Thank you.

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

The Deputy of St. Mary has done an excellent job in forensically examining the evidence in this matter and exposing the inconsistencies and the true facts. Therefore I will not repeat any of this but look at this matter from another perspective. When I was standing for Senator in 2008 I remember very clearly a question being put to candidates at the hustings in St. Saviour by the Dean. That question was about our moral compass. I remember answering that I have a very strong sense of right and wrong and that if I was elected it would guide me together with my conscience. My moral compass tells me that the initial suspension of the then Chief Officer of Police was wrong and that the actions of the then Chief Minister, the then Minister for Home Affairs, the current Chief Executive, the current Acting Chief of Police and the Human Relations Director was not only wrong but unjust. In the case of the States Members involved, unworthy of Members of this Assembly. My view of the wrongfulness of the process followed in the initial suspension was also the view of the Royal Court which carried out the judicial review of the initial suspension, also the view of Mr. Napier and the current Minister for Home Affairs who had himself to commence another suspension action because he also thought the first was flawed and wrong. My moral compass also tells me that the actions of the current Chief Minister, the same Chief Executive, the current Deputy Chief Executive and the Chief Minister's advisers are also wrong and unjust. We have a Chief Minister who, in standing for election to this position, stated in this House that he believed in openness, transparency and inclusivity. But he has demonstrated throughout his period of office to date that he believes in no such things. Although the Power affair is perhaps the worst example of this, there have been many others, such as the suspension of Dr. Day at the General Hospital and the need for an investigation into the death of Nurse Elizabeth Rourke at the General Hospital. His term of office has been characterised by smoke and mirrors, by an inability to admit mistakes and failings by his tendency to be led by others. He has been dragged kicking and screaming into any investigations into wrongdoing and I hope he will reconsider his position and actions to date otherwise his political career or legacy will be remembered for these failings. That is if he is remembered at all. The Chief Minister is a Christian who I believe regularly attends church.

The Bailiff:

No, Deputy, the Standing Orders are quite clear you do not talk about the personal affairs of other Members.

Deputy M.R. Higgins:

Sorry. I believe the Chief Minister, like many Members of this House, has Christian values and therefore I would ask him to show these Christian values and to admit that he has been wrong and that the former Chief Officer of Police was wrongly and unjustly treated during his initial suspension. If not, he and others in this House will have to answer to a higher authority than to this House and Assembly. I hope too that many Members of this House who also have an axe to grind with the former Chief Officer of Police and Lenny Harper or his Deputy - I am not sure of his title.

The Bailiff:

Deputy Chief Officer of Police.

Deputy M.R. Higgins.

Thank you, Sir. Deputy Chief Officer, will also bury the hatchet that they had at the time and will show their Christian beliefs and admit that an injustice has been perpetrated and needs to be rectified. Thank you.

1.1.8 Connétable A.S. Crowcroft of St. Helier:

We are not hearing much in the way of defence of the Chief Minister's position on this and it may be that his supporters are waiting to go last. If that is the case I look forward to hearing their arguments. I cannot believe I wrote this down on my paper but when the Chief Minister was speaking he justified his refusal to apologise in terms of the reputational damage done to Jersey by the person concerned. The other argument he made was to apologise would be a slap in the face to the former Chief Minister, Minister for Home Affairs and Chief Executive Officer. Those are not particularly powerful arguments. I must say that the comments by the Chief Minister are equally cursory and terse, almost to the point of being disrespectful to the Member who has put in a lot of work in preparing P.166. They amount to not even 2 sides of a report. But I have been asking myself how to get through that barrier that I am sure Members are aware of. That barrier of irritation, of resistance, the wish to move on that seems to be affecting quite a few Members of the House. The impatience with the dogged efforts of a handful of States Members to try to get closure. Members, of whom it was said by the current Minister for Home Affairs not that long ago, would be eating humble pie when the first part of the Wiltshire investigation was published. I say first part because it was incomplete. Members of whom it was said by the former Chief Minister should apologise. Members who voted against my proposition to indeed seek an early and inexpensive closure to this matter have kept very quiet today. I am not going to list them, I am not going to rejoice in an "I told you so" position, although it is fairly clear to me - I have been over this morning to read the transcript of the in camera debate in January 2009 - that what Napier has said in his report is more or less what I said would happen. If Members doubt that there are 2 things they can do. They can go across and read the transcript or in due course it may be that I will be asking the States to agree to publish the transcript of that debate, because I think it was a very important debate. The States of Jersey - and it is the States that is at fault here, not any individual officer or politician - refused the opportunity to step back from the brink and to just check that we got the H.R. (human resources) right. In that debate - and I am not allowed to say what I said, not verbatim - I outlined 5 important principles of H.R. management that I have learnt in my time in the Parish of St. Helier. Five things that seem to me to be common sense. First of all, that any process of discipline must be open. There should be no surprises. A Deputy just referred to this, nobody should get to a meeting to discover it is a suspension meeting without knowing it. Obviously allied to that, a person being suspended should be allowed to take a buddy with them, an adviser with them, to give them help and to record and so on. The third principle, there must be a formal resolution before you go for the nuclear option. The fourth principle, records management is crucial in any suspension process. Fifthly, you must deal with everything in a timely manner. None of those 5 principles was met in the course of the suspension. That is why, shortly after it happened, I went along to the then Minister and I said: "Can you assure me that you have got this right? I am not an expert but it looks to me like you have made some mistakes." He gave me his categorical assurance that everything had been done properly with full advice from the Crown Officers, and indeed the then head of H.R. gave me a similar assurance. I then emailed the Chief Minister and I said: "Will you tell me categorically that every legal step was taken, every procedure was done properly?" The then Chief Minister assured me - and I am happy to circulate the email - that the whole process had been done properly. I went to the States when we had the debate at the end of January 2009 and I made these points. Sadly, if was just after the election of the new Chief Minister, the new Minister for Home Affairs, new Council of Ministers, the debate turned into - and we have had these debates since then - is the current Minister a good bloke or not and shall we leave him to deal with this or shall we listen to this Back-Bencher? Towards the end of that debate and, again, I am not allowed to quote verbatim but the current ...

The Bailiff:

I think you want to be very careful here, Connétable, that was an in camera debate, it is in camera because the States has agreed it should remain secret.

The Connétable of St. Helier:

Okay, Sir, I will move swiftly away from that. I will not refer to that too much. I do, however - and this is the main reason why I am speaking today - want to raise what to me is a burning question. I would like some answers to this question. When we had the in camera debate we were given no advice from the Crown Officers about what I was asking the States to do. Put another way, I was given no support from the Crown Officers. The Crown Officers could have said in that debate: "We did indicate to the Council of Ministers that they needed to be sure that the interim report by the Metropolitan Police was watertight. That is what they said but Napier tells us that there were warnings given, but why was it that when I stood here and asked the States to take a step back from what was going to be a very expensive, and that was right, and a very protracted and painful process, why was it that the Attorney General did not tell the House that he had had misgivings.

[11:15]

That is my burning question and I would like to know the answer. When you look at the timetable that Napier has provided: 24th September the Chief Executive Officer asks the Solicitor General about procedures for disciplining the Chief Officer; 8th October, Attorney General phones the Acting Chief of Police to ask what progress with the former Chief of Police. The Attorney General phoned the Acting Chief Officer to ask what progress with the then Chief Officer. 16th October, this is an interesting meeting. It was a meeting of the Acting Chief Officer, the Attorney General and the Chief Executive. Discussion of need to get agreement over a media release. Clearly the Crown Officers had a concern ... what I want to know is what was the state of their concern and why, as I said earlier, was the States of Jersey, who I take it is the principal authority here, not told about these concerns. It seems to me that is a sin of omission, and if I am wrong I am happy to be corrected but I have not heard that yet. Now, I just want to say a few things about the Chief Minister's position as set out in his report to the proposition. It is a rather strange introduction because he says he is going to set out below a more detailed commentary. Then we have 5 paragraphs. The first matter is he has not yet got it in terms of notes of meetings. Can we just spell this out completely that when you have an important meeting you transcribe your notes and you then send them to the other parties of the meeting and you say: "Do you agree this is a true record of our meeting?" That is why, when we all go to committee meetings we have to approve the minutes to see whether it is a common and a shared understanding of what took place. What the Chief Minister says in his response in (i) is: "Officers have been advised to continue to use their discretion on these matters." That is not good enough. I want to hear from the Chief Minister a categorical assurance that important meetings involving people's careers will be minuted and those minutes will be agreed with the person affected by the meeting. Is that so difficult for the Chief Minister to agree to? But, no, he says at the top paragraph (a) should be withdrawn or opposed. Secondly, he says he does not agree that the actions taken were contrary to legal advice. I think he is just being a bit clever here because what he could have said is that we were warned that there might be problems, that the evidence had to be robust and the process had to be robust, but we decided to ignore the advice. That would be honest, to say they ignored the legal advice that we now know was given to them. What he says is: "I had regard for it and I set it aside because there was other information and other considerations to take into account." I think that makes a nonsense of having advice from the Crown Officers. The next paragraph, he then takes issue with Mr. Napier's findings. He says that the suspension was inadequate, that was Napier's view, and he says: "Well, that may be his view, I do not agree." I do not know how anybody who had read Napier can share the Chief Minister's refusal to accept that the initial suspension was inadequate. At the start of my speech I outlined the 5 grounds, in common sense terms, for a fair suspension, none of which were complied with. Yet the Chief Minister says at the end: "The procedure could have been improved upon." The procedure was wrong, the procedure was unsound and that is why I asked the States not to go to war on the basis of an unsound suspension, but the States, off they went. So what is going to happen next? I hope the Deputy of St. Martin is going to win the debate. That will be something. I do not agree with him though when he says that it will bring closure,

because I do not think it will. Even if he wins it seems to me, and I know there is going to be a sigh around the Chamber, that the committee of inquiry promised by the former Chief Minister is the only way that we will get closure on these matters, not least - it will not have escaped Members' attention - that we have so far had a Wiltshire investigation into the former Chief of Police's handling of the investigation and we have had a Napier Report into the original suspension, but nobody has scrutinised the current Minister of Home Affairs' handling of the matter since he took office. I think that needs to be scrutinised. I think the other reason we need a committee of inquiry... and this was referred to, I thought, very tellingly by Deputy Tadier when he read out the Care Leavers' Association statement. This whole business has been a terrible distraction from the business of getting to the bottom of what took place at Haut de la Garenne. It has taken media and public attention away from where it belonged. I believe we need a committee of inquiry into Haut de la Garenne, its management and what took place afterwards, and whether the investigation itself is, indeed, satisfactory and whether we need to do more. I believe that is why we need a committee of inquiry. I do not happen to share the view ... although there are aspects of this that remind me of *The Crucible* by Arthur Miller which he wrote in respect of the McCarthyite trials. I do not think there is possibly a play to be written about this, I do not believe there is something rotten in the States of Jersey as some people seem to think, but I do believe - to borrow from Hamlet again - that there are perturbed spirits that need to be laid to rest. I do not believe that whatever happens in this debate that that is going to happen unless we have a committed inquiry.

1.1.9 Senator B.I. Le Marquand:

There is no doubt whatsoever that it is time for the States of Jersey Police to move on. It is time for a new police chief. It is also time for key players like the former Chief Officer of Police to be allowed to move on into a peaceful retirement, and it is time for the Assembly to move on. The repeated asking of questions and going over of the same ground is taking us nowhere. The Chief Minister is not going to change his opinion of these matters. I am not going to change my opinion on these matters and I expect that almost all of the Members in this Assembly are not going to change their opinions on these matters. I am going to begin with the conclusions of the Royal Court in the judgment in the case of *Power v Minister for Home Affairs*. This is the decision, the conclusion, the summary in relation to the judicial review hearing in relation to the decisions which I made in relation to continuing the suspension. It is highly irrelevant to the matters that we are considering, and particularly it is highly relevant as to the difficulties in which the Chief Minister finds himself with the opinion of Mr. Napier on the one hand and the opinions of the Attorney General and myself, and indeed the judgment of the Royal Court, on the other hand in relation to various matters. The fact is that this is a complex matter. Mr. Napier has come to certain conclusions but those conclusions are not the same conclusions as come to by other people on other occasions. That is what I believe is causing the Chief Minister some difficulty. So I am going to read out rapidly, and then comment on it if I may, these conclusions. "In terms of illegality [that is one of the factors that have to be considered] Mr. Power did not assert that the Minister did not understand the code and the law that regulated his decision making. He accepted that the Minister had the power to suspend a Chief Officer at the outset of any disciplinary procedure and before any preliminary or other investigation." That is the first point of difficulty with the Napier Report. Mr. Napier has come to a construction of the meaning of the disciplinary code which is completely different to that come to by the Attorney General, completely different to that come to by myself and, indeed, which was not challenged by Mr. Power before the Royal Court. I can understand that Mr. Napier might come to a different interpretation of the meaning of the code because, frankly, the code is so ambiguous that it is capable of very many different interpretations. But the fact remains that Mr. Power did not challenge my interpretation of the code before the Royal Court, notwithstanding that it was different to that which now Mr. Napier comes up with. So all these arguments saying: "The original suspension did not follow the code in terms of interpreting it in a way that Mr. Napier interpreted it" frankly I am not worried because what is the correct interpretation of the code is totally up in the air. I move on. "As to irrationality [that is the second

ground for striking down the decision which I made] the Minister was conducting a review of the decision taken by his predecessor in November but in essence 2 questions arose, both of which the Minister answered in the affirmative; (1) was there sufficient material to justify a disciplinary investigation; (2) if so, could Mr. Power remain in post while that investigation took place? Those questions have to be addressed in context which we would summarise as follows. Mr. Power was the Chief of Police and Mr. Harper the Deputy Chief and Senior Investigating Officer in respect of Operation Rectangle. Mr. Harper retired from the force in July 2008 and was replaced as Deputy Chief Officer and Senior Investigating Officer in respect of Operation Rectangle by Mr. Warcup. Mr. Warcup conducted a review of Operation Rectangle and reached conclusions which were presented to the Ministers and to the media that were revelatory and which brought into serious question the management of Operation Rectangle. Four, at the same time that the conclusions were published the Minister received via the Chief Executive a report from Mr. Warcup raising significant issues about the management of Operation Rectangle and Mr. Power's role in that." Now, here are the comments of the Royal Court in relation to the evidence, the strength of the evidence which existed, and it must be recollected that the evidence which I looked at in February and March of 2009 was indeed very similar to that which was looked at by my predecessor in November 2008. Here are the comments of the Royal Court, paragraph 62: "These are serious matters and seen in context we conclude that the decision of the Minister, that there was sufficient material to justify a disciplinary investigation, was rational and within the range of responses open to a reasonable Minister in his position." Now if that is the view of the Royal Court in relation to the strength of the evidence which I had before me that also would have been the view of the Royal court in relation to the strength of the evidence which my predecessor had before him. That also creates a problem, because that is contrary to the view expressed by Mr. Napier. Mr. Napier seems to have come to his view on the basis of letters of advice written by the Attorney General, but he seems to have interpreted those letters and that advice in a different way to the way in which it was interpreted both by my predecessor and by myself and, indeed, different to the way in which the Royal Court has viewed it in paragraph 62. I have to question, and it may be that the Attorney General will feel able to comment on this, as to whether he thinks that Mr. Napier has correctly understood what his advice was in the first place.

The Deputy of St. Mary:

May I ask for a point of clarification, or shall I ask at the end? I would like a point of clarification on what you are saying about section 62. Thank you, I think it is useful to clarify matters like this as we go along. The Minister has said that the decision of the court as to whether it was rational for the Minister to take the step he did was dependent on the fact that there was sufficient material, that is one way of looking at it, that is one point. But the Minister has then gone on to say that that shows that the strength of the evidence was such that his behaviour was rational. Would the Minister clarify, because those 2 things are not the same: sufficient material is not the same as saying that there is strength in the evidence within that material? Thank you.

Senator B.I. Le Marquand:

I have no doubt that they are the same thing; sufficient material in this context means sufficient evidence. They cannot mean anything else. I cannot think what sufficient material means other than that. "Turning to procedural impropriety, the procedure adopted by the Minister [that is me] in conducting his review was procedurally fair in contrast we have to say to the procedure apparently adopted by his predecessor in November 2008.

[11:30]

In the first stage on 13th February 2009, the Minister invited Mr. Power to make representations to him on the status of the code, the relationship of the code to the statutory provisions and the documents and other information which the Minister should take into account in making his decision. The Minister informed Mr. Power of the advice received by him, i.e. from the Attorney

General, so that Mr. Power could comment on it and put forward a different view if he wished to do so. Mr. Power was subsequently provided with the information which the Minister would be taking into account. The second part of the review took place on 5th March 2009 when the Minister gave Mr. Power the opportunity to make representations about the criteria which would govern the Minister's decision about whether the suspension should be continued or lifted. At the conclusion of the hearing Mr. Power was informed by the Minister that he remained suspended from office." My comment on this is this, it is clear that the Royal Court was unhappy with the procedure that was followed at the initial hearing in November. I have also expressed the view that I am unhappy in relation to that. But one of the curiosities of the report of Mr. Napier is that he says virtually nothing about that. He glosses over that point, very paradoxical, although my opinion still remains the same. I do not blame the Minister for this, he was not experienced in such matters of fair procedure. But there is a valid point I believe that still exists there, although paradoxically Mr. Napier has not really reinforced it. I move on. "Although we have found that Mr. Power's convention rights were not engaged, in other words that the European Convention of Human Rights does not apply to this matter, we consider the decision of the Minister [that is me] to continue the suspension as both necessary and proportionate." Now, those are strong words, necessary and proportionate. Of course, apart from the procedural aspect, on the evidential aspect the Royal Court would no doubt come to the same view in relation to the materials, the evidence that went before my predecessor. So that again creates a difficulty for the Chief Minister. Here is a comment of the Royal Court: "Once it is concluded that investigation into Mr. Powers' role in Operation Rectangle is to take place, it becomes necessary to ensure that the investigation is conducted properly and without any interference. As the Minister remarked, it is difficult to see how that can be done when the investigation concerns the Chief of Police himself. Suspension is a proportionate means to achieve his removal from his post during the conduct of the investigation, in that it is an interim measure under which all of his contractual rights are maintained. We conclude that there has been no abuse of the Minister's powers and the application is, therefore, dismissed." Now, I have to comment on the last paragraph in relation to the issue of criteria in relation to suspension. I have to say that I was very disappointed in a fellow professional in the way in which he handled issues of criteria, i.e. what factors should be taken into account and what weight should be given to them. The fact is I spent pretty well the whole day considering that in February and considered it further in March, and yet Mr. Napier is almost completely silent on criteria. And criteria... what are the factors you should take into account are absolutely key before you can form a judgment on any matter. He has also failed to take into account, nowhere does it mention in his report, a major other criterion which I took into account, quite properly, and that was the loss of public confidence in the Chief Officer of Police as a result of the press conferences which had just taken place. A highly relevant issue in relation to a suspension issue for a Chief Officer of Police and one which is recognised in statute in the U.K.

The Bailiff:

Are you ready to move on, Senator?

Senator B.I. Le Marquand:

I am, Sir. I had another set of notes which covered some of the points I have already made, I am trying to check which ones I have already made in order to speed up. What Mr. Napier does not also deal with, he does not attempt to deal with this, although he says in his report that there were other materials available, which could have been put before my predecessor and indeed could have been put before myself, but were not. It seems to me that those also are relevant to the view being taken by the Chief Minister which was that although there may be tactical failures with the suspension process, the suspension on all the materials that should have been available was justified. Those in fact refer to a report and have already been read out this morning, or yesterday, by I cannot remember who. Because there were other materials which were available, there was the report of the expert on press related matters who had come over to advise the States of Jersey

Police on the handling of the press matters and who advised that frankly they had made a mess of it. That officer resigned and the reason that he resigned was because Mr. Power would not listen to him. But before he went ... I am sorry, the Chief Officer of Police would not listen to him. But before he went he wrote a report in relation to that and it is that report, or extracts of that, highly critical of the publicity aspects which found their way into the Royal Court judgment, part of which was read out by the Deputy of St. Mary, although not that part. So that material existed. Secondly there was the opinion of the senior investigating officer at the time of the suspension who subsequently left the Island, making well known his strong views in relation to this matter. Now, it should not be overlooked that the press conference which took place was in fact delivered not purely by the current acting Chief Officer but also by this officer. It represented the views of 2 people and that also was available. Thirdly there is the issue of the interim report. Now, ironically Mr. Napier again has come to a different opinion from just about everybody else on this matter, but as those putting forward this proposition wish to work on the basis of Mr. Napier's findings, I would draw to the Assembly's attention the fact that Mr. Napier thinks that it should have been possible to put before my predecessor, and indeed before myself, in some form, in a redacted form the relevant cautions of criticism contained in the interim report of the Metropolitan Report, and indeed subsequently the full report of the Metropolitan Police. They were also the comments of the Gold Command Group because after the arrival of the current Acting Chief Officer of Police the Gold Command Group came into existence and of course that had to then actively start to consider the issues and the concerns. In particular, the issue which was highly relevant, in fact it was one of the great motivating factors of the press conference - in fact the main one from the point of view of the Acting Chief Officer of Police - which was the concern that the way in which the publicity had been handled could lead to successful applications for dismissal of prosecutions based upon the principle that the police had acted in such a bad way that there was an abuse of process. Now, the Deputy of St. Mary referred to the judgment in the Royal Court in the abuse of process case and he basically tried to say: "Well, it was not very serious at all because jurors can always find a way around it." But in fact that is not what the judgment said. The judgment said earlier on that it was the actions of the now Acting Chief Officer of Police and the senior investigating officer in going public in that way which mitigated massively against the damage which had previously been done and which then allowed the judge to come to his ultimate conclusion. I move on next to the issue of the effect of the debate in January 2009 and I have, over the intervening period, heard some most extraordinary allegations and claims made as to how things would have gone if the States had then decided otherwise. Indeed the Connétable of St. Helier came out with some interesting gloss on that this morning. The fact is that the proposition in that case ... I think I can refer to the proposition?

The Bailiff:

The proposition is public.

Senator B.I. Le Marquand:

The proposition is public, yes. The proposition, in that case, simply asks me to take independent human resources advice in relation to the matters. That is all the proposition asks me to do. If I had done so, who knows what that advice might have said or might not have said, but the fact is that whatever the advice might or might not have said I would still have had to have gone on to consider the issue as to whether or not the Chief Officer of Police should remain suspended and I would have gone through the same process as I went through in February and March 2009, and because I am normally consistent in my thought processes, I would have come to the same conclusions. But even if I had not done so, even if hypothetically I had come to a different conclusion on the continuation of the suspension, the fact is the investigation would have continued. It would have gone on. It would have needed to have gone on in relation to the substantive matters and it would not suddenly have stopped. So claims that I heard that the cost of that investigation would somehow mysteriously have gone away, are completely fallacious. I move

on now to the opening speech of the Deputy of St. Martin and in his opening speech he made some remarkable claims, many of which have absolutely no substance to them whatsoever. Among those claims was a claim that, notwithstanding the fact that Mr. Napier - upon whom the Deputy of St. Martin is meant to be relying today - decided that he found no evidence for a conspiracy to do away with the Chief Officer of Police for some nefarious reason or other, that nevertheless there was such a conspiracy. Of course we all waited today with baited breath to see what Deputy Le Claire would add to the situation. What would his evidence be? Would that change things? With great diffidence he told us that what he had overheard was a conversation between 2 States Members, he says, the Chief Minister and the Minister for Home Affairs at the time, in relation to why action had not been taken against the Deputy Chief Officer. Frankly, this is no evidence whatsoever in relation to conspiracy. There is no evidence of the sort of conspiracy alleged. What there is evidence of is that there were concerns some time before and those concerns had been transmitted from the Acting Chief Officer via the Chief Executive to the Minister for Home Affairs of the time. The second allegation without any substance whatsoever which was made by the Deputy of St. Martin concerns me. That is an allegation that there has been dismissal by stealth. Now, if there had been dismissal by stealth there is only one person who could be responsible for that, and that is me. But that is palpably not so. I have produced detailed chronologies in the past to demonstrate how slow the process was in my obtaining the various information. I did receive by October of 2009 an interim report from Wiltshire but I did not get clearance on that being the final report until December of 2009, and the papers which were necessary in relation to the matter were not handed over to the Deputy Chief Executive until February of 2010.

[11:45]

The report which I needed... or thought I needed because I was following my opinion and that of the Attorney General in relation to how the disciplinary code should be interpreted, which had not been challenged before the Royal Court. That did not arrive until 15th April 2010. Now, by February of 2010 I had already formed the opinion, knowing how complex this matter was and long the procedures would be even before getting a hearing, in relation to disclosure and such other matters, that I was not going to be able to bring the matter to a conclusion within the timescale available, particularly because the Chief Officer had by then put forward his date of retirement - it is not resignation, it is retirement - to 20th July 2010. I am deeply frustrated by the delays which I experienced in relation to this and would have wanted to press on with the matter so that the Chief Officer would have the benefit of a hearing. But to claim that I have somehow colluded a delay with a view to dismissal by stealth is a disgraceful allegation. I move on to the next disgraceful allegation of the Deputy of St. Martin. In his opening speech, having stated that the Acting Chief Officer was heavily conflicted, which has all sorts of innuendoes, he then went on and - unless my hearing has let me down - I heard him say that he wanted the Chief Officer's job. I heard him say that. That is a disgraceful statement, totally without evidence and totally contrary to the findings of the Napier Report who, although he criticised the Acting Chief Officer for having failed to make it as clear as perhaps he might have done, that the status of the Interim Metropolitan Report was qualified, nevertheless, stated very clearly that he had acted completely in good faith in very difficult circumstances. So there exists absolutely no evidence that the Acting Chief Officer was motivated by wanting his boss' job. Indeed, that is absolutely irrational because he had already been approved by the Appointments Board - subject to States ultimate approval - as the Chief Officer Designate. So he was going to arrive, subject to States approval, at that post in any eventuality. No person in their right mind would create a situation of such difficulty and tension within the police force that subsequently arose, for such a motivation. Indeed it is quite clear from the Napier Report that he acted with entirely honourable motivations. Now I come to the detail of the proposition. Part (a) deals with requests for the Chief Minister to provide more information in terms of his responses and his reasons and so on. Now, I have set out in some detail the reasons why I think the Chief Minister has difficulties with the Napier Report and some of its conclusions. I hope that Members of the Assembly now understand that because there are these different views

on different occasions, particularly conflicts with the Royal Court and the conflicts with the views of other senior lawyers, including myself, it is - in my view - entirely up to Members as to how they wish to vote on this. If they think that the Chief Minister's answers are sufficient, if they think that this is just flogging a dead horse, as it were, and going around in circles yet again on the same matters, then they should vote against. But if they somehow want to have a more formal response to that then they should vote for. Part (b), however, does create a real difficulty for me. This is the request for an apology on the basis of the contents of the Napier Report. That is firstly going to create a problem for the Chief Minister if he finds difficulties in accepting the detail, in other words that something went wrong on the basis of that. But the real difficulty caused, to me, is this: that this forces me to remind Members of the conclusions of the Wiltshire Police Reports. I personally am perfectly happy, having revealed those contents of those to the Members of this Assembly and to the public of this Island, and bearing in mind that I still have to produce the full redacted versions, but I am not intending to trumpet those or hold press conferences, I simply want to put them into the public domain so that the extra detail is there. I am perfectly happy now for the former Chief Officer of Police to go away into retirement in peace. Frankly you are raking over these details, particularly this proposition which now forces me to remind Members of the nature of the findings of Wiltshire, it is something that I do not want to particularly want to do, but I have to do. The findings in very brief form were that the former Chief Officer seriously failed to exercise proper oversight over the investigation. In particular, once the decision was made that the then Deputy Chief Officer of Police would be the senior investigating officer, then the Chief Officer of Police had to take the role of the directly overseeing officer. That was a specific role, there always must be somebody who takes that role, and that is in addition to his responsibilities as Chief Officer. His failures in this manner extend to a variety of different areas. One of the most serious failures was in relation to the press policy, which not only raised quite unrealistic and unfair expectations in the minds of victims of child abuse ...

Deputy F.J. Hill of St. Martin:

Sir, could I just raise a point of order? I gather that what we are listening to now are the series of allegations which have been withdrawn. So if they have been withdrawn are they permitted to be used during this debate?

The Bailiff:

I cannot see why the Minister cannot refer to it. It seems to me relevant to proposition (b) and this is a report, as I understand it, by the Wiltshire Police. I cannot see any objection to the Minister relying on it.

Senator B.I. Le Marquand:

The Members of this Assembly are very well aware of the fact that I discontinued the disciplinary proceedings simply because it was impossible to complete them before the date of retirement of the former Chief Officer of Police, and so that I could put these matters into the public domain where they properly belonged as early as possible, in particular before the summer recess. This is a cake-and-eat-it situation. The Deputy of St. Martin wishes to give a very high status to the report of Mr. Napier so it is perhaps beyond question and yet we have here another report, a report produced over a very long period of time by police officers and indeed the editing of the report and the decision making by none other than the Chief Constable of Wiltshire, yet somehow that is to be relegated to a much lower status.

The Deputy of St. Mary:

On a point of order, Sir, the Minister is comparing 2 totally different things.

The Bailiff:

This is a matter for Members; I rule that he is entitled to refer to what he wishes.

Male Speaker (?) [11:54:10] :

Carry on.

The Bailiff:

Senator, I will make the rulings, not you, thank you very much. **[Laughter]**

Senator B.I. Le Marquand:

Yes, I have every intention of carrying on. Now, where was I. Yes, I was in the middle of talking about unrealistic and unfair expectations in the minds of victims of child abuse. Now, I made an apology in relation to that and I did so because I also had contact with people who tragically have been the victims of child abuse, and I have no doubt whatsoever in my mind that the whole process of the publicity and so on was deeply hurtful to them, and that there were unfair and unreasonable expectations raised in the minds of some. That may not be the view of the chairman of the Jersey Care Leavers' Association but it was a problem with others. Secondly, the mishandling of the press matters seriously put at risk prosecutions in relation to offences allegedly committed at Haut de la Garenne. The fact is that there were major proceedings before the Royal Court with major costs to the public purse in relation to the issue of whether or not there had been abuse of process. All of that arose from the mishandling of the press matters. There were also huge wastages of money on matters such as overtime payments, the use of the dog, expensive trips and meals in London by the Deputy Chief Officer, *et cetera*, which were also of course highlighted in a separate accountant's report. There were failures in coming clean with the Island and with the States in relation to the skull fragment after it had become apparent that it was not of human origin. There were failures to set up proper management structures such as the Gold Command Group, and failures caused simply by the centralisation of control of the whole investigation on the 2 senior officers, by virtue of the exclusion of other senior police officers and other agencies from the investigation. I have to remind the Members of the Assembly of all these factors. In addition to that I have to remind them of the existence of Operation Blast. A separate Wiltshire Report which went into the detail of this and found that the Chief Officer at the time was the primary mover in relation to the setting up of Operation Blast. That is secret files kept on each States Member, including a criminal record search on each of them without any political authorisation whatsoever. A serious matter in itself. Now, I am afraid I have mislaid my notes.

Deputy M.R. Higgins:

A point of order, the Minister is talking about Operation Blast. Now I remember bringing a proposition on that and I was very concerned about it, I have been concerned about it, and so on. But this whole issue is, as far as I am concerned, relating to the initial suspension of the Chief Officer of Police. Subsequent events, yes he maybe has a case to answer for, but he has not answered to that case, he has never been dealt with on that and that was not the reason for the initial suspension. Is this relevant?

The Bailiff:

Well this would be a matter for Members as to how helpful they think it is, but it is dealing with paragraph (b) and the Minister is explaining why he feels that the Chief Minister cannot give the apology required. It seems to me it is relevant to that. It is up to Members what they make of it. **[Approbation]**

Senator B.I. Le Marquand:

I photocopied some pages but unfortunately the photocopying has gone wrong so I now have to turn across to something else so I can follow my notes. I apologise for the delay. I attempted to photocopy them so they would be in order, unfortunately the photocopying has not picked everything up. As I say, I regret having had to go into this detail again because I do not desire to cause further damage and embarrassment to the former Chief Officer of Police who served this

Island for quite a number of years and unfortunately appears to have made very serious mistakes and errors and failures of duty towards the end of his career. I wish he could just go away into retirement and be left in peace. I have said all this in order to indicate how utterly ludicrous part (b) is.

[12:00]

It requests the Chief Minister, upon the basis of technical defects in procedure at the original suspension in 2008, to make an apology for those technical defects and not in any way to consider the far more serious substantial failings on the part of the Chief Officer of Police. I would remind Members of the Assembly that Mr. Napier is not saying that the Chief Officer of Police should not have been suspended, he is saying he should not have been suspended in this way, on this evidence. Although the “on this evidence” is contradicted by the view of the Royal Court in relation to the judgment which I read out before. So the Chief Minister is being asked to overlook all the failures of the Chief Officer of Police, to overlook that there was a lot of information to support suspension which was not in fact put either before my predecessor or myself, and to overlook that the suspension was reviewed by me and my decision reviewed and upheld by the Royal Court. Frankly, that sounds to me rather like a script from Alice in Wonderland or Monty Python’s Flying Circus. In short, that is unreal or perhaps I should say surreal. I have nothing to further to say, I thank the Assembly for their patience. **[Approbation]**

The Deputy of St. Mary:

Well, well, we now have a full House. Can I read a point ...

Senator J.L. Perchard:

Sir, could I ask a point of clarification from the Minister?

The Bailiff:

All right, I see there is another one coming too, yes.

Senator J.L. Perchard:

The Minister, during his speech, said that in his view Mr. Napier had interpreted the disciplinary code differently to that of himself and the Attorney General. Would the Minister clarify how he believes his interpretation differed to that of Mr. Napier? I think this is the crux of the matter, Sir.

The Bailiff:

Do you wish to clarify that, Minister?

Senator B.I. Le Marquand:

I am not sure I can right off the top of my head. I think this relates to the issue as to ... yes, it is coming back to me. It relates to the issue as to what was meant by the - I am trying to get the right word - entry report or provisional report which is referred to in the code, I am not getting the right word. The view that was taken by myself was that this was the process of the major investigation which was being conducted by the Wiltshire Police. I always referred to that in answers and questions in this Assembly with that in mind, whereas the view taken by Mr. Napier was that this was a much shorter, earlier investigation which, in his view, should have been undertaken. That, I think, was a difference in relation to the matter. I hope that clarifies it.

The Bailiff:

That answers the question I think. Deputy of St. Mary, you said you had a ...

The Deputy of St. Mary:

Yes, I had a point of order because I believe the Minister unintentionally perhaps misled the House in several instances and if I may go through them then we can have a ruling because ... I am sorry, this is the absolute crux of the matter.

The Bailiff:

I am sorry, if you are going to go through and say you disagree with what the Minister said, that is a second speech.

The Deputy of St. Mary:

No, it is a point of order because if he gives the House partial information by way of a trial by fire in the House then that is contrary to Standing Orders. We are being ...

The Bailiff:

Which Standing Order is it contrary to?

The Deputy of St. Mary:

It contradicts that notion that Ministers must be accurate and ...

The Bailiff:

Which Standing Order is it contrary to?

The Deputy of St. Mary:

Oh, well, now, Sir, you have ...

The Bailiff:

There is not, that I am aware of, any Standing Order that refers to that.

The Deputy of St. Mary:

There is an aspect of the Ministerial code which says, and I believe that has legal force, that Ministers must be ...

The Bailiff:

Deputy, what I suggest, give me an example, give me your first one and I will say whether it is a point of order or not.

The Deputy of St. Mary:

Right, Sir, that I think would be a good idea. The Minister said that the new senior investigating officer who replaced the previous Deputy Chief Officer of Police, and the press adviser, and the interim report, and the Gold Command Group reports, were all additional other matters that needed to be taken into account. However, he neglected to mention that none of those matters were used in the suspension documents and he also neglected to mention the A.C.P.O. (Association of Police Chief Officers) reports.

The Bailiff:

Well I am sorry, Deputy, sit down, that was not a point of order, it is not a point of clarification, it is simply you wish to have an opportunity of a second speech which under our rules is not allowed.

Senator P.F.C. Ozouf:

Sir, may I give notice under Standing Order 84 of my intention to propose closure of the debate in 30 minutes?

The Bailiff:

Yes. Now, Senator Le Gresley ...

Deputy R.G. Le Hérissier of St. Saviour:

Sir, could I ask maybe a genuine point of clarification. I thought the Minister strongly inferred that Napier had misinterpreted the disciplinary code and he had strongly diverged from the meaning attributed to that code as given by the Attorney General. Therefore, I think it would be valuable to hear (a) did the Minister indeed infer that and (b) what did the Attorney General say, so that we can make up our own minds.

The Bailiff:

Well, that will be a matter for the Attorney General.

Senator B.I. Le Marquand:

My clarification is that Mr. Napier has come to a different view of it. I think I made it clear that a whole number of different views could be taken in relation to this matter because it is so ambiguous.

Deputy A.E. Jeune:

Can I just ask for a point of clarification also?

The Bailiff:

If it is genuinely a point of clarification.

Deputy A.E. Jeune:

Yes, in that the Minister when he was speaking said that it was the previous Chief Officer took retirement, not resignation, but was that date brought forward?

The Bailiff:

I think the Minister said so. He said that he retired earlier than he was otherwise going to.

Senator B.I. Le Marquand:

Yes, to clarify that, the date was brought forward to July of this year, whereas it could have been up to the end of this year.

1.1.10 Senator F. du H. Le Gresley:

I feel a bit like an athlete who has been in the starting blocks and had 3 false starts so I hope that I will not be too long, although I have quite a lot to say, but I will try and keep it in an order that everybody can understand. As the newest Member of the Assembly I have been able to look at this whole issue of suspension of the former Chief Officer of the States of Jersey Police from a completely unbiased and dispassionate viewpoint. I realise many States Members are tired of questions to the Chief Minister and Minister for Home Affairs on this issue in particular, and other related matters to do with the Haut de la Garenne investigations, and I think it is time for these to stop. However, the proposer is quite correct to say in (a)(ii) of his proposition that the conclusion of Mr. Napier was that action was taken on a basis which was contrary to the advice of the Law Officers. Mr. Napier states on page 49 of his report: "The disciplinary code applicable to Mr. Power could and should have been read differently and there should have been something in the nature of a preliminary investigation carried out before the step of suspension was invoked." Now, the Minister for Home Affairs has talked about his own interpretation of the code and I would like to concentrate on that. What I find interesting is that Mr. Napier had a different interpretation of the disciplinary code to that of the Law Officers. On page 28 of his report, paragraph 61 he says: "Under 2.3.3 of the code it is stated that in more serious circumstances the Chief Officer may be suspended from duty on full pay pending the outcome of this procedure." Now, Mr. Napier says: "The reference to this procedure I take as being the procedure being followed after the preliminary inquiry by the Chief Executive and after the decision has been taken by the Minister that this is a matter properly falling under section 2.3 as it relates to a continued or serious breach of discipline,

poor performance or capability. In other words, the code envisages that suspension should take place only in the context of more serious circumstances which fall within the wider category of continued or serious breach of disciplinary, poor performance, capability.” So Napier says: “That, in my view, is the reading which fits best with the structure of the code and the location of the provision regarding suspension.” Now, I would remind Members why he says the location, because it becomes important as I carry on with my speech. Mr. Napier goes on to say in paragraph 62: “I have been told that the interpretation I have advanced of the code was considered but rejected after advice had been taken from the Law Officers. I accept that there are different interpretations possible, and also that it would have been difficult for officials to go against the advice that they were receiving from their most senior lawyers.” Now, when I read the disciplinary code for the first time I came to the same interpretation as Mr. Napier. It seems to me that paragraph 2.3.3 appears out of context in the code, as to invoke the suspension option would surely occur before the procedure for a disciplinary hearing commenced, which appears in 2.3.2. I have here a disciplinary policy and procedure for the Sussex Police, which I obtained from the internet. If I may be allowed to read from it, and I think it is very relevant. In 4.4 of this code it refers to gross misconduct and I will read what it says: “Gross misconduct is defined as misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the Sussex Police. Due to the impact of the breach, acts of gross misconduct are considered serious breaches of discipline because they impact upon the mutual trust and confidence Sussex Police has in the police staff members. Police staff members should be aware that the possible outcome of gross misconduct is summary dismissal.” Now, the reason I am reading this to you, because the next section, section 4.6 says: “It may be appropriate to suspend a police member of staff on full pay during the period before a disciplinary hearing. This action is precautionary only and does not prejudge the outcome of the investigation.” That is at 4.6, now in 4.7 we go on to have a full explanation of the disciplinary processes, timescales and responsibilities. This comes after the proposal to suspend a police officer on full pay before a disciplinary hearing. Now, the relevance of that is that I am sure Mr. Napier is familiar with similar police disciplinary policies and procedures and that is perhaps why he arrived at his first interpretation of our disciplinary code for the Chief Officer of Police. During my time at Citizens Advice Bureau I read many contracts of employment and disciplinary codes and, in general, I would say that there are the behaviours that are serious enough to justify a suspension or, in extreme situations, termination of employment without following the disciplinary steps set out in the code. Mr. Napier suggests himself that such an action should be possible. In paragraph 63 of his report he says: “I would also accept that although this is not spelled-out in the Disciplinary Code there must be a provision for the immediate suspension of the Chief Officer in extraordinary circumstances.” There is no getting away from the fact that, as the proposer said, there was a botched suspension process. The then Solicitor General, now Attorney General, had advised caution and the need to be seen to be acting fairly towards the then Chief Officer before proceeding to the act of suspension.

[12:15]

I read again from Mr. Napier’s report, paragraph 67: “Further advice was sought of the Solicitor General and given on 11th November 2008. It is stated in that advice, ‘I reiterate my advice that if this action, suspension, is being considered in advance of the full report of the Metropolitan Police, there must be sufficient objective evidence available to justify what is proposed. I would urge that particular caution be exercised to check that there are no provisos or caveats to any of the conclusions reached upon which reliance is to be placed and that the reasons for actions are robust.’” Mr. Napier then says: “I would agree entirely with this view and also with the following passage which states, and this is particularly important: “It is usually argued that suspension is a neutral act, but this is arguable especially given the position of the Chief Officer of the States of Jersey Police. I have heard a lot from the Minister for Home Affairs and I have a great respect for him and I have nowhere near the intelligence or the eloquence of his delivery. But I am a person who has read the Napier file and I am going to support paragraph (b) of the proposition which calls

for a formal apology to be issued by the Chief Minister to the former Chief Officer of the States of Jersey Police because it was purely in relation to the failure of those involved to deal with the suspension in accordance with the procedures set out in the disciplinary code. I accept that probably the code is incorrect, there are problems with the code, as I have tried to explain, and I have to say that the Minister for Home Affairs has also said, and I quote him here: "There were tactical failures with the suspension." As I have tried to explain, it is possible that there are different interpretations of the code but the fact is that those involved did not follow to the letter the advice of the then Solicitor General. The Napier Report is quite clear on this issue and if I was in the shoes of Mr. Power I would expect to receive an apology. I would hope that if this apology was given this would be the end of the matter. I would seek this assurance from the proposer when he sums up. Thank you.

1.1.11 Senator F.E. Cohen:

I feel that the personal criticism of the Chief Minister is unfortunate and inappropriate. All Members know that the Chief Minister is an honourable and decent man and someone who I, together with many other Islanders, hold in the very highest regard. It is indeed regrettable that his religious beliefs were referred to in this debate and I sincerely hope that however well intentioned were the comments made that they will not be repeated. Thank you.

1.1.12 The Deputy of St. Martin:

I regret to say it is going to take me some time to sum up. There is a lot to be put across. I will apologise before I start but, in fact, I should not apologise because this is a very, very important debate and we should not take it any other way and it never is a mountain out of a molehill. Can I start off with the Chief Minister again? It was mentioned, I think, early on how disappointing it was that such an important proposition could be dismissed within 5 minutes. That is all, 5 minutes. That was the pure defence of it. In actual fact when one looks at the whole debate only one person stood up in defence of what has happened and that of course has been the Minister for Home Affairs who, by implication, has been very much involved. I can understand that and I will come to his speech presently. But I think to say that you could not apologise for this to be a slap in the face are those people who have been found following a Napier Report to be at fault and you cannot apologise because you may offend them. Well I am sorry, the whole purpose of us being here today is because I think ... I use the word "botched" and it was repeated by Senator Le Gresley, it was not a fair way of suspending someone and that is the findings of Mr. Napier. That is the bottom line. Again, the Chief Minister kept on about the suspension was justified. Mr. Napier said it was unfair. They are separate issues, and again I am grateful to Senator Le Gresley, he has narrowed it down. That is all we are asking for; the apology because the suspension was not carried out in a fair manner. The strange thing about the Chief Minister - I know he is not here at the moment- is the fact that he somehow accepts the findings of Napier but he cannot agree to the conclusions. I find again, as I said in my opening speech, that I found it difficult to understand the Chief Minister and those who knew nothing about the case or very little about the case will also find great difficulty. But I think the bottom line again is on this, even if he does not agree with the Napier conclusions, what the Chief Minister has done, and I know he has been very coy about it, but we now know that discipline action has been taken against one of the people involved with the suspension. If that is the case surely the Chief Minister agrees with the conclusions, otherwise how can he take disciplinary action against someone if he does not agree with the conclusions? It defies logic really. I have certainly got to compliment the Deputy of St. Mary. I know he took a long time but really it was a superb way of taking apart what ... I should think make it easy for States Members to understand what was quite a complex issue, and I think tremendous compliments to him for doing it. But I would like to talk about one thing because it is about the double standards. He did get into a little bit of hot water with a couple of his comments he made and I think there is no way that I think it could be said that the Deputy of St. Mary has had any bad thoughts in mind. But he did talk about double standards, or it would be said, and quite rightly so the Bailiff took the

Deputy of St. Mary to task when he made a comment maybe: "Hope that the papers do not go missing." I think it was a throwaway line and certainly I think we all stand here and say how the high esteem in which we hold the Greffier and his staff, without a doubt. **[Approbation]** I know certainly that nothing was impugned by what the Deputy of St. Mary was saying but what the point was, he was trying to get across and the Bailiff ... quite rightly, Sir, you did bring the Deputy to task when he said: "Well of course I hope the papers do not go missing." But what I cannot understand is that we have had the Chief Executive of the States of Jersey who has shredded the notes that were taken at a ... and no one is concerned about it. That is the shocking thing about this particular case and also the fact that they were typed-up and then not even agreed or signed by the 3 people inside and yet no one is bothered about it. We talk about the double standards; we have got the Chief Minister denying details of when documents were drafted and then has to go all the way to a Board of Administration appeal to get the facts. When they are found they are found, indeed, that the details were not correct and yet no one is bothered about it. We then get the terms of reference altered. "Agreed" they say to you and no one is bothered about it. Again we talk about double standards. We have got again to look at the discipline issue. The Chief Minister says that he has taken disciplinary action in respect of the people responsible but we do not know who and there are no details of who was disciplined and, of course, everything was dealt with within 2 weeks. The Constables of St. Lawrence is quite right, it did not have to go to S.E.B. (States Employment Board) but again, was due process carried out? We will never know. But when we look at it ... of course the whole business about this is it must be kept confidential. We must have consistency so one asks why was it that when the Chief Police Officer was suspended we had a press conference. Where was the confidentiality there? Where was the consistency? We are told there was inadequate evidence to suspend. We are also told it was a breach of the discipline code. We are also told it acted against the advice of the Solicitor General. We are told that it took 12 months to gather the evidence at a cost of £750,000-odd. No charge has been brought against them. Justice delayed is justice denied and that is what happened here. Of course we then get a whole list of allegations published by the former Minister for Home Affairs and then they are withdrawn, but the damage is done. That is the shame about it. We also have of course the damage to reputation; that is the sad thing about it. Here was someone who had glowing appraisals for his work and what I would like to point out is that it is about the reputation and the damage to reputation which is important. It is important to us all, irrespective of what our feelings are about individuals and here we had somebody who was at the top of the poll. He was a Chief of Police and he was our Chief of Police appointed by this House, and yet he has been dismissed by stealth. He never had the opportunity to even have his case heard. What I would like to read out is part of the statement which was made to Wiltshire Police by the former Home Affairs Officer and he says: "When A.C.P.O. came to Jersey the Chief Police Officer told me they were coming to review the investigation. When I received their report with recommendations I was told [I will not mention the member of A.C.P.O.] that the investigation was a shining example of how an investigation of this type should be run and they were satisfied with the senior investigation officer that he was doing a good job." How do we get A.C.P.O. saying that? A.C.P.O. are no Mickey Mouse organisation because very soon, in fact possibly the next proposition, we are going to appoint the new Chief Police Officer. In 2 parts of the proposition here there is mention of this new police officer: "He was an active member of the Association of Chief Police Officers and on the Assistant Chief Police Officer's cabinet." This is a very, very high body and of course he is also, we know: "He is currently A.C.P.O. lead of economic crime as well as a business committee." I am going to support this proposition because here we have got someone who was at the top of the pile, like the former Police Chief. Here we have someone who has been recommended, been told he is doing a good job by A.C.P.O. and yet he is taken to task. If I could then move on. I am like the Deputy of St. Mary with dozens of bits of paper here but they are all in order. Again, I compliment the Deputy of St. Mary, he is doing a first-class job and he has certainly laid all the points out. Again, to Deputy Pitman I thank him. He asked again of the Chief Minister to reconsider and he said: "One small step but one large step for justice" and it is important. Again, Deputy Tadier reminding

us about the Care Leavers and what their thoughts were, and again he reiterated about accepting the proposition. Deputy Le Claire, again, I thank him for his part. He may well have got his statement confused because I understood what it was, it was that there was discussion and you could not get rid of the Deputy Chief but the officers could get rid of the Chief Police Officer because you could only suspend the Deputy Chief by the Chief. It is complicated but I do understand what he was trying to say, so maybe he got that confused. But again I am grateful for what he had to say because he confirmed really that already way back there were steps being taken to suspend the Chief Officer.

[12:30]

States Members were told that really until the former Home Affairs Officer received the letter from the Chief Executive on the day before he was called in he had no fears, no reasons why the whole case was mishandled. Someone is not really telling the truth and I think Members should be able to work that out. I thank Deputy Duhamel, excellent speech and what he did, he said that he could not see really why Members could not accept the 7 parts of my proposition because really it is good government. Really what I am asking for, we have seen a load of errors made, and what I am asking Members is ask the Chief Minister to put them right. The Chief Minister does not want to put them right. That is basically why he is opposing everything. Again, I liked the bits that Deputy Duhamel mentioned about honour. It is an honour, it is a duty, we are States Members. We are all individuals but we are elected to have the trust of the community and if there is an honourable thing to do there is an honourable thing to do, and that is what we should be doing here. There was mention about compensation and about the legal implications and I am grateful to the Attorney General, he says: "There were none." I can honestly say I hardly knew the Chief Police Officer until I got involved in his case. I did not know either the former Hospital Consultant. The reason I got involved in this case and everything else was because I was looking at the horrendous number of suspensions being imposed upon ordinary men and women working for the States. In 2008 there were 35 and that is why I brought in a number of propositions, which thankfully the House did support me on, to make it a fairer way when we discipline people when we have to call them to task. Again, I did not know the Police Chief beforehand but I have got to know him now and I know he is a very honourable man. We have certainly not spoken anything about whether he would take anyone to court if indeed an apology was rendered, but I think I understand the man to be that honourable that he certainly would not. But that should not be a consideration. We should want to apologise because we know it is the right thing to do. The Constable of St. Lawrence again, I thank her for her contribution and reminded us of course that the disciplinary action for whoever it was did not have to come through the States Employment Board. Deputy Jeune, in actual fact if the Deputy had read all of the P.166 she would see that in there was an affidavit from the Chief Officer of Police and he pointed out what had happened. He was in the middle of his holiday, he got called in the night before and said: "Look, Graham, I want you to pop in and have a chat with me. I want to speak to you at 11.00 in the morning" and not told anything about what he was going to do. He walked in the office and said: "I will come in." In fact he had to go to the Cyril Le Marquand House as opposed to going to Rouge Bouillon where one would normally assume you were going to meet your Minister for Home Affairs. What happened was he was called in there and then the bombshell. It was as simple as that. How would you feel yourself? You go into a room and you are expecting just to ... not knowing what you were going to talk about but you certainly are not going to expect you are going to be told: "Look, you are going to be suspended" because had he known that ... and that is why States Members have agreed now to the policy which will now happen. I think the Constable of St. Helier mentioned about a buddy. Now in fact I know some States Members did not want to have a buddy in case that buddy was a lawyer, but now before one is going to be spoken about a suspension you are told beforehand so you can come prepared. On this particular occasion it did not happen and so I have got the word "ambushed". Deputy Higgins, again I thank him for his part and what he did say was very important. He said: "For all those people who may have some personal dealings with either the former Chief or his

Deputy, let us bury the hatchet.” All we are doing here is looking at what happened at the suspension and the process afterwards. It is time to bury the hatchet and concentrate on what the proposition is asking people to do. The Constable of St. Helier, again I am grateful for all the time and care he has taken in trying to get to the bottom of this. He said there were 5 principles about the suspension and they were not apparent on this particular occasion. He again assured Members that the proper procedure had not been carried out, and again I think he was quite right. I know the Attorney General is to my left but I think he was quite right to raise the issue of why the advice obviously was rejected in the first place but also, during the course of the debate, the Attorney General I know was not ... but no one felt they should get up in the debate and say: “Well, this is what happened” because, as we know, the Attorney General and the Solicitor General, as indeed the Dean yesterday, they are not elected but they are allowed to speak. It might have been helpful. We might have nipped something in the bud had that been said way back in January 2009. Quite interestingly, he says about it not going away but there will be a need for a Committee of Inquiry into Haut de La Garenne. Again I remind Members the former Chief Minister said we would have to have an inquiry into what went on and we have not. Whether that will be for someone to bring a proposition, I would hope maybe that the Chief Minister of today would have shown leadership and said: “Look, we are going to look into it” but again if it has not it may well be that Back-Benchers will have to lead and the Chief Minister may have to follow, who knows, but I would hope it would be the other way round. Senator Le Marquand gave a very, very long speech, as indeed he needed to because he was the only Member standing up in defence of the Chief Minister. He said: “It is time to move on” and he reckons that no one is going to have their minds changed by the debate. It is sad really because I would hope that we could focus on what the debate is all about. It is still possible to change one’s mind by debate and that is the whole purpose of us being here is to try to influence people. If you come in with prejudice before you start it is a sad thing. I would hope that Members will again be influenced by the evidence before them, not by the prejudice they bring into the Chamber. He mentioned about the Royal Court judgment. I think it is very important because again I think it could almost be argued ...

The Bailiff:

I am sorry, Deputy, but there is too much noise going on in the Senatorial benches that we cannot all hear. [Approbation]

The Deputy of St. Martin:

It could be argued that Senator Le Marquand and I do suffer from one thing, we are quite meticulous and he was right. I think he looked at the case and he formed his own opinion, and I do not have any disagreement with that. However, I think what we have got to make quite clear is because of his new role as Minister for Home Affairs he looked at the suspension process. That way, in a way, through a quirk of the law, then denied the judicial review of the initial suspension. When you went to court they were looking at whether, in actual fact, Senator Le Marquand had dealt with it there and that is why the Royal Court said that even though they did not agree with Senator Le Marquand they did find that the initial suspension was totally unfair. They felt duty bound to bring that and again that finding has been concurred by or with Mr. Napier. Again, we have got the Royal Court saying it was unfair and we have also got Mr. Napier saying it is unfair. The Senator went on quite a long way and he complained about a poor discipline code and yet that was mentioned 2 years ago. I know we have had meetings with the Police Authority to discuss that and we know there is a need for a better discipline code, however, as Mr. Napier says: “As it stands you could still follow it.” It could be improved and I am grateful to Senator Le Gresley for reminding us what had happened at outside forces but we know that is going to happen. But of course if Members support my proposition we may get that earlier because one of my propositions is to request the Chief Minister to do something about it. I have mentioned the dismissal by stealth; in actual fact it was no way the fault of the Chief Officer of Police that it took so long. If one remembers when we had the in camera debate beforehand we were all told that really this matter

was to be concluded; I think it was way back before the in camera debate when the former Minister for Home Affairs told us that this is all going to be over by March. I am glad I am getting consent from Senator Le Marquand. I think in many ways that influenced the debate. They said: "Okay, look, it is going to be all over in March, let us not go into it" and probably Members now, with hindsight, wished they had and I think Senator Le Marquand also would have. This has dragged on but in no way was it the fault of the Chief of Police because really he had made it clear; he could retire any time within the 2 years and he was asking and wanting for this matter to be dealt with before he retired. Really it was almost 12 months before the papers were submitted and even then there was ample time for the case to be heard. We have heard how quickly the Chief Minister is able to deal with his discipline matters about his ... we do not know who the officer is but all done in 2 weeks and here we had at least 8 months and no discipline charges were brought. In fact we have had them put and then withdrawn. Again, it is totally unfair to complain about the delay or putting any part of that blame on to the former Chief Officer. I think it was rather unfortunate he read out the allegations that were made by Wiltshire because they had been buried, that we have been told that the former Police Chief is innocent of all charges because they had been withdrawn. They were talking about expenses and the Wiltshire Police really was a very expensive investigation that got us nowhere. I also think he was confusing reports. The Napier Report was a different type of review from that of the Wiltshire Police. The Wiltshire Police was an investigation into the mishandling or handling, whatever we want to call it, of Haut de la Garenne. They were looking to see from a discipline point of view. The Napier Report was just to look into the suspension process. Again, I am sorry to say that Senator Le Marquand missed the point of the apology. It is all about the unfair process which has been found to be ... again, Mr. Napier has found that and so has the Royal Court. I am conscious of the time. If Members would like me to stop I will do and then carry on afterwards but it is very important. I am quite happy, Sir
[Interruption]

Deputy R.G. Le Hérissier:

Sorry if I am going to ... how long do you intend to be?

The Deputy of St. Martin:

It will probably take another 15 minutes. If Members are happy to sit through, I am quite happy.

The Bailiff:

Can the Deputy carry on for the moment? I think carry on for the moment.

The Deputy of St. Martin:

Yes, Sir. We must not underestimate the value of the information. I then move on quickly to Senator Le Gresley and I am grateful because here we have a new Member who is not fettered by any preconceptions of what has gone on. I have got to compliment him again on his clear understanding of the Napier findings. He has read it well, he has studied it well, and he reminded Members again: "The suspension went ahead against the Solicitor General's advice." He says again: "Look at the apology." He has no difficulty; the apology is easy for him because it is based on the failings of the suspension process identified by the Royal Court and identified by Mr. Napier. He is looking for an assurance that the matter will end. I would have hoped that it would have ended before we came here today because I would have hoped the Chief Minister could have accepted the ...

Senator J.L. Perchard:

I thank the Deputy of St. Martin. He just said something that I think needs to be confirmed or clarified, Sir, or corrected. He said: "The suspension went ahead against the Solicitor General's advice." I do not believe that is true.

The Deputy of St. Martin:

Would it be better or be easier if I said: "They did not follow the Solicitor General's advice."? I think that is what Mr. Napier said.

Senator J.L. Perchard:

I think it would be better if the Deputy of St. Martin stated the facts.

The Bailiff:

I think we should leave the Deputy to get on with his speech.

The Deputy of St. Martin:

Yes, Mr. Napier said they did not follow the advice and that is not disputed.

[12:45]

What I think the Chief Minister is saying is that they were entitled and they took that decision but the fact was they did not follow it; it is quite as simple as that. We have paid £50,000-odd to get an eminent Q.C. (Queen's Counsel) to come up with a judgment of his findings and that is what he has found. If Senator Perchard does not like what he has found well, I am sorry, but I am only quoting from what Mr. Napier has written; it is not my writing. But I cannot give any assurance the matter will end because I do not know the result, and it would be wrong for me or any Member here to put any pressure on anyone. As far as I am concerned we are here this morning to debate P.166. If indeed there is a satisfactory conclusion today I hope that it will be a matter that has come to an end. I think most of us are getting war-weary with it. Again, I thank Senator Cohen for his participation. What I would like Members to do is to try to place them or look at the 6 parts, first of all, that I would hope that there would not have been any difficulty and I am rather disappointed that the Chief Minister could not accept them really because I would hope lessons are going to be learned, and not only lessons going to be learned but we are going to see the evidence brought that lessons have been learned. I am asking really the Chief Minister should publish a written policy with a degree of urgency to be created. I would hope that that will be circulated to States Members and ascertain what we are going to do about a policy for suspensions. We cannot have this discretionary area whereby we do not know if there is a policy. If there is a policy, it says this but use your discretion. You have not got to keep notes unless you really want to. Those Members who have been listening to the answers coming out in Question Time will have noted that you can err on the side of caution if you think notes should be kept. Well, sorry. When someone has been suspended, this is affecting their lives. There should be a proper policy in draft for everyone and that is what I am asking Members to do, support that part. Part (ii) we should ask that the Chief Minister accepts the conclusions because the officers of Mr. Napier ...it is quite clear action has been taken. He must accept it or agree to it otherwise he would not have disciplined one of the officers concerned. Part (iii) says we should request the Chief Minister to accept Mr. Napier's conclusion. Again, this is just to do about the discipline part. Again, I cannot understand why the Chief Minister cannot accept that. Part (iv) deals about no formal presentation and a non-attendance of the report's author. Well, I would hope really if this thing was put to bed today, it would not necessarily be required to have the author here but I think what we should have had, it is really what we are asking for, is to request the Chief Minister to make appropriate arrangements for the author to make his presentation and ensure in the future that all authors of reports present their reports to the States. So if it means again a policy, again I would ask Members to support part (iv). Part (v) says request the Chief Minister to inform Members of the action he has taken to address the concerns he has over training and personnel involved with the suspension of States employees and submit concrete plans. That is what I am asking the Minister. We have had only months before, 2 or 3 months before the suspension process, we had a horrendous case where Professor Upex produced a report and said there were great shortcomings in the discipline procedure and yet we have done nothing. That was July 2008. Again, I am asking Members to support what I am asking. We may well get a proper discipline code. We have heard again the apparent defects in the police

discipline code and yet we are about to appoint a new Chief Officer. Over 2 years those defects have been known and the Chief Minister in his own comments says that there are concerns about the discipline code for senior officers and by refusing to support this today, who knows, that may well never be put right. By supporting part (v), that may well be good, may well be done. Part (vi), I am asking that Members should demand from the Chief Minister to come clean and inform Members really who was disciplined and what action was taken. This has been very much a public affair. If indeed we can be told about the actions against the Police Chief, we should be looking for consistency. I think most Members know who that person is because by deduction, there is only one person left. I would not have thought there would have been any harm really for the Chief Minister just to say really what has happened. Over £1 million has been expended on a suspension which went wrong. I would like to deal now with the apology because, again, I think this is one of the important aspects. It really shows us as States Members what we were elected to be, and I come again to what Deputy Duhamel said about honour. Can I ask Members to put themselves in the position of the Chief Police Officer. Here you are, the top of the tree and everyone knows that you are the Police Chief. You are on holiday and you are called in to have a chat with your Minister. When you get there, you are suddenly told you have an hour to consider your position. It is as simple as that. You read the affidavit that is there. You are presented with documents making allegations about your performance. You are told that you are going to be suspended pending an investigation from an outside police force. You try to explain that your conditions of service as laid out by the Jersey law, your discipline code on which you were appointed, are being breached. There is a proper procedure to be followed. Why can you not comply with that? But of course those basic procedures I think which the Constable of St. Helier was saying, even about having a body with you, a friend with you, all those procedures were breached. You are suddenly, for want of a better word, ambushed. You are not even allowed to go to your office and collect your personal belongings, including your diary. That is the effect. That is what happened. How would you like it if it was you? You note that the only evidence produced to support the suspension is that of the Ministerial Deputy, his Deputy. You note that the letters contain information which should not be there because they are from an interim report from the Metropolitan Police which we now know should never have been used for disciplinary purposes. In fact, they were withdrawn and have caused a problem between the Jersey Police and the Metropolitan Police over the misuse of those documents. Then, of course, you decide your right of appeal so you contact your boss, the Chief Executive or the Chief Minister and you say: "Oh, can I have a copy of the notes, please? I need them to go to court", and this is the bit I mentioned about double standards. You are then told: "Oh, they have been shredded." Oh well, that is bad enough. "Can I have a look at the notes, Sir, the typed-up copy?" and when you are handed it, you realise there are a load of discrepancies but you cannot prove anything because the original notes were destroyed and yet the Chief Minister does not want to support one of my propositions today to ask that in future we have proper procedures in place. So you note that the contents of the suspension just do not add up, the letters, the dates do not add up so you say: "Well, I will contact the Chief Minister and say can I have [he is supposed to be acting neutral] but can I ask the dates when those letters were drafted?" and the Chief Minister who is acting in a neutral manner says: "No you cannot." But you say: "But you are supposed to be neutral, you are supposed to be not taking sides." "No, you cannot." So what the Chief Officer does or what you would do, you go off to the Board of Administration. It takes months to get there but the Board of Administration find in your favour and so those details are then made known. When you find the details, you find out that they are not accurate but no one is worried because I mentioned that earlier no one is worried because it is only the Chief Officer of Police. The people who are involved, of course, you might offend them if you apologise to them. So anyway, you take your case to the Royal Court and you are told that due to a quirk in the law, you are not entitled to a judicial review on the initial suspension and I mentioned that earlier with Senator Le Marquand. But of course the Royal Court looks further and they heavily criticise the manner in which the original suspension was done. Now the court did not have to do that but they felt duty-bound. Now that again should add weight. Of course, you still stay suspended. You

thought the case was going to be dealt with in March. We then ... March, April, May and we go all the way through to November and then the documents are then presented to you and you have every right to expect the matter to be dealt with speedily and efficiently but it was not. It went on and on and, of course, the Chief Police Officer was intending to retire prior to the renewal of his 2-year contract and that is why I applaud the Minister for Home Affairs. This time he is saying you are going to be there for 6 years and you know when you are, there will be no extension without it coming to the States and again I applaud the Minister for that because it is an improvement. Of course, as you will see in the affidavit, the Chief Officer agreed to stay on to oversee the changeover from one Minister to the other. It was never his intention to stay on for 2 years. He stayed on simply to ensure that justice could be seen, justice could be done, his case - his disciplinary case - would be heard and it never was. So we move along then. In February, the States decide not to have a Committee of Inquiry to look into the matter but in February, there is a proposition brought to the House saying: "Look, can we have a public inquiry? Let us make everything... because we know or believe in open government. We all believe in accountability so let us have a public inquiry." But no, the States decided - as they are entitled to- and said: "No, we will go for the Chief Minister's simpler and quicker procedure. We will have a Commissioner." I do not have a problem with that because I had rather that we had had a Committee of Inquiry because it would have been in the open but no, we have a Commissioner. When one reads what the Commissioner was, he was an eminent Q.C., a specialist in employment law - a specialist. I think the person ... that is one of the parts I did have. Part of the arrangement was possibly to give some credibility to the whole process that I was invited to be party to, selecting the Commissioner, and I think we chose a good man, certainly, because we know what his credentials were. I was also promised that I would have oversight of the review so how about this, if you are thinking that you have got someone having oversight but that person never gets oversight at all. I was never shown any documents until I received the final report. Even when I questioned the terms of reference, I was never given a satisfactory answer. So how would you feel if this was the case when you are going to be dealt with by way of suspension? But we know that the Commissioner does eventually produce his report and, of course, you meet the Commissioner and you speak with him and this is what you have got to say and you come away with a think: "Well, hang on, here I have got a real professional who knows what he is doing." Your retirement date gets closer but you want to leave, but your provisions of your working conditions say that you are allowed to leave before your actual retirement date if you have got leave coming to you. So in actual fact, there was a correspondence on 15th June or before then informing the Chief Minister's office that from effective for duty-wise the Chief Police Officer retired on 15th June. In actual fact, it was a month earlier than his initial time because he had leave, *et cetera*, due to him. But, of course, that information was never passed over to the Minister for Home Affairs.

[13:00]

So here we have the Napier Report which should have been originally, if one reads the terms of reference on R.39, it should have been ready in early May but it was not. Not published in May nor June or July before the retirement of the Police Chief. No discipline board made, no arrangements, no nothing. So here we are on the day of your retirement, in fact, 2 days before your retirement, a number of allegations are made public. In the public arena, all these allegations made and yet not one of them was ever put forward. No opportunity for the Chief Police Officer to defend them. But we are pleased to note that of course all the allegations have been withdrawn now. One of the reasons for that was really because the Minister for Home Affairs did not ... well, we have heard today about the problems but the matter was not taken to a discipline board. No fault whatsoever of yourself if you are that Chief Officer. Of course, the Chief Minister has now acknowledged that the Police Chief is innocent of all allegations. His record, his character are unblemished. In early September, we received the Napier Report but what happens? The Chief Police Officer has never seen a copy. He has never ... he has seen one because I am assured he has got it but he has never been officially given one. But of course, when we get to the Napier Report, we then realise of

course what you have been hoping for. The actions of others have been found to be at fault. You are someone who has been unfairly treated. So here we are before a board and all we are asking now for is that someone apologises for your life being put in turmoil for 12 months, in fact, for 2 years. So Mr. Napier told us about the things that went wrong and I am not going to repeat them. I think Members now know what it is but what I would ask is that Members now ... this is going to be quite difficult for some because I can understand, as indeed like Deputy Higgins said, you may have hatchets out there but I hope they are buried, but Mr. Napier has said the matter was unfair, the suspension was unfair and I think, personally, that if I was the Chief Police Officer, I think I would be entitled to an apology for getting that wrong - forgetting about everything else - it is just on that narrow point. But 2 weeks ago we had the Minister for Planning and Environment. He apologised to 2 Jersey residents who had been at the wrong end of a bit of a management problem and, to his credit, Senator Cohen did not need reminding. He did not need to be asked to stand up and do his job. To his credit, he did so. I would have asked that it might not have been difficult for the Chief Minister to make that apology before we are put in that difficult position of asking him to do so. That is where we are now. We have got to ask the Chief Minister, if he does not want to apologise, we will ask him do we really feel he ought to. Do we think in light of all the evidence that has been put before us that he should apologise? I am going to conclude. It is down to Members. I would hope they fully understand now about the case. It is a serious matter and what I would hope would be that the right thing is done today, that we can get the right result, I suppose. But I understand we can take the proposition in parts (i), (ii), (iii) so we can vote on them all separately and then we also then vote separately on part (b) and, of course, we have already agreed that (c) drops out because at long last, the Napier Report was published. So I would ask for the appel and first of all, obviously we will go through as we go.

The Bailiff:

Thank you very much. The appel is called for then. I invite Members to return to their seats for the vote. The proposer has asked that we take matters separately and having considered them they do all read sensibly if taken separately so we will vote on paragraph (a)(i), (ii), (iii) and so on, each in turn. So we will vote first on paragraph (a)(i). The Greffier will open the voting.

POUR: 18		CONTRE: 27		ABSTAIN: 0
Senator A. Breckon		Senator T.A. Le Sueur		
Connétable of St. Helier		Senator P.F. Routier		
Connétable of St. Lawrence		Senator P.F.C. Ozouf		
Deputy R.C. Duhamel (S)		Senator T.J. Le Main		
Deputy of St. Martin		Senator B.E. Shenton		
Deputy R.G. Le Hérisier (S)		Senator F.E. Cohen		
Deputy J.B. Fox (H)		Senator J.L. Perchard		
Deputy J.A. Martin (H)		Senator A.J.H. Maclean		
Deputy G.P. Southern (H)		Senator B.I. Le Marquand		
Deputy of Grouville		Senator F.du H. Le Gresley		
Deputy of St. Peter		Connétable of St. Ouen		
Deputy P.V.F. Le Claire (H)		Connétable of Trinity		
Deputy S. Pitman (H)		Connétable of Grouville		
Deputy M. Tadier (B)		Connétable of St. Martin		
Deputy of St. Mary		Connétable of St. John		
Deputy T.M. Pitman (H)		Connétable of St. Clement		
Deputy M.R. Higgins (H)		Connétable of St. Peter		
Deputy J.M. Maçon (S)		Connétable of St. Mary		
		Deputy of St. Ouen		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		

		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		

The Bailiff:

Very well, then the Greffier will reset the voting machine and we will move on to subparagraph (ii) and the Greffier will open the voting.

POUR: 17		CONTRE: 29		ABSTAIN: 0
Senator A. Breckon		Senator T.A. Le Sueur		
Senator F.du H. Le Gresley		Senator P.F. Routier		
Connétable of St. Helier		Senator P.F.C. Ozouf		
Deputy R.C. Duhamel (S)		Senator T.J. Le Main		
Deputy of St. Martin		Senator B.E. Shenton		
Deputy R.G. Le Hérisier (S)		Senator F.E. Cohen		
Deputy J.A. Martin (H)		Senator J.L. Perchard		
Deputy G.P. Southern (H)		Senator S.C. Ferguson		
Deputy of Grouville		Senator A.J.H. Maclean		
Deputy P.V.F. Le Claire (H)		Senator B.I. Le Marquand		
Deputy S. Pitman (H)		Connétable of St. Ouen		
Deputy of St. John		Connétable of Trinity		
Deputy M. Tadier (B)		Connétable of Grouville		
Deputy of St. Mary		Connétable of St. Martin		
Deputy T.M. Pitman (H)		Connétable of St. John		
Deputy M.R. Higgins (H)		Connétable of St. Clement		
Deputy J.M. Maçon (S)		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy J.B. Fox (H)		
		Deputy of St. Ouen		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy I.J. Gorst (C)		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		

The Bailiff:

Then we move on to subparagraph (iii) of (a) and when the Greffier is ready, he will open the voting.

POUR: 17		CONTRE: 29		ABSTAIN: 0
Senator A. Breckon		Senator T.A. Le Sueur		
Senator F.du H. Le Gresley		Senator P.F. Routier		
Connétable of St. Helier		Senator P.F.C. Ozouf		
Deputy R.C. Duhamel (S)		Senator T.J. Le Main		
Deputy of St. Martin		Senator B.E. Shenton		
Deputy R.G. Le Hérisier (S)		Senator F.E. Cohen		
Deputy J.A. Martin (H)		Senator J.L. Perchard		
Deputy G.P. Southern (H)		Senator S.C. Ferguson		

Deputy of Grouville		Senator A.J.H. Maclean		
Deputy P.V.F. Le Claire (H)		Senator B.I. Le Marquand		
Deputy S. Pitman (H)		Connétable of St. Ouen		
Deputy M. Tadier (B)		Connétable of Trinity		
Deputy of St. Mary		Connétable of Grouville		
Deputy T.M. Pitman (H)		Connétable of St. Martin		
Deputy T.A. Vallois (S)		Connétable of St. John		
Deputy M.R. Higgins (H)		Connétable of St. Clement		
Deputy J.M. Maçon (S)		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy J.B. Fox (H)		
		Deputy of St. Ouen		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		

The Bailiff:

So then the machine will be reset and we will move on to subparagraph (iv) and the Greffier will open the voting.

POUR: 15		CONTRE: 31		ABSTAIN: 0
Senator A. Breckon		Senator T.A. Le Sueur		
Connétable of St. Helier		Senator P.F. Routier		
Deputy R.C. Duhamel (S)		Senator P.F.C. Ozouf		
Deputy of St. Martin		Senator T.J. Le Main		
Deputy R.G. Le Hérisier (S)		Senator B.E. Shenton		
Deputy J.A. Martin (H)		Senator F.E. Cohen		
Deputy G.P. Southern (H)		Senator J.L. Perchard		
Deputy of Grouville		Senator S.C. Ferguson		
Deputy P.V.F. Le Claire (H)		Senator A.J.H. Maclean		
Deputy S. Pitman (H)		Senator B.I. Le Marquand		
Deputy M. Tadier (B)		Senator F. du H. Le Gresley		
Deputy of St. Mary		Connétable of St. Ouen		
Deputy T.M. Pitman (H)		Connétable of Trinity		
Deputy M.R. Higgins (H)		Connétable of Grouville		
Deputy J.M. Maçon (S)		Connétable of St. Martin		
		Connétable of St. John		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy J.B. Fox (H)		
		Deputy of St. Ouen		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		

		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		

The Bailiff:

Very well, then the machine will be reset in order to vote on subparagraph (v) and when ready, the Greffier will open the voting.

POUR: 26		CONTRE: 20		ABSTAIN: 0
Senator A. Breckon		Senator T.A. Le Sueur		
Senator F.du H. Le Gresley		Senator P.F. Routier		
Connétable of St. Helier		Senator P.F.C. Ozouf		
Connétable of St. Lawrence		Senator T.J. Le Main		
Connétable of St. Mary		Senator B.E. Shenton		
Deputy R.C. Duhamel (S)		Senator F.E. Cohen		
Deputy of St. Martin		Senator J.L. Perchard		
Deputy R.G. Le Hérisssier (S)		Senator S.C. Ferguson		
Deputy J.B. Fox (H)		Senator A.J.H. Maclean		
Deputy J.A. Martin (H)		Senator B.I. Le Marquand		
Deputy G.P. Southern (H)		Connétable of St. Ouen		
Deputy of Grouville		Connétable of Trinity		
Deputy of St. Peter		Connétable of Grouville		
Deputy P.V.F. Le Claire (H)		Connétable of St. Martin		
Deputy J.A.N. Le Fondré (L)		Connétable of St. John		
Deputy S. Pitman (H)		Connétable of St. Clement		
Deputy I.J. Gorst (C)		Connétable of St. Peter		
Deputy of St. John		Deputy of St. Ouen		
Deputy M. Tadier (B)		Deputy J.A. Hilton (H)		
Deputy A.E. Jeune (B)		Deputy E.J. Noel (L)		
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

Finally, the Greffier will reset the machine for this, subparagraph (vi), and the Greffier will open the voting.

POUR: 17		CONTRE: 29		ABSTAIN: 0
Senator A. Breckon		Senator T.A. Le Sueur		
Connétable of St. Helier		Senator P.F. Routier		
Deputy R.C. Duhamel (S)		Senator P.F.C. Ozouf		
Deputy of St. Martin		Senator T.J. Le Main		
Deputy R.G. Le Hérisssier (S)		Senator B.E. Shenton		
Deputy J.B. Fox (H)		Senator F.E. Cohen		
Deputy J.A. Martin (H)		Senator J.L. Perchard		
Deputy G.P. Southern (H)		Senator S.C. Ferguson		
Deputy of Grouville		Senator A.J.H. Maclean		
Deputy P.V.F. Le Claire (H)		Senator B.I. Le Marquand		
Deputy S. Pitman (H)		Senator F.du H. Le Gresley		

Deputy M. Tadier (B)		Connétable of St. Ouen		
Deputy of St. Mary		Connétable of Trinity		
Deputy T.M. Pitman (H)		Connétable of Grouville		
Deputy T.A. Vallois (S)		Connétable of St. Martin		
Deputy M.R. Higgins (H)		Connétable of St. John		
Deputy J.M. Maçon (S)		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy of St. Ouen		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		

The Bailiff:

Very well, so finally we then move on to paragraph (b) and when ready the Greffier will open the voting.

POUR: 16		CONTRE: 30		ABSTAIN: 0
Senator A. Breckon		Senator T.A. Le Sueur		
Senator F.du H. Le Gresley		Senator P.F. Routier		
Connétable of St. Helier		Senator P.F.C. Ozouf		
Deputy R.C. Duhamel (S)		Senator T.J. Le Main		
Deputy of St. Martin		Senator B.E. Shenton		
Deputy J.A. Martin (H)		Senator F.E. Cohen		
Deputy G.P. Southern (H)		Senator J.L. Perchard		
Deputy of Grouville		Senator S.C. Ferguson		
Deputy P.V.F. Le Claire (H)		Senator A.J.H. Maclean		
Deputy S. Pitman (H)		Senator B.I. Le Marquand		
Deputy M. Tadier (B)		Connétable of St. Ouen		
Deputy of St. Mary		Connétable of Trinity		
Deputy T.M. Pitman (H)		Connétable of Grouville		
Deputy T.A. Vallois (S)		Connétable of St. Martin		
Deputy M.R. Higgins (H)		Connétable of St. John		
Deputy J.M. Maçon (S)		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy R.G. Le Hérisier (S)		
		Deputy J.B. Fox (H)		
		Deputy of St. Ouen		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		

LUNCHEON ADJOURNMENT PROPOSED

Connétable J.L.S. Gallichan of Trinity:

I wonder if I might suggest. There was supposed to be a briefing today, quite an important briefing by the Minister for Economic Development and also a number of other Members have indicated they had appointments during lunchtime. Might I suggest that we adjourn now and reconvene at 2.30 p.m.?

The Bailiff:

Yes, does everybody agree to that? Then we reconvene at 2.30 p.m. rather than 2.15 p.m. so the Assembly stands adjourned to reconvene at 2.30 p.m.

[13:11]

LUNCHEON ADJOURNMENT

[14:30]

PUBLIC BUSINESS - resumption

2. Draft Health Insurance Fund (Miscellaneous Provisions) (Jersey) Law 201- (P.125/2010)

The Greffier of the States (in the Chair):

Very well, there are 2 remaining items of Public Business one of which needs to be taken in camera. I think whatever the Assembly does, it will be necessary to go in and out of camera so I am really in Members' hands as to which Members wish to take first. Shall we take first the Health Insurance Fund matter? There seems to general consensus. Members will recall that a day was spent debating the principles of this and so all that remains is for the Minister to propose the Articles. Minister?

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

Thank you for reminding us that we have already spent a day debating the principles. There are strongly held views on each side and I understand and respect those strongly held views. There are just 3 Articles on the citation. Therefore, I propose them *en bloc*. I hope that Members will not feel the need to rehearse the arguments again. Some, I recognise, will be in favour and some against, but I maintain the Articles.

The Greffier of the States (in the Chair):

Are they seconded? **[Seconded]** Does any Member wish to speak on any of the Articles?

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

Once again I want to raise the issue of raiding these funds which were never put in place for this purpose and therefore it is my intention to vote totally against the 3 Articles as they are coming *en bloc* because I still believe that this year and again next year to take £6.131 million from this department and put it into Health is a folly and I want that obviously recorded.

2.1.2 Deputy A.E. Jeune:

I would just remind Members of what I said during the debate and I am sure they will understand how I am going to vote.

2.1.3 Connétable L. Norman of St. Clement:

Like the Deputy of St. John, I am somewhat uncomfortable but only with Articles 1 and 2. I am perfectly happy with Article 3 which we have already agreed in principle and has direct impact on primary healthcare to benefit the general practitioners. But I do worry and I think it is worth pointing out again, as it was in the debate on the principles, that this is really more of a device to prop-up the Health and Social Services budget and really has got nothing to do with primary healthcare. The Health Insurance Fund is there to support contributors and I emphasise contributors - not taxpayers - and help support them in the costs of their visits to general practitioners, the cost of their prescriptions and if the States so decide, to assist with the cost of dental treatment and ophthalmic treatment which the fund has a right to do but the States have not decided to implement that yet. So it is really based on the insurance principle. We as workers pay into the Health Insurance Fund and we have a right to benefit from it, as I say, for reduced prescription charges or currently zero prescription charges and subsidised visits to our general practitioner. This transfer undermines that insurance principle. It negates the insurance principle totally and as I say, all it does is prop-up the Health Department's budget, a department that cannot or will not play its full part in the comprehensive spending review. We are given in the proposition a list of things that Health do which are claimed to be primary care, but if we have a look at that list contained in the report, the vast majority of it is the subsidy that the Health Department currently give to the Family Nursing and Home Care organisation. Excellent organisation, does valuable work, but has, up to now, been funded - and I think quite rightly funded - by the taxpayer. If the Minister for Social Security thinks it is right that Family Nursing and Home Care subsidy should be transferred to the Health Insurance contributor rather than to the taxpayer, then I think he should be more open and honest about it and bring a proposition to say: "That is what we ought to do, States" and convince the States that that is the right way to do it because otherwise, all we are doing is having the contributors to the Health Insurance Fund propping-up the budget of the Health Department. Therefore, I am going to vote against Articles 1 and 2 which do that, but support Article 3 which supports the general practitioners.

2.1.4 Senator S.C. Ferguson:

I think Members should note that this is for 2 years only. Now I have complained bitterly both at the time of the Business Plan and at the time in my amendment to the Business Plan that this is quite wrong. I really do not see that we should be taking money from the Health Fund to subsidise the Health Department which cannot get its finances under control. The other thing, of course, is that we are expected to do this without Health producing a plan. Now the Minister knows very well my feelings on this, as does the Assistant Minister. I would respectfully request ... I am sorry the Minister for Health and Social Services is not here at the moment, neither the Minister for Health and Social Services nor the Financial Assistant Minister for Health and Social Services, just Deputy Martin, and I strongly urge Deputy Martin to make sure that there is a proper plan for primary care and I rely on the Minister for Social Security also jumping up and down to make sure that he has got a plan which should be submitted to this House before the money gets doled out to bail out a department which does not seem to be able to run its finances.

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

Just briefly, this is, as I said in my statement to the House previously, an example of bad practice in the States and must not set a precedent. This rolling-in of 2 very disparate elements into one proposition is to be condemned, I think. The way in which the costs were split into direct and there may be some other costs coming down the line is again bad practice, should not be happening. If a Back-Bencher did that, it would not happen. It would just not get to the States. The interaction with the whole Business Plan process has been somewhat skew. Effectively what we appear to have looked for is a means to get a spend off budget sheet in order to save face because there were some very unpleasant cuts about to take place in the Health and Social Services budget that it seems to me that Ministers were desperate to avoid because it would have shown them up and that was an

example of bad practice. So bad practice and, please, we will be looking to make sure that that does not happen again.

2.1.6 Senator A. Breckon:

Just a couple of comments. Firstly, any Member bringing a report and proposition must give some financial and manpower details and I think what is happening here is there is a bypass system between the Minister for Treasury and Resources, Senator Ozouf, the Minister for Social Security, Deputy Gorst, and the Minister for Health and Social Services, the Deputy of Trinity. It is a sort of kitchen cabinet that says: "Well, how can we get round this and do it in another way?" I do not think it is the right way to do it. It was not set up for this purpose and I think those 3 Members should take note that some dissent has been expressed in this House. They might do it this time but I do not think it will work again so I hope they will not even bother trying.

2.1.7 Senator T.A. Le Sueur:

In fact, the financial implications are set out on page 8 of the Minister's report for this proposition but I speak more so on the generality of primary healthcare and what is primary healthcare. It has been a long week but it is only 2 days ago that Senator Breckon was proposing that we consider extending the scope of the Health Insurance Fund to other areas of primary healthcare. Primary healthcare, of course, is a fluid subject. It has not got quite the same meaning now maybe that it had 50 years ago. We have to change with the times, and part of the process here is to change with the times. This is perhaps not the ideal way to go about it and that is why the Minister for Social Security is making it quite clear that this is a 2-year arrangement only - a short-term transition - because it would be wrong for him to change the Health Insurance Law at this stage unilaterally while Health at the same time are going into a review of primary healthcare from their point of view. It makes, I believe, absolute sense that the Minister for Social Security should review and, if needs be, amend the Health Insurance Law once he has seen the outcome of the reviews of the Health Department into their healthcare strategy. That work is currently about to commence. That work will come to fruition hopefully by the middle of next year and that will guide the Minister for Social Security and this House into the future direction of Health Insurance Fund policy and States health policy. In the meantime, Health has a problem in that the services which they provide encroach to a greater or lesser extent on services which G.P.s (General Practitioners) might otherwise provide so there is no easy black and white distinction that some would like to make. On that basis, this solution, while perhaps philosophically flawed, I believe is a good pragmatic short-term solution to a real and evolving situation which we have to address. If we want to maintain good quality standards of healthcare, primary, secondary and throughout the Island, we have to take the appropriate and most suitable steps to do that, but in the next 2 years this is, in my view, the best way to do it. It was indeed the way that we agreed only 2 months ago at the time of the Business Plan debate, and while some Members may simply be reiterating the comments they made there, I do say that we are in danger of revisiting that debate for some fruitless exercise. This simply gives the ability to achieve the objectives set out in that Business Plan and for that reason, I believe that they are quite straightforward and given that they are of limited duration, Members can satisfactorily and happily endorse them.

The Greffier of the States (in the Chair):

If no other Member wishes to speak, I will call on the Minister to reply.

2.1.8 Deputy I.J. Gorst:

As I said introducing the Articles, I am aware of strongly held views on both sides of the arguments to whether the funds in the Health Insurance Fund should be used in this way. As I said in the original debate on the principles, I am convinced that in this instance, it is appropriate because of the work that Health already undertakes and the pressure that they are facing and the services that they need to deliver, and I believe that every Member of this House expects and wants them to

deliver. Having said that, I am the first to point out where things are not as they should be and Health themselves recognise that there is a job of work to be done and they are starting down that road and they will look, and are looking, at the future direction - not only of primary care but of the hospital as well - and we are going to have to have some rather fundamental arguments about the type of hospital that we want in our community, where we want primary care to be delivered, what care we want to be delivered out in the community and what care we want to be delivered either in the hospital or perhaps even in other jurisdictions. This is going to allow Health to undertake that piece of work and to come to the Assembly and have discussion and debate within the community about where we are going, where Health should be delivered for the benefit of all Islanders, and for the benefit of the health of all Islanders; and it means that we, in effect, do not need to make any rash decisions that might otherwise affect Islanders' health. I did give some commitment when I summed-up with regard to the principles.

[14:45]

I will be going back and looking at Hansard and ensuring that I meet those commitments. I believe they were primarily around the governance of the money being distributed to Health and how that would be. Currently it is proposed that the Minister for Treasury and Resources will oversee that. I committed that I would also be a part of that overseeing process, and I stand by that commitment. I also said that unless I were able to see sufficient progress down this line of looking at where we deliver health throughout the coming year, then I would not be prepared to bring forward the second year's worth of any expenditure and I do stand by that commitment because it is important. I recognised and I heard what Members were saying last time, that some feel we have been here too often in the past and I am convinced, I am absolutely certain that one thing is sure. We cannot be here again in a year's time and we certainly cannot be here in 2 years' time and Members would have every right, if I stand up without that sufficient evidence, to criticise me. Having said that, I stand by those commitments. I will, as I say, look at Hansard and ensure that I have got them exactly and make sure that I fulfil them. Health is about to start down this process. It will not be an easy process but I hope that by the summer of next year, we will be able to have a greater understanding of where it is that we are going, what services will be delivered where. In that case, it has not been easy for me to bring this proposition forward but, as I have said now on more than one occasion, I have been convinced of it. I recognise others are not but I do ask Members to stand by their view when they accepted the principles and to support these Articles.

The Greffier of the States (in the Chair):

Minister, any Member is entitled - I am looking at the Constable of St. Clement - to request that individual Articles are voted on separately. I do not know if you wish the Articles ... you are happy with that?

Deputy I.J. Gorst:

I am in the hands of Members. If they wish to take them separately, I will. Otherwise I will take them *en bloc*.

The Greffier of the States (in the Chair):

In the case of legislation, it is not your decision, Minister, but ...

Deputy I.J. Gorst:

Well, I shall wait for another Member to propose them to be taken separately.

The Connétable of St. Clement:

As I wish to vote against Articles 1 and 2, could I ask that Articles 1 and 2 be taken separately from Articles 3 and 4?

The Greffier of the States (in the Chair):

It seems to me logical that 1 and 2 hang largely together and 3 could be taken separately. Very well, the first vote will therefore be on Articles 1 and 2 of the draft law concerning the withdrawal of money in 2011 and 2012 and the Greffier will open the voting.

POUR: 31		CONTRE: 15		ABSTAIN: 0
Senator T.A. Le Sueur		Senator T.J. Le Main		
Senator P.F. Routier		Senator A. Breckon		
Senator P.F.C. Ozouf		Connétable of St. John		
Senator B.E. Shenton		Connétable of St. Clement		
Senator J.L. Perchard		Connétable of St. Lawrence		
Senator S.C. Ferguson		Deputy R.C. Duhamel (S)		
Senator A.J.H. Maclean		Deputy of St. Martin		
Senator B.I. Le Marquand		Deputy G.P. Southern (H)		
Senator F. du H. Le Gresley		Deputy S. Pitman (H)		
Connétable of St. Ouen		Deputy K.C. Lewis (S)		
Connétable of St. Helier		Deputy of St. John		
Connétable of Trinity		Deputy A.E. Jeune (B)		
Connétable of Grouville		Deputy T.M. Pitman (H)		
Connétable of St. Brelade		Deputy M.R. Higgins (H)		
Connétable of St. Martin		Deputy J.M. Maçon (S)		
Connétable of St. Saviour				
Connétable of St. Peter				
Connétable of St. Mary				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Peter				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				

The Greffier of the States (in the Chair):

Very well, I will ask the Greffier to reset the voting system so the vote can be taken on Article 3 which relates to the authority for the Minister to withdraw expenses from the fund and the Greffier will open the voting.

POUR: 40		CONTRE: 6		ABSTAIN: 0
Senator T.A. Le Sueur		Senator A. Breckon		
Senator P.F. Routier		Deputy R.C. Duhamel (S)		
Senator P.F.C. Ozouf		Deputy of St. Martin		
Senator T.J. Le Main		Deputy of St. John		
Senator B.E. Shenton		Deputy A.E. Jeune (B)		
Senator J.L. Perchard		Deputy J.M. Maçon (S)		
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				

Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
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.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Peter				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				

The Greffier of the States (in the Chair):

I am sure Members are content to take the citation on a standing vote. Those in favour kindly show? **[Interruption]** Yes, the appel is called, the Article 4 citation. The Greffier will open the voting.

POUR: 42		CONTRE: 4		ABSTAIN: 0
Senator T.A. Le Sueur		Senator A. Breckon		
Senator P.F. Routier		Deputy of St. John		
Senator P.F.C. Ozouf		Deputy A.E. Jeune (B)		
Senator T.J. Le Main		Deputy J.M. Maçon (S)		
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
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 G.P. Southern (H)				
Deputy of St. Peter				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				

The Greffier of the States (in the Chair):

Minister, do you propose the law in Third Reading?

2.2 Deputy I.J. Gorst:

Yes, I do, Sir, and I do thank Members who have supported this law. I recognise, as I have said, some of these decisions are not always easy but I really do believe that this will be an opportunity for Health to step forward in a way that they have not been able to before. They have the goodwill, I believe, of this Assembly. There will need to be some tough political decisions and we will need to engage the community in the direction that we need to go. I hope that the Health Department will recognise the goodwill that is here but we will certainly put the work in and achieve the results that we desire of them to achieve. I should just also offer the apologies of the Minister for Health and Social Services who is unable to be in the Assembly this afternoon. That is why she is absent. I maintain the law in Third Reading.

The Greffier of the States (in the Chair):

It is proposed in Third Reading; is that seconded? **[Seconded]** Does any Member wish to speak in Third Reading?

2.2.1 The Deputy of St. John:

I would like to thank the Assistant Minister of this department, Deputy Jeune, for drawing this together and being an effective opposition, if that can be the word, within her own department and making sure, and I am so pleased that she is there to keep the Minister honest over the next 12 months **[Aside]** ...

The Greffier of the States (in the Chair):

Not honest, please, Deputy.

The Deputy of St. John:

Well, I withdraw that word, Sir, I will use some other phrase. I cannot think of what ... keep him on the right track and make sure that everything he does is in the interest of the Fund, not in the interest of some other department.

2.2.2 Senator F. du H. Le Gresley:

Just a brief point. I do recall when we debated the principles, there was a lot of talk about the potential delay in this law coming into force because it had to go to the Privy Council and I realise that crucial to the budget for 2011 is the transfer of this money and I wondered if the Minister could give us an indication whether that money will move in 2011 gives his concern.

2.2.3 Deputy A.E. Jeune:

Just picking up on what the Deputy of St. John said. I think it is important that people understand that I have an excellent working relationship with the Minister. [Aside] [Laughter] It is an absolute pleasure to work with him and it does show that we can work together and we do not have to all be, as some suggest, nodding dogs. We do have very, very healthy debate. Some I win, some I lose. [Laughter]

2.2.4 The Deputy of St. Mary:

I just want to make one point, and I think it is about the problem we find ourselves in with moving money from a fund where it is ring-fenced for primary care across to the Health Department where they are going to spend it on primary care. I just wonder whether the history of this is not putting that fund into Social Security, raising it via Social Security, was not in its day a kind of easy way out. It is easier to get the money out of Social Security. It is easier to put it on to employers and employees than it is to raise it through general taxation and it might have been easier in the first place, and it might very well be the way that we have to go because I cannot see that primary care, which is for everybody, should be paid for only by those who work and those who give them work. So I do have an issue with that and I think that is just a marker for future reference that in future, funding of health may have to be looked at differently.

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

May I, on behalf of Diabetes Jersey and its 3,500 people that they look after and represent plus this which includes the 750 that are on insulin, many of which are very seriously ill but are able to continue in the long term through the support that they get, both from primary care and from the hospital, that today will make an awful lot of difference. I do not think it would be remiss of me to say that with the pump-priming that has just been agreed by the States, that Diabetes Jersey will continue to put funds into the support of the people of Jersey and so much so that their immediate intention is to employ 1.5 persons for specialist nursing care for the next 3 years at their expense and that is just the start. As you know, they have already raised £1 million plus in the last 10 years so they are doing extremely well but they need encouragement that we are doing our bit and then that allows them to do their bit.

2.2.6 Senator P.F.C. Ozouf:

Very briefly to respond to Senator Le Gresley's question. Obviously there is going to be a delay in the timing of the payment into Health and Social Services from the Social Security fund because, of course, one has to, and it cannot be expected but hoped for, in terms of Privy Council approval such as the budget of Health and Social Services, that there is an element of discretionary spend in their budget, so they hopefully will be able to get on with all of the issues that are set out in the proposition that have been debated from day one, in the event that the funding, or the Privy Council, if there was to be an issue in relation to it, then obviously some of the discretionary spend which exists in the department, which is released through the year, would not happen in that extreme situation. But obviously the full-year effect, they are fully budgeted, fully planned for, but it should not delay too much, providing it is not a delay of more than maybe a couple of months in the first months of next year. I may also say that I think that this has been a good example of the

Council of Ministers working together and this Assembly supporting. There are difficult issues in relation to primary care and secondary healthcare but the Assembly has shown support and I am grateful for my part.

2.2.7 Senator S.C. Ferguson:

Just one postscript. In the U.K., £7 out of every £10 spent in the National Health Service is spent on chronic diseases which are not caught and end up in an emergency situation in hospital. No doubt we have a similar problem with a dissimilar scale here so that anything we can do to prevent people being taken into hospital as emergencies, in other words improving our primary care, is going to not only be good for the population but is also going to be good for the Treasurer's pocket. It is for this reason that I have voted for this because primary healthcare, the G.P.s are pretty well ready to roll. The pharmacists can also provide services very cost effectively. We must get the healthcare moving and I ask the Assistant Minister with financial interests for Health to make sure that this gets going fast.

The Greffier of the States (in the Chair):

I call on the Minister to reply.

2.2.8 Deputy I.J. Gorst:

I am pleased that the Deputy of St. John applauds the robust debate that we have in our department. It is nice to be able to counter some of the opinions that some Members have of Ministerial government. We do have a robust debate within our department and that is part of the responsibility of an Assistant Minister to oversee to work together with the Minister to make sure that we are making the best possible decision in the interests of the Island. That is where I would have a little bit of disagreement with the Deputy. The Deputy asked me to work in the best interests of the Fund. I have to of course work in the best interests of the Fund but when I come to make my final decision, then that must be in the best interests of the community as a whole, and that is the decision that I made in bringing forward this law today because I believe that it is in the best interests of the health of every Islander in this community. Deputy Fox is absolutely right, the words that he said with regard to the Diabetes Society. I know that they will be delighted with the decision that the Assembly has made today. I have had some correspondence with them over the course of the last number of weeks and they will see that we are standing alongside them and it will give them confidence to work in partnership with the States going forward, and particularly with their fundraising and the amount of money that they are putting in to help those with diabetes and to try and ensure that it does not grow and that it is dealt with in a timely manner.

[15:00]

Senator Ferguson is absolutely right. The way that we approach long-term conditions, the way that we are proactive, is all part of the strategy that Health needs to be bringing forward. The Minister for Health and Social Services and I only this week had a very interesting meeting with some gentlemen talking about some of the ways that the latest technology can help in the treatment of long-term conditions and there are exciting developments taking place in that area and I believe that we in Jersey can take our place alongside those developments and we can see those developments in our community helping to keep people healthy and ultimately helping to keep people out of the hospital but treated in where it is appropriate that they are treated. With that, bearing in mind the time, I maintain the Third Reading.

Senator F. du H. Le Gresley:

Sorry, Sir, I realise the Minister for Treasury and Resources has in a way responded to my question but I would have liked to have heard from the Minister for Social Security.

Deputy I.J. Gorst:

Sorry, Sir, yes, I did forget that. The Senator is absolutely right. No monies are going to be transferred out of the Health Insurance Fund until the law is back from Privy Council. That is only right and proper because the current law stands until the new one has been approved and that is why we are approving the law today. However, I do not see that... while we have approved it here in this Assembly, the process is that it goes to Privy Council for Her Majesty in Council to finally approve that. I do not see... as the Minister for Treasury and Resources, I believe and hope that Health will be able to work within their budget and they will expect that the monies will be available to them in due course, but the law currently stands until this new law has been approved.

The Greffier of the States (in the Chair):

If I could just clarify perhaps for the Senator's assistance from the Chair, I think it would be almost unheard of for a law of this nature to take 13 months to come back. The Attorney will perhaps comment.

The Attorney General:

Yes, it obviously depends upon the complexity of the law but they are about 4 or 5 months at the moment for a relatively straightforward law.

The Greffier of the States (in the Chair):

Very well, is the appel called for in Third Reading? Very well, the vote is for or against the draft law in Third Reading and the Greffier will open the voting.

POUR: 43		CONTRE: 4		ABSTAIN: 0
Senator T.A. Le Sueur		Senator A. Breckon		
Senator P.F. Routier		Deputy of St. John		
Senator P.F.C. Ozouf		Deputy A.E. Jeune (B)		
Senator T.J. Le Main		Deputy J.M. Maçon (S)		
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
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 Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy P.V.F. Le Claire (H)				

Deputy J.A.N. Le Fondré (L)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				

3. Chief Officer of the States of Jersey Police Force: appointment (P.162/2010)

The Greffier of the States (in the Chair):

Very well, the Assembly comes finally to the appointment of the Chief Officer of the States of Jersey Police which, by law, must be considered in camera but the proposition will be read in public assembly 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 opinion in accordance with the provisions of Article 9(1) of the Police Force (Jersey) Law, 1974, to appoint Mr. Michael Bowron as Chief Officer of the States of Jersey Police for a period of 6 years from 4th January 2011 until 3rd January 2017.

The Greffier of the States (in the Chair):

I therefore ask any in the press boxes ... there appears to be nobody in the public gallery ... to leave the Assembly. I call on Senator Le Marquand to propose the proposition.

[Debate proceeded in camera]

The Greffier of the States (in the Chair):

Very well, I ask the Greffier to put the sound on and I understand it is back on. Do you wish for the standing vote or the appel or ...? The appel is called for, if Members are in their seats, the Greffier will open the voting.

POUR: 46		CONTRE: 1		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy of St. John		
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				

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

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Greffier of the States (in the Chair):

Very well, that concludes Public Business, I call on the Chairman of P.P.C. in relation to future business. Chairman?

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

I wonder, before I proceed to the order of business, I did seek guidance earlier in the sitting as to when I might make a brief general point regarding Standing Orders, and I was advised that this might be an appropriate time. The presiding officer has taken the opportunity several times during this week, and previously, to remind Members on various aspects of conduct during debates, but one thing which seems to have escaped the Chair's notice was the observance of Standing Order 100(1) and (2). These relate to Members waiting to be directed by the Chair before speaking and also Members standing to speak. I have received several complaints from other Members, particularly about the latter aspect, and I wonder if this would be an opportune moment just to remind Members about the obligation to stand before speaking and to hope that, in the future, there would be nothing more formal that I would need to do, but just to ask Members to review that Standing Order. Thank you.

The Greffier of the States (in the Chair):

Thank you, Chairman, and I am sure your views are conveyed to the Bailiff and Deputy Bailiff as well, so they are aware of the comments you have made and you can return to the arrangement of future business.

The Connétable of St. Mary:

Thank you, Sir. The business would be as per the lavender sheet with the following changes: on 30 November, the addition of the third amendment to Projet P.104 - the Sustainable Transport Policy - in the name the Constable of St. Mary, and the addition of P.173 - the Data Protection Commissioner: reappointment - in the name of the Minister for Treasury and Resources and, I understand, that cannot be debated until 1st December. Then, on 7th December, the addition of a third amendment to Project 157 - the Expenditure Proposals for 2012 and 2013 and Draft Budget Statement 2011 - in the name of Deputy Green. Those are all the changes I have notice of.

The Greffier of the States (in the Chair):

Are there any matters to raise? Senator Maclean.

4.1 Senator A.J.H. Maclean:

Just a minor point. Tomorrow we have a further briefing for the Intellectual Property (Unregistered Rights) (Jersey) Law, which is being debated at the next sitting on 30th November. I would just remind Members, if they are able to attend at the museum in the Oules Room, 1.00 p.m. tomorrow, it would be gratefully appreciated for a full briefing on that particular law. It is quite complex and quite large and Members might find it of value to come along. We are, as an inducement, offering some sandwiches. [Laughter]

4.2 Deputy R.G. Le Hérissier:

How long does the Chairman think the next sitting will last?

The Greffier of the States (in the Chair):

Do you have any indication, Chairman?

The Connétable of St. Mary:

I would envisage it would take at least 2 days. There are some weighty pieces: the Sustainable Transport Policy and into the Intellectual Property Law, to name but 2. I would hope that we could possibly move through in 2 days, but I think Members should set aside the full 3 days, but aim to go on for 2.

Deputy M. Tadier:

Could I just ask for clarification from Senator Maclean. What type of sandwiches will they be because I am quite busy? [Laughter]

Senator A.J.H. Maclean:

A full range.

The Greffier of the States (in the Chair):

Very well. If there are no further matters the Arrangement of Business is agreed and the meeting is closed. The Assembly will reconvene on 30th November 2010.

ADJOURNMENT

[16.07]