

# STATES OF JERSEY

## OFFICIAL REPORT

WEDNESDAY, 7th JULY 2010

<b>PUBLIC BUSINESS – resumption .....</b>	<b>4</b>
<b>1. Public Finances (Jersey) Law 2005: funding requests under Article 11(8) (P.64/2010) (continued).....</b>	<b>4</b>
1.1 Senator A. Breckon: .....	4
1.1.1 Deputy D.J.A. Wimberley of St. Mary: .....	7
<b>1.2 Public Finances (Jersey) Law 2005: funding requests under Article 11(8) (P.64/2010) - reference back .....</b>	<b>11</b>
1.2.1 The Deputy of St. Mary: .....	11
1.2.2 Deputy A.T. Dupre of St. Clement: .....	12
1.2.3 Deputy D.J. De Sousa of St. Helier: .....	12
1.2.4 Deputy M.R. Higgins of St. Helier: .....	12
1.2.5 Deputy M. Tadier of St. Brelade: .....	12
1.2.6 Deputy R.G. Le Hérisier: .....	13
1.2.7 Senator P.F.C. Ozouf: .....	13
1.2.8 Deputy P.V.F. Le Claire of St. Helier: .....	16
1.2.9 Deputy J.A. Hilton of St. Helier: .....	17
1.2.10 Senator T.A. Le Sueur: .....	18
1.2.11 Senator B.I. Le Marquand: .....	20
1.2.12 Deputy A.E. Jeune of St. Brelade: .....	22
1.2.13 Senator J.L. Perchard: .....	22
1.2.14 Deputy J.B. Fox of St. Helier: .....	22
1.2.15 Deputy S. Power of St. Brelade: .....	23
1.2.16 Deputy P.J. Rondel of St. John: .....	24
1.2.17 Deputy I.J. Gorst of St. Clement: .....	25
1.2.18 Deputy A.E. Pryke of Trinity: .....	27
1.2.19 Deputy A.K.F. Green of St. Helier: .....	28
1.2.20 Senator T.J. Le Main: .....	29
1.2.21 Deputy F.J. Hill of St. Martin: .....	30
1.2.22 Senator A.J.H. Maclean: .....	31
1.2.23 Senator B.E. Shenton: .....	32
1.2.24 Senator S.C. Ferguson: .....	33
1.2.25 The Deputy of St. Mary: .....	34
<b>1.3 Public Finances (Jersey) Law 2005: funding requests under Article 11(8) (P.64/2010) - resumption.....</b>	<b>39</b>
1.3.1 Deputy D.J. De Sousa: .....	39
1.3.2 Deputy A.E. Jeune: .....	40
<b>LUNCHEON ADJOURNMENT PROPOSED .....</b>	<b>41</b>

<b>LUNCHEON ADJOURNMENT.....</b>	<b>41</b>
1.3.3 Connétable A.S. Crowcroft of St. Helier: .....	41
1.3.4 Deputy K.C. Lewis of St. Saviour:.....	44
1.3.5 Mr. T.J. Le Cocq Q.C., H.M. Attorney General: .....	44
1.3.6 Senator B.I. Le Marquand:.....	45
1.3.7 Senator T.J. Le Main: .....	46
1.3.8 Senator T.A. Le Sueur: .....	46
1.3.9 Senator J.L. Perchard:.....	48
1.3.10 Senator P.F.C. Ozouf: .....	49
<b>2. Civil servants earning over £60,000 per annum: publication of salary bands (71/2010)</b> .....	<b>56</b>
2.1 Deputy M.R. Higgins:.....	56
Connétable D.J. Murphy of Grouville: .....	57
The Attorney General: .....	58
Deputy M.R. Higgins:.....	59
Senator J.L. Perchard:.....	59
2.1.1 Senator T.A. Le Sueur:.....	59
2.1.2 Deputy D.J. De Sousa:.....	61
2.1.3 Deputy R.G. Le Hérisier: .....	61
2.1.4 Deputy J.A. Martin of St. Helier: .....	62
2.1.5 Deputy M. Tadier: .....	63
2.1.6 Deputy A.E. Jeune:.....	65
2.1.7 Connétable J. Gallichan of St. Mary: .....	65
2.1.8 Senator B.E. Shenton:.....	66
2.1.9 Deputy P.V.F. Le Claire: .....	67
2.1.10 The Deputy of St. John:.....	69
2.1.11 The Deputy of St. Martin: .....	70
2.1.12 Senator F. du H. Le Gresley: .....	72
2.1.13 The Deputy of St. Mary:.....	73
2.1.14 Deputy M.R. Higgins:.....	73
<b>3. Public Employees Contributory Retirement Scheme: Membership of the Committee of Management (P.79/2010) .....</b>	<b>76</b>
3.1 Senator T.A. Le Sueur (The Chief Minister): .....	77
<b>4. States becoming inquorate during a meeting: revised procedures (P.82/2010) .....</b>	<b>78</b>
4.1 Deputy P.V.F. Le Claire: .....	78
<b>4.2 States becoming inquorate during a meeting: revised procedures (P.82/2010) - amendment (P.82/2010 amd.) .....</b>	<b>79</b>
4.2.1 The Connétable of St. Mary:.....	79
4.2.2 Deputy M. Tadier: .....	79
4.2.3 The Connétable of St. Mary:.....	79
<b>4.3 States becoming inquorate during a meeting: revised procedures (P.82/2010) -as amended.....</b>	<b>80</b>
4.3.1 Deputy J.M. Maçon of St. Saviour:.....	80
<b>5. Jersey Financial Services Commission: appointment of Commissioner (P.86/2010) – as amended.....</b>	<b>81</b>
<b>[Debate proceeded in camera] .....</b>	<b>81</b>

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS .....81**  
6. The Connétable of St. Mary (Chairman, Privileges and Procedures Committee): .....82  
6.1 The Deputy of St. Martin: .....82  
6.2 Senator B.I. Le Marquand:.....82  
6.3 Deputy D.J. De Sousa:.....83  
**ADJOURNMENT.....84**

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

[09:36]

### **PUBLIC BUSINESS – resumption**

#### **1. Public Finances (Jersey) Law 2005: funding requests under Article 11(8) (P.64/2010) (continued)**

##### **The Greffier of the States (in the Chair):**

Very well, the debate therefore resumes on the proposition of the Minister for Treasury and Resources, P.64.

##### **1.1 Senator A. Breckon:**

First of all I would just like to make a couple of comments about the process and I think Members would agree this is far from ideal. We have something here without a great deal of detail that we have been asked to vote a significant amount of money for. If we reverse it, if I had some bright idea and came to this House to try to do the same thing I would get hammered, and rightly so. So would most other Members. So that brings the question to me, how many sets of rules do we have and who do they apply to? Of course we should only have one set of rules, so in future any Member must feel free if they have a bright idea to bring something to this House to request the Minister for Treasury and Resources to do this, and do it without fear or favour because others are putting somebody's arm up their back to do this. We should be able to do exactly the same thing. I am uncomfortable because of the lack of information and I want to give some detail about that. If we look at the history of court and case costs, there is a report which I can get for Members which was done by the National Audit Office. That was done in 2005, and I can get this on an email to Members, and it was to look at the States of Jersey independent investigation into court and case costs and in particular looked at Les Pas. I brought a report and proposition to the States to get this done and some Members opposed it, they also had a problem because it cost £60,000 to do it. But that was not my original proposition, I got a sniff of something that was wrong here and what I wanted, I wanted to bring in somebody, and this person will be known to others, to get us some money because I was not content ... and the Constable of St. Helier will remember the Parish of St. Helier had an expensive legal case and they used the services of someone who recovered some money. That is really where I was coming from. This person will certainly be known to Senator Ozouf, Deputy Gorst I think has spoken to this person, as indeed has Deputy Le Fondré, the former Deputy of St. John, probably Senator Maclean and others, because this person was rightly selling their services - sometimes on a no fee, no win basis - but what they were saying was: "I will go in there, I will look at these invoices, I will see if they are justified, similar to tax costs [which is nothing to do with income tax] and I will get you some money back, and if I do not I do not get paid." That was the deal but it never happened. After the National Audit Office produced their report I wrote to the then Minister for Treasury and Resources, who was Senator Le Sueur, and said: "What are you going to do about this? Over £1 million in costs, the report has found failings in the system and has said that we did not get value for money, all this was not justified. Let us get some money back." We never followed it up. So I would suggest to Members what we do not want is another review, we want somebody to have a look at where all this money has gone and see if it is justified and I am sure we will get some back. When they looked at this they looked at a sample of worksheets and what they found was that on a Friday afternoon perhaps a senior partner would be reading some of the stuff on our case and then the invoice would come in to say: "We have done lots of work, please give us some money" and somebody did. That was that. In there they were fairly damning, there was no contract with the lawyers and the bills came in and we paid them. That is how it was and I am still uncomfortable with this system. Okay, we can say across the top we should not interfere with the process but underneath somebody should be able to justify to us that every penny spent is value for money. I am not confident or comfortable that that is where we are at the moment. There are senior people who are filing and photocopying and doing

stuff like that at serious amounts of money per hour. We are talking between £300-500 an hour for some of this. We had paralegals who were sending faxes to each other for £80 and £100 a go. "Have you read these papers yet?" "No, I have not." That is £200 gone. That is the sort of stuff that they found. This is the territory unfortunately where we are and there is somebody who can deal with this but unfortunately we have not employed their services because they are not that popular. Certainly not with the legal profession because they can get well under their skin, but that is where we need to go. So what I would like from the Minister for Treasury and Resources, I would like an assurance, not about another review but about somebody who will go in and do this stuff and he will say independently - there is a number of people who would do it ... when I brought this in, I think, 2004-2005 some of them wrote to me and said: "We do this work, we can look at this for you and we can look at case management, we can look at costs, we can look at whether it is justified." Now, something Senator Le Marquand mentioned yesterday, taxed costs. What taxed costs are, it is nothing to do with income tax, somebody reviews the case and says: "This is the cost of your case but it is not because I am striking that out, that was not necessary, that is too much, that is something else" and that is what taxed costs are. Nobody has done any tests on the taxed costs that we have, we have just unfortunately paid the bills.

[09:45]

With court and case costs I am extremely uncomfortable with where we are now and there are a couple of bits in this report I will refer to because I believe it is as valid today as it was then. We have not learnt from this and my objective was not to spend £60,000 on a report, it was to get the evidence - the evidence - to say to them: "You have overcharged us; we would like some money back, please, and quick." We never did that so maybe we need to do that. Also in the comments of the Public Accounts Committee - when I find them - in 2003 there was an audit committee of the Finance and Economics Committee and they produced a report in December 2003 and what it says is the report made a number of recommendations to control expenditure through greater budgetary discipline, introducing performance measurements and making better use of competitive tendering. What it says in that part of the National Audit report is that the Les Pas case illustrates how costs in a complex case can escalate if there is a lack of proper management of professional advisers. It also said at the time that more pre-contract negotiations did not take place with the advocate for the Les Pas case; there was no contract. In fact they just said: "Here is some work for you to do, get on and do it and send us a bill." That is unfortunately where we are. As I say, as part of that, again in the P.A.C. (Public Accounts Committee) findings it says: "Those dealing with court and case costs should be able to demonstrate that lessons have been learnt and standards of case management improved since the National Audit Office Report in 2005 made recommendations into legal costs and charges incurred by the public in the Les Pas case." This report found that "more effective arrangements are needed in the procurement of professional services to ensure that the costs incurred are necessary, relevant and reasonable." It also said: "Savings could be made by a better, more robust management of professional service providers and by exercising closer and tighter control over costs and payments." I still do not believe we have got there yet in doing that. If we look, there was no real discipline in this because there were a number of tea chests or treasure chests that could be dipped into, confiscation funds, and only certain people or departments could do that. We could not say: "Well, we have got a community project" ... we could do that but there was lots of hurdles and hoops, believe you me. But some had access to this at a high level to just say: "We have got some legal fees, court and case costs." When you go back to court and case costs some of it included towing vehicles and dogs' dinners. I kid you not. Police dogs were fed on court and case costs in some of the paperwork. What they were doing, I am not sure, but they were fed. Now, that is everything ... it was just like a tea chest, where do we get the money? Court and case costs. Where do we get the money? Court and case costs. Everything was in there. It was literally a dog's dinner. **[Laughter]** It was convenient. But the Minister for Treasury and Resources has now the problem that there was no financial discipline in that, because the money

was there. We have taken the money and there is a queue, okay hopefully with recovery there might be some more but there was a recommendation from the Comptroller and Auditor General that money recovered goes to the central fund, it does not stay where it is hypothecated, where somebody could do all sorts of things. The other thing with this is that it is how it is accountable and who are the Accounting Officers. If we think of Economic Development, we know who the chief officer is and the same person is the Accounting Officer. If we think of Education, we know who the chief officer is and we know who the Accounting Officer is. If we think of the Law Officers Department, we know who the chief officer is but that person, the Attorney General, is not the Accounting Officer, it is somebody else. If we think of the police, we know who the chief officer is or the acting chief officer but they are not the Accounting Officer, and that is another thing that is not acceptable because they cannot be able to say: "Well, I have spent the money" or: "This is where the money went" but it is somebody else's responsibility. That is unfortunately where we are. So another thing I think the Minister for Treasury and Resources needs to consider is a change in the law to make that ... although it might be uncomfortable for the Attorney and the Chief of Police, whoever that may be in the future, there needs to be an Accounting Officer, and however that works in the system, because if they are spending the money and to a certain extent the budget is ring fenced, then it is not right and proper that somebody else should be accountable for that when they do not have sight and supervision, I would suggest, in a proper way. In the National Audit Office Report it is fairly damning, but in a light way. What it said in there is that court and case costs cover variable expenditure on judicial activities. I know there is some grey area, and I do not cross the line, but whoever is responsible should be accountable and that is really where I am coming from on this. It also says that court and case costs have risen significantly since 1988 but are now starting to fall. Well, probably now they are not so that is why I think we need to look at this in more detail and it rightly acknowledges: "Large complex cases have a disproportionate effect on the overall level of expenditure on court and case costs." But it says, and this is where we can get external assistance: "Planning a case is important." You would not put your car in the garage and just say to them: "Look, do whatever you want." Generally if it goes in for a service they will phone you up and say: "By the way, the brake pads need doing, you need a new exhaust, it is going to be another £300." They would not just do it and you go back and you do not have enough money to get your car out of the garage. It is generally accepted ... and you will get a list that says they put oil in it, they put plugs on it, they have done whatever. You would not just get a bill to say it was £450, they would itemise everything and indeed they do. Perhaps we need to get there. So we do not need a review of court and case costs, we need a thorough examination that looks back as well as forward and puts a system in place. We are not saying about which cases get pursued, we are saying we have a framework, we do it and everybody knows the rules and there is a reporting structure in there. We do not need to see it providing somebody can account for it, put their hand on their heart and say: "Yes, this is what we paid and this is value for money." Again, it was said to us in the presentation the other day that every about couple of years there is some sort of audit or checks on court and case costs, but maybe, just maybe, we need to get a more robust structure in place because I am very, very uncomfortable with just giving money to this. Very, very uncomfortable. I say that because it has a history and maybe we could get a few old invoices out and get somebody in to do some work and just see what this brings out. I believe it will be worthwhile and there is somebody I know who is around who could do it. Indeed, there are a number of people. On the other issues contained in the proposition, on the redundancy thing I think it is, as other Members have said, fairly generous to groups of employees, especially those between 5 and 10 years. When anybody loses their job it is indeed unfortunate but I think it is right and proper to have money in place were that to happen, and it is obviously subject to negotiation and assistance for those people involved and that is through the trade unions, individuals, associations, whatever it may be. The other thing with procurement, again as a member of the Public Accounts Committee I have seen some of this and a report is in progress. The only thing where I have a problem is this has blown hot and cold and we were told the other day there has been a centralisation since 2005, but then if we are employing people and they are buying biros or

washing up liquid or whatever it is, is it unreasonable to ask them to go to the same place if we have done a deal and do we need to bring in a team of people to tell them: "If you buy your biros or copying paper then we will tell you where to go." I am not sure exactly where this is going and if we have a management structure ... there is obviously people doing this already. The other thing is the JD Edwards computer system was supposed to capture all this information so that if I bought say stationery, it was entered into the system as stationery and then the centre could look at it all and say: "I have bought stationery. Hang on, what have you done here?" We cannot do that because apparently, although we spent a lot of money on the Edwards systems not everybody is still using it. Then we have fragmentation when we have apparently 2,111 cards, so if I do not want to buy stationery from the approved thing I can go in the High Street and buy it on a card. That is getting around the process but I do not think we need a team of people ... what we need to do is we need Ministers to tell their chief officers and senior managers to sign up to this and if we are getting value, if we are buying local wherever possible and using local services then people should sign up to it and do it. I am not convinced that we need more people to get them to do that because somebody is doing stuff anyway. So with parts (a) and (c) I do have a real problem and that is why I would prefer, if the Minister would, separate votes on this because I am uncomfortable with this. I would like assurances on (a) that we will not just have another review, somebody will go hunting and get us some money back and we will also change the law so that Accounting Officers are not just as we know them, they are people - with respect to the Attorney and the Police Chief or Acting Police Chief - they are accountable for the money spent and also I am uncomfortable with the procurement. I know, as they say, we are where we are, and the Minister for Treasury and Resources is probably not comfortable with this himself, but having said that I am uncomfortable with this process and I think what it does, it gives an opportunity for the rest of us to: "Well, I have got a bright idea, 11(8), ask the Minister for Treasury and Resources to do it." I do not know what the process is but having said that this House should be master of its own destiny. All in all I am disappointed really to see this before us and at the same time we are looking at Comprehensive Spending Review, cuts for services and all sorts of things. We have got some serious discussion and distress in some instances out in the community and then we have this before us and I am not comfortable at all with that. **[Approbation]**

### **1.1.1 Deputy D.J.A. Wimberley of St. Mary:**

First a brief apology, I had to leave near the beginning of the debate after the introductory speech by the Minister to go and see the dentist. So I missed 2 or 3 contributions at the beginning, I am sorry about that. Yes, I would like to start with a general remark. There has been some commentary about how unsatisfactory this process is and then, of course, the phrase, inevitably, near the end of Senator Breckon's speech: "We are where we are." People have complained about the briefing happening the day before and it just is a function of the process being rushed and straitjacketed into an almost impossible schedule. I would just say this whole process of looking at the public sector and how we can deliver more efficiently what we need to deliver should have started after the Strategic Plan perhaps. It should be done in the spirit of co-operation. These are general remarks. I will get to (a), (b) and (c) in a more detailed way. But I just think it is important to see why we are where we are and why it is so uncomfortable to be dealing with this proposition. As I was saying, if we had started with the Strategic Plan and its strapline which started ... the starting point was the needs of the community, what are the needs of the community? How do we provide what is needed?

[10:00]

If we had gone forward together on that basis with the community and the States and the workforce then it might have been a happier process and certainly a less hasty process. There are some services and facilities which had to be provided by professionals, I have no doubt about that at all, but there are other services and facilities which can be provided or managed by the community

within the community. That is an aspect where we do not go. It is in the Strategic Plan to build community but somehow I am not sure that there is much thought given to that and much consideration. I will be asking questions in future sessions about this whole area of building a community and how we do that. But I would point out that most work in the world that is done is unpaid. Most work is unpaid. That sector is where we have to expand in order to, if you like, get better value. The unpaid voluntary sector is where we have to, in a strange sort of way, make the savings. More and more will have to be done outside the money economy. This whole proposition, and as I say I will come to it, is built within the money economy and that is the constraint of the proposition and that is what we will be discussing. But I just wanted to point out there is this vast area of unpaid work which we need to look at seriously if we are to end up balancing the books in a world that is changing. There is no doubt that the world will not be the same in 5 years' time for the reasons that I have mentioned before, climate change and peak oil. It is going to be a different economy and we are going to have to rely on the voluntary, the unpaid, the community sector more. So if we had started with a shared vision of the needs of the community then we would have a better process. But instead we are in a, what I would term, high speed rushed programme of cuts driven by ideology with no real discussion of the community's goals and aspirations. We just skipped that bit. We put it in the Strategic Plan, the needs of the community, working together to meet the needs of the community and then we did not ask, we did not find out, we did not really go there. As a result the Council of Ministers, the workforce and the States are not united. We have this scrappy debate, we are as divided as the England football team, and the rest is history. We are not there in the final. So I will follow the proposition, the (a), (b) and (c). First court and case costs, I am so grateful - we all are - to Senator Breckon for going into the nitty gritty of that report because, my goodness, this really is not satisfactory. The Minister mentioned in his opening remarks about the Rubicon, the Rubicon of political interference. Of course we must be very careful where we tread here. There cannot be political inference with the operations of the judiciary, the judicial arm, and so there is this sensitivity; it is like treading on egg shells, politicians, judiciary do not mix. So we have to be clear on that. But as we have heard from Senator Breckon we have to find a way to ensure good governance and control of costs while guaranteeing freedom from political interference. Now, that sounds pretty obvious and one just says it, but it is not a new problem. The judiciary have had these costs, volatile costs; we have had the position of having to control them, so it is not a new problem. The Minister promises a review, and I quote: "To consider costs across all the legal departments. That review will address the control of costs from 2011 onwards." But the report that Senator Breckon was quoting from was 2005. The National Audit Office was commissioned to do a report in 2005. So we are being asked to approve already made or committed expenditure in the absence of controls recommended 5 years ago by the National Audit Office report. I would ask; how much did the States pay for that report and what is the point of commissioning it if we do not look at the results and take action? So here we are, utterly sensible recommendations, the exact correct words to ensure the costs incurred are necessary, relevant and reasonable. That is absolutely the right statement from the N.A.O. (National Audit Office) report, it is a sensible recommendation and we have not done it. So the Minister comes along and says: "Can I have £8.5 million?" because we did not do something for 5 years. I would go a step further than Senator Breckon. Other speakers have more or less implied that they will hold their nose and vote for this. I am not at all sure that we should not go a step further and make the Minister come back ... he may come back with the same figures and say we have to do this, we have to have this money but at least we would have sent a strong signal that we expect reports to be acted on when they make good recommendations. We cannot go on 5 years at a time just not taking action because it is a bit difficult to go there, or it is a bit difficult to set up the governance structures because they are a little bit difficult to do. They are difficult but we have to do it, we have been recommended to do it and we did not do it. We cannot just say: "Oh well, okay then, write a report a bit later and that is £8.5 million and we will vote it on the nod" and then what? You know, that would be another 2 years. So I have serious, serious problems in that area. Turning now to paragraph (b), the voluntary redundancy and the C.S.R. (Comprehensive Spending



Review). Deputy Southern pointed out in his speech the reality of the cuts and went into a couple of details, so I will not do that at all. I want to point out how the fundamentals have gone missing in a sense and how we are being asked to vote this money basically in the dark or back to front. The first point I want to make is that in a written answer on 25th May the Minister - sorry, I am just trying to find the quote; I do not have it - referred to the principles underlying the C.S.R. which had been agreed by the Council of Ministers in late 2009. He also referred to the rules and framework governing the C.S.R. which were agreed by the Council of Ministers in February 2010, this year. Now, I asked for those principles and the rules and framework at the briefing on 2nd June into the C.S.R. That is over a month ago and I have not had them. The pledge was to send them to States Members. So we have not got even the document that underlies the money we are being asked to vote for today. The second point is I asked for a timeline and a list of the personal advisers and commissioners. I asked a written question on 8th June and was told that external advisers will be used in the process of the C.S.R. - I thought they were already in place - to undertake the major investigations into the big 6 areas of expenditure: Education, Sport and Culture; Home Affairs; terms and conditions of employees; court and case costs; Social Security and Health and Social Services. I asked for the timeline and who and when they were appointed, who the commissioners were and whether they had been appointed, and what the process was. I asked for this in the States on 22nd June, and the Minister promised to send that to all States Members. I have also asked for it in an email subsequently. No answer. So we do not have the fundamental rules and principles governing the C.S.R., we do not have the timeline, we do not know who the advisers are and they have been appointed basically a few days before departments are expected to report with their outline for 3 per cent and 5 per cent cuts. It is absolutely astonishing. Remember that this £6 million that we are being asked to vote for is part of this process. We do not even know the basic facts. My third point is the C.S.R. is designed to deal with the black hole; the famous structural deficit which has been caused by Zero/Ten, or caused in a large part by Zero/Ten. The Minister is shaking his head. My understanding was that it was caused by Zero/Ten ...

**Senator P.F.C. Ozouf:**

Would the Deputy give way? Just to be helpful, the Zero/Ten deficit was part of the fiscal strategy review, which was filled entirely by G.S.T. (Goods and Services Tax), 20 means 20, the savings plan and economic growth. This structural deficit that we are dealing with unfortunately is due to the economic downturn, of lower levels of economic growth than anticipated and this Assembly decision to spend more money than perhaps might have been wise knowing what we now know about the economy.

**The Deputy of St. Mary:**

I shall ignore the last comment because we know about the 6 per cent year on year increase that was not. But, no, the Zero/Ten is still relevant because if ... well, I will continue to say why it is relevant and why the black hole may not be as deep as we think. Yesterday in question time there was some discussion of the open-ended external review being carried out by the O.E.C.D. (Organisation for Economic Co-operation and Development) into the compliance of our Zero/Ten set up. The Assistant Minister yesterday - and I wrote down his words more or less verbatim - "Jersey's Zero/Ten proposals are yet to be reviewed by the Code Group and I am confident that they will pass the test." That means that they meet the spirit and letter of the code. But if it is found that Zero/Ten is compliant and can carry on and can remain on the book, if you like, then surely that has an effect on the depth of the black hole, and on all the projections, again, on which the C.S.R. is based. If the Minister for Treasury can convince us all otherwise, the other 2 points still stand. That we do not know the fundamentals, we have not been told what they are, and we do not know who these advisers are who have precious little time to do their £450,000 worth of work. The fourth point I want to make is that - and I think one or 2 other people have touched on this - the voluntary redundancy package is built on an assumption that we will vote for the cuts. We have already seen, as others have pointed out, that one cut has vanished already, namely the lifeguards at

the pool. But that is just, if you like, a blip. The point is that we have not voted for the cuts. They come as a debate after September. Yet this is a provision for those cuts in advance. We do not need an advance provision for the cuts; we can have the provision when and if the cuts are made. The Minister for Treasury and Resources in his reply to my emailed questions, which he circulated to other Members late yesterday afternoon, about the need for the cuts and how we carry out the cuts, I would just say that there is an assumption that we can make the 2 per cent cuts and then they will stick. That those posts are genuinely not needed, never were needed and we can do without them. But there is a problem there and that came to light in the hearing that the Scrutiny Panel for Environment had with the Planning Department about their 2 per cent cuts - note the 2 per cent cuts, not the 3 per cent, not the 5 per cent, just the 2 per cent - now their figures presented to the panel showed that they wished to save £208,000 in 2011. They have put in a growth bid for £255,000 each year, 2011, 2012 and 2013.

[10:15]

I support all the 4 elements of that growth bid except one. One I find questionable, the other 3 are absolutely necessary if we want to protect our environment. I will give one example. They are asking for additional money to fund a post to carry out all the compliance and regulation necessary to bring the waste over from Guernsey to put in our incinerator. It is part of the cost of doing that. If we want that income stream then we have to make sure about the provisions of the various treaties, about moving waste by sea and then what is in the bags and so on and so on. So they asked for money to ensure that that process would run safely. So you have got a saving, a nominal 2 per cent, and then you have got a growth bid, involving I might add staff costs. So it is a very strange thing we are being asked to do today. Vote in advance for cuts that have not been made yet and, I am sorry, this is not appropriate. We are being asked to vote in advance, it is cart before the horse and, in addition, we have not got the fundamental information anyway because we have not been sent it. So we are in the dark and the cart is before the horse. That sounds like a recipe for an accident. Finally procurement, paragraph (c), I was minded to support this part of the proposition when I read the report. I thought: "Yes, invest to save, a better procurement function surely if we buy all the paper and all the pencils in one go. It has got to save money." Then I heard Deputy Green speak yesterday and I was quite shocked by that because I have worked in procurement myself, so we have had a little conversation this morning. A couple of points come out of that conversation and have made me very, very sceptical about this part (c). The first is the famous cards, which we now know number 2,011, I think was the number. The famous cards which are now criticised by the Minister for Treasury and Resources were a Treasury initiative and apparently the rationale was that invoices cost a lot of money to raise and if you have a card it is quicker and easier. So let us roll out a system of cards, 2,000 of them, to save the invoicing costs. But the problem is you lose money on the card transaction costs. So it is swings and roundabouts. That is a little whiff of the worry around this issue of saying: "Let us have some money to put into procurement so we will save some money" if that is the level of what has happened before. So I just put that in as a doubt. The other point that Deputy Green and I discussed was losing expertise. That if you have a central function, nevertheless you have to keep the expertise within departments such as obviously Health because it is a highly specialised area. So you do have this balance to be struck and that is the issue, is it not? We are told that by voting this money we will experience huge savings. On page 4 of his report the Minister gives details down to £100 of the costs involved in the court and case costs. There is a table, there is the budget, there is the shortfall, down to hundreds of pounds. When we turn to the savings that have been created by procurement so far, there is no evidence at all. There is a statement that the Procurement Department on page 9 has met its overall target of delivering £2 million per annum deliverable savings through negotiation of corporate contracts. It would be reassuring to have had a footnote. To just have had the background in the same way as when I am asking for money I give the detail so when I am claiming that there is a saving it will be good to have some detail. Because remember this is a

request for changing an administrative function of the States. This is not a minor matter. Centralising procurement, having people in each department that are managed by central procurement, this is a big change and it is being slipped through on a supplementary vote. Sorry, you need evidence if you are going to do that. There is no evidence of the £2 million existing savings, and when it comes to the promised savings we read this on the sixth paragraph on page 9. “The contribution to efficiency savings that a specialised procurement function can bring to public and private sector organisations is well recognised.” Is well recognised. Now, I had a funny email sent around by somebody, I think it was the famous blogger Tony Bellows, with phrases in that people use in reports, and this is one of them. “Is well recognised.” By who? How many people recognise it? Which organisations? I am sorry we are being asked to vote money to restructure the government on the basis of “is well recognised”. I am sorry it does not wash. We are once again in the dark. It might be the right way, I do not know. Frankly, nor does anybody else in this Chamber. So where do we go, we have court and case costs which should have been controlled as a result of a report written 5 years ago and it has not been done. We have got voluntary redundancy payments in advance of the cuts that we have not agreed yet and we have procurement savings which could come and could be an illusion. I am not sure about the procedure here but maybe a reference back would be appropriate to make the Minister stop and realise the importance and gravity of what he is doing today and just come back with a bit of flesh on this. I do not know if it can be done in the next overloaded fantastic session but, in fact, the V.R. (voluntary redundancy) would have to wait anyway and it is so unsatisfactory this document. The Minister says on page 6, to allay people’s fears about the court and case costs, the results of not voting the court and case: “Should the States not approve part (a) then either important court cases could not go ahead or the Accounting Officers concerned will continue to over spend available budgets which is a breach of the Public Finances (Jersey) Law.” Well, they are doing it already. If they continue to overspend available budgets I am sure the court cases will go ahead, it is more expensive to keep people sitting on remand than it is to deal with them so those court cases would go ahead. The money would be found, it might be a breach of the Public Finances (Jersey) Law but I think we have done that before as well and I will not go into details. So it is not a deal breaker, we can ask the Minister to come back just in order to inform him that this has to be sorted and it has to be sorted now.

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

Is the Member moving a reference back? I am slightly confused.

**The Deputy of St. Mary:**

That was a proposal. I am not sure about the procedure and I would not want to cut short the debate either.

## **1.2 Public Finances (Jersey) Law 2005: funding requests under Article 11(8) (P.64/2010) - reference back**

**The Greffier of the States (in the Chair):**

Forgive me, Deputy, I heard you mention reference back and I was not sure you had pursued it. You are entitled to propose a reference back. It is traditional for the presiding officer just to ask then to clarify the grounds of the reference back. You can seek a reference back for further information. It is on the grounds of further information on all 3 paragraphs or ...?

### **1.2.1 The Deputy of St. Mary:**

On (a), we need information about what the review would consist of, why nothing was done for the last 5 years, we want a pretty loud apology and we need to know - as Senator Breckon pointed out - that we are going to recover the money. That we are going to have a serious process about that. In (b) we need the information that I have referred to. We need the fundamentals, we need the timeline, we need to know who the advisers are, we need to know the basis for this voluntary redundancy and for the cuts. On (c) we need to know why the procurement function should be

rearranged as it is a major function of government and you cannot just do it on the hoof in a supplementary vote. So that is the reason why I am asking for a reference back.

**The Greffier of the States (in the Chair):**

Very well, thank you, Deputy. You are entitled to make that proposition. There are no grounds to disallow it. Is the proposition seconded? **[Seconded]** The reference back is open for debate. Does any Member wish to speak on the reference back?

**1.2.2 Deputy A.T. Dupre of St. Clement:**

We have got this far, I really think a reference back now is just wasting everybody's time. A lot of people have made their points already. This is getting beyond a joke. We have spent a lot of time discussing this already, I think we need to get on with it and get on with the voting.

**1.2.3 Deputy D.J. De Sousa of St. Helier:**

I am sorry but I have to disagree with the last speaker. The Minister, I am sure, gets the feel from the House that people are not happy with the way this was presented and the information we were given, and I think we do need a reference back and it needs to be done properly.

**1.2.4 Deputy M.R. Higgins of St. Helier:**

I would like to echo the opinion of Deputy De Sousa. I think a reference back is appropriate. Just to tell the House one thing. I am probably the only professional buyer or purchasing person in the States. I have a Diploma in Purchasing; I was a member of the Chartered Institute of Purchase and Supply and dealt with the purchasing in the aerospace and construction industries. There is totally insufficient information here. Now, there are tremendous advantages from having centralised purchasing. It can also be a disaster. There is not the information here. For example, the States are using a travel company, I think it is Gray Dawes - I do not mind naming them. The actual cost of some of their flights are well in excess of what departments can get on the internet. It is absolutely insane. So before we go this route, let us look at the case for centralised purchasing and against it and have all the facts about how it is going to be done because there is no information here we do not know. In terms of the redundancy payments, I agree. One of the most frustrating things about the Comprehensive Spending Review is we do not know what is going on. We do not know what the cuts are, other than a few lines on about 4 pieces of paper. We need to understand what is being proposed and that personally is when I think the Minister should be coming forward with a funding request to fund how he is going to manage the particular cuts that this House will agree. As far as the court and case costs are concerned, essentially the Criminal Offences Confiscation Fund has become a slush fund for the judiciary and the police. In the past we know the police funded some of the equipment purchases out of that particular thing. Never properly sort of accounted for. That money ... basically no court cases should ever be prevented from being brought on the grounds of cost because they should come out of the consolidated fund and all the money from criminal confiscations should go back to the consolidated fund. I think there is insufficient information here and I think the Minister should come back with far more information and justification for what he wants.

**1.2.5 Deputy M. Tadier of St. Brelade:**

I think the argument that simply because we have been discussing this for a certain period of time does not stack up. I think if we do not have the information at whatever point in a debate it is quite right that we do ask for a reference back. It reminds me of the expression: "Do not throw good money after bad." I think that is the point at which we are at at the moment. I think certainly in the one sole area of procurement I think many of us do have concerns about that. We do need more information about that. I think we cannot carry on being fobbed off. I know that court cases ... there must be a separation between the judiciary and the legislature ideally but it is not satisfactory to say this is confidential and this is sensitive information. It is possible to present information which is useful to States Members in such a way so as not to disclose sensitive information. Also I

would like this to come back, if it is referred back, as a leaner proposition. I feel there are far too many things being piggybacked on this proposition that should not be there, extra costs, simply because it will save the Minister doing it next year and it will not impact on the budget year. So I do support this reference back. It is vital that States Members do have the information at their fingertips because we will be held to account by our own constituents.

[10:30]

#### **1.2.6 Deputy R.G. Le Hérisier:**

I would like to reiterate that I find there is this total ambivalence in the way that the Minister for Treasury and Resources presents issues in the sense that we are for ever preached the dogma of cuts, cuts and as I said yesterday I am quite prepared to take modernisation and reform, I am certainly not one of those who believe the service has to be seen as frozen in aspic, not at all. But on the one hand we are preached the dogma of total discipline, of battening the hatches, of forcing through changes and on the other we are presented with propositions which simply do not live up to the ideals which he wants the rest of the service to practice. It is totally wrong. I made the point yesterday that the public are utterly dissatisfied that there are to be cuts on the front line, as Senator Breckon said yesterday, a lot of cuts that are quite clearly symbolic and are designed to fail. Yet the Minister never ever will look at the whole senior salary and staffing structure of the service with any seriousness, and yet we are expected to buy into this other philosophy. It was obvious from the immense speed ... the Minister does present at speed but he was presenting at extraordinarily speed yesterday in order that we would not pick up the nuances of the argument. I am so glad that people have now picked up the nuances of the argument and have realised that this is an attempt to undermine what we thought we were buying into, a disciplined considered procedure to make the very painful cuts that it appears are essential. It has not been presented that way and I know the Minister in his heart feels, because the speed at which he presented it yesterday suggested this, that he cannot sustain a logical case for the court and case costs, that he is basically justifying, not totally, the unjustifiable. I think Senator Breckon made a very good distinction. Quite rightly ... and we have had this over the suspension issues when the button is pressed and we are told the whole thing must run, run, run and you must never ever comment on it. Of course we must never comment on the merits of a case, on the evidential issues that surround a case and issues like that. But we can comment on the fact of whether or not it has been managed correctly. There are management disciplines that apply and can apply without political inference entering the equation. The Minister failed to make that point and he failed to show a real push for reform in that area. I just do not like this ad-hockery, it went on with the fiscal stimulus where all of a sudden we coughed up £44 million and some of us have never quite recovered from that, particularly we never realised that the mending of the Avenue was going to rival the building of the Pyramids **[Laughter]** as a construction project. Here we are again and I also acknowledge ... and I make the point about procurement, voluntary redundancy I think we are in a box and we have got to renegotiate, but Deputy Green, I have acknowledge, he made some very good points. He has written the history of procurement, its ups, its downs, its further ups, its further downs and, again, as the Deputy of St. Mary said, the case is not at this point convincing.

#### **1.2.7 Senator P.F.C. Ozouf:**

I am going to try and keep my spirits up. **[Laughter]** I am often asked by people walking around the Island, why do you do it? Why do you put yourself in the position where you will never please everybody? I guess that I should not be surprised and I should not be disappointed and I should not be downhearted when I try and bring propositions to the States in doing what I think is right, which is trying to control public finances. A number of Members have, I think, been quite clear in their understanding but as far as the court and case costs proposition is concerned, if I were to be less transparent than I am trying to be I would not bring this proposition. I know that there is a likelihood that there could be a criminal asset confiscation order which ensures that the court and

case costs could be funded. But I do not think that is the right thing to do. I think the Assembly needs to set the budget. How it is funded, whether or not it is from the consolidated fund or whether or not it is because of a criminal seizure, should be a separate matter. I am asking the Assembly, and I would ask the Assembly to support the fact that I am asking for, for the first time, absolute transparency in terms of the court and case costs budget. So I understand Members' concerns about court and case costs; I am concerned about court and case costs. I want to see the review, I want to see that there is independent oversight, I want to see that there are the appropriate checks and balances. I am not saying that they are not there but I certainly want to reassure myself that they are there and certainly that they are there for the high level of court and case costs expenditure which I am asking the States to agree. The reference back, I do not like to say this, I suspect that a number of Members will probably support the reference back and even if I come back with more information will be against the proposition in itself. I understand that some Members do not believe that we should be saving money. (b) and (c) of the proposition is about making a meaningful start on saving money in the States of Jersey. It is about starting the Comprehensive Spending Review and I fully accept that it is a chicken and egg situation. Where do we start unless we have a redeployment/redundancy pot we cannot even start to discuss with staff about an option of coming forward with a redundancy programme? What confidence can there be to start a programme if there is not the resources available? The truth is, and it is an uncomfortable truth, that with an organisation that spends ... of its £600 million worth of expenditure, if we are to target a reduction in spending, we are going to have to look at manpower costs. It is after, of course, redeployment and retraining and vacancy management, all of those things. But we have to be clear to the Island community about the reality of staffing costs. I know that it is easy for Deputy Le Hérisier to criticise members of the States Employment Board about salary levels at the higher level. These things are obvious and they are shared views by me and other Members of the Executive and other ministerial colleagues. I think that there is a real issue about pay and remuneration in the public sector. I will be clear and I am on record in saying that I think that there is an issue and I want it examined. But it is not right to simply say that that is simply an issue at the higher levels of management pay. There may well be issues there and there may well be performance issues, and there may well be issues that we need to look at in the higher levels of management and slim it down. Do we really need the number of chief executives of all the departments that we have? Do we really need the levels of middle management, et cetera, that we have in the organisation? I do not think so, which is why a key part of the Comprehensive Spending Review is looking at management, looking at pay, looking at structures within the organisation. But we have to make a start and this is a start in the long road of reining in public expenditure. I have to say as far as court and case costs are concerned, I do not think that I would be able to come back with the level of detail that some Members want about court and case costs. We had this discussion yesterday with the Deputy of St. John and I regret to say that I am unable to come forward ... The Minister for Home Affairs has not spoken yet in the debate and perhaps the Attorney General will want to contribute at some point in relation to some of the court and case cost issues. I do not think that as Minister for Treasury and Resources I would be able to come forward with any more detail in order to justify the budget but I will say one thing. Financial management and control of spending is not simply about setting a budget. It is also ...

**The Greffier of the States (in the Chair):**

Sorry to interrupt you, Minister, it may help the Assembly, I think it is important to remember the reasons for the reference back, one of the issues perhaps you could address was the matter raised by the Deputy of St. Mary in relation to the progress on the review done 5 years ago.

**Senator P.F.C. Ozouf:**

I will address that.

**Deputy M. Tadier:**

At this point could I raise a point of order, and it is a valid point of order, and it is because there is a natural interruption I thought I would seize upon that. The Standing Order in question is 104(2)(c) which says: "A Member of the States must not impute improper motives directly or by innuendo on any other Member of the States." The reason I rise to say this, a moment ago the Minister did say that there are some Members in the States who do not think that savings should be made. Personally I do not think there is any Member in the States who does not believe that savings should be made and I would like the Minister to retract that statement because I think we all agree that savings need to be made. What we are saying is that we need the information in order to believe this proposition.

**Senator P.F.C. Ozouf:**

I will respond to that directly first of all. Let me apologise unreservedly for any suggestion I make that no Member wants to make savings. I will try and tackle it from a slightly different way. What I am saying is that I think that there are some Members who might not appreciate the full extent of the financial challenge that we have. I was going to respond in my wind up remarks that I wanted to convince Deputy Tadier that there is a problem and I exchanged a few pleasant remarks with him yesterday about the extent that there is a deficit this year. There is a deficit this year and it is likely to be £60, £70, £80 million. That is the first time that this Island has had that level of deficit. The worrying thing that I need to share with the Assembly, while these are small compared to most other places they are real and they are cash and because we have low taxes the impact on correcting them is larger; they are real. There is a real issue of a structural deficit which this Assembly has to deal with. There is no hiding place. There can be no hiding place of simply putting this issue off for another day. That is what other countries have done, they have passed the problem off to subsequent generations and if it would not be this Minister for Treasury and Resources standing in this place today dealing with this problem it would be for another Minister for Treasury and Resources standing somewhere in this Assembly at some point in the future that would be having to deal with the catch up. We have a track record of dealing with our problems within the life of the Assembly, and that is what I believe our success is built upon and that is what I am asking the Assembly to tackle again, as uncomfortable as it is, in this issue. So I apologise but I just ask Members to understand that there is a real problem, there is a real deficit and we must deal with it. This proposition is trying to deal with it. Now, I do not really want to say any more apart from to say that I realise that there is scepticism about the issue, and one of the reference back items is on the issue of procurement. I understand that there is scepticism about that. I understand that there is scepticism about the fact that you can centralise and you can save. Some of the experience ... and I think that that is borne out by some of the experience that has been in place with other departments that have been centralised in the past. I will cite Property Holdings as an example. Property Holdings was going to be the single solving solution for asset and proper allocation of property resources, and it has not reached its potential; I will be absolutely honest. But not doing it and not centralising it and not continuing to try and deliver savings in a central basis is not the right thing to do. Out of the £100 million worth of non staff expenditure we have in the States there is waste, there is insufficiency, there are these hundreds of - I do not wish to be disrespectful - amateur purchasers, perhaps not with the qualifications of Deputy Higgins and others, and we have to do something about it. Yes, Senator Breckon is correct when he says that there are issues about JD Edwards. JD Edwards was also implemented 12 years ago in this Assembly ... I was part of the Finance and Economics Committee that dealt with the mess of the promise of the Atlantis system that was going to do everything including doing the dishes and doing everything in terms of procurement. It did not and it has not met its full potential. But one of the issues in relation to strengthening is dealing with. Raising the skill level, training people in departments to buy better and buy more efficiently. Not lowering the quality, buying better value and saving taxpayers' money. I want the Assembly to support the strengthening of the Procurement Department and I want to ask them to support it now so that we can start making meaningful changes and meaningful efficiencies, and we cannot expect Health, Education, Home Affairs, T.T.S. (Transport and

Technical Services) and all these other departments, we cannot even begin to realise the opportunities there are with savings if we do not put the right support centrally; systems, expertise and training. That is what that procurement strengthening is about. I ask Members today to support the need for procurement efficiencies and savings. If they are not convinced about the process, if they are not convinced then it is this Assembly that decides on an annual basis what the budget is for the procurement department and all others. If they are not convinced, if after Senator Shenton and his P.A.C. have examined and put their slide rule over the savings, if they are not convinced then the Assembly will take away the budget for the Procurement Department and they will abolish it. I suspect costs will go up but they will abolish it.

[10:45]

**Deputy D.J. De Sousa:**

Could I ask for a point of clarification, please? The Minister has just gone on at length about training and yet in the C.S.R. most of the cuts within Treasury and Resources and several other departments are in the training, so how can you say that?

**Senator P.F.C. Ozouf:**

There is inappropriate training, there is right training, just because it is training does not mean it is right. Training people to do the wrong things is bad management and a bad waste of money. We are asking for money for strengthen procurement, that is what this debate is about. It is very difficult for me to respond to broad-brush accusations where I can always not defend something or some area. I ask Members not to support the reference back in relation to (b) and (c) and to start making a meaningful transition towards saving money and being honest with the community about the reality of the need for saving on staff costs. It is a chicken and egg situation; unless the budget is there we cannot start. Other Members will have their own views about court and case costs but I genuinely and honestly say to Members that I am unable really to come back with any more information but that does not mean that once the budget is there the appropriate structure of financial management and control is put in place. That is what I have been doing at the Treasury in the last 9 months, not just relying on a budget process for financial management but in year financial controlling in an environment which questions, which calls people to account for the money they have spent and while there is an independent judiciary and prosecution service they should not be exempt from that challenge and from that financial control. That is what has changed from where it may well have been no so strong central financial management in past. I urge Members to reject the reference back and please get on with setting the right budget and starting the Comprehensive Spending Review. **[Approbation]**

**1.2.8 Deputy P.V.F. Le Claire of St. Helier:**

I said yesterday Senator Ozouf had a difficult task and he certainly does have a difficult task. I am not sure whether or not it is because we have set ourselves up for it under this Finance Law where the Minister for Treasury and Resources is required to come back for extra additional funding that has not been identified. I think that is the crux of the issue because in the old system when a committee was failing to meet its financial objectives - and this is in relation to the reference back, I am just trying to frame it - we used to come back as individual committees and we used to make our case as to why it was we were not able to contain our expenses to the level that we had been given them. Like, for example, in Health there were a number of occasions when ex-Senator Shenton came to the Assembly with his Health Committee and the supporters of that committee and we argued vociferously against the fact that we needed more money which was being withheld by the Finance and Economics Committee and the Policy and Resources Committee because we were in danger of breaking the Finance Law, because we had overspent because of health needs. During those debates at those times those committee members and those committee presidents brought a proposition and a report and all of the information about why they needed the expense. Now we



have a new system where the Minister for Treasury and Resources is bringing it all on his back with little or no information. We have had a debate where none of the key players in this have spoken. The Law Officers £2.3 million; Home Affairs £2 million, we had a speech from the Assistant Minister but mainly to do with criminal ... in fact entirely to do with criminal compensation; Judicial Greffe £3 million; the Viscount who does not speak in the States £8,400; the Bailiff's Chambers £300,000; Treasury and Resources, it would have been an opportunity then to explain why the £764,000 was needed but Senator Ozouf unfortunately spoke before I had a chance to make these points. £6 million in voluntary redundancy which I believe he tackled and £500,000 on procurement which I believe he tackled as well. So I think the system in itself has made us go awry here. I implore Senator Ozouf to consider this because I do not think it is ... I am going to support him. I am going to support him and I am not going to vote for the reference back because I do not think it is right. There are a couple of issues. I do not think it is right that he is put in this position and I think we need to consider how these debates are conducted in the future. I think if Members are going to - and it is understandable - vote for a reference back and I am not suggesting for a minute that is wrong, if Members quite understandably are going to vote for a reference back on this issue then in coming back with this proposition I would recommend that the Minister for Treasury and Resources strips these out into separate elements because the voluntary redundancy scheme is a debate on its own and the procurement scheme is a debate on its own. These court and case costs could be collected into votable items that could be explained by each Member in budget time when they stand up and they defend their own area. The reason why I am going to vote against the reference back, there are 2 reasons, one is I have not been able to ascertain - and unless they are going to now - whether or not there are serious issues in relation to them not having the money. Her Majesty's Attorney General is able to speak and the Minister for Home Affairs is able to speak. Do we need them to get up? Are they able to get up and explain to us why it is they need these monies? Obviously, evidentially from a law perspective you cannot continue and break the Finance Law. So it is a no-brainer. They have got to have the money. But it is very understandable that Members want the information. So I would say that is the first reason that I am going to vote against a reference back because I am concerned that we are going to have to vote for this stuff anyway. While I do not agree with the phraseology that was used by one of the previous speakers in saying we have said all that needs to be said and we need to get on with it. I think the turn of phrase was wrong. I think the sentiment is this. If we are going to be in a world of trouble and if these departments are going to be in a world of trouble because we do not give them this money, we are going to be a laughing stock. We need to get this sorted out. I implore, no matter which way it goes, in the future for the Minister for Treasury and Resources to look at these laws and to look at bringing them in a way that we can debate them in a more sensible way. There is a second reason why I am going to vote against this reference back, and the reason why I stood to speak, is because I think unless Members want to kick this around for ever and a day we are going to come to the same conclusion. So this should really be the vote, in my view, on the actual debate. Members should make their case now about these issues. I have made mine. Let us all make our case now and get on with tackling this issue because the longer ... as I said yesterday, it is a can of worms, the longer we kick this around the worse it is going to get. I would like to thank Senator Breckon for some of the information this morning which I was not party to yesterday. It has certainly opened my eyes. I did not know any of that. So I would implore Members, if they are going to vote, vote whichever way they are going to vote but if they are going to speak today then get up and say it now. Ministers in future, when these things come forward, if the Minister for Treasury and Resources is unable to give us the information then the onus is on them. Stand up early in the debate and explain why you need the money.

### **1.2.9 Deputy J.A. Hilton of St. Helier:**

When I spoke yesterday to give some explanation around the funding that was required by the Home Affairs Department I thought that I had possibly given enough that Members would understand exactly why we needed it. Just to recap, it was the Criminal Injuries Compensation

Scheme which is £350,000; it was the funding behind Operation Blast, which is £168,000. I explained to you that Customs have got a shortfall of £195,000 and that was because of the pressure that they are coming under through defence advocates and court cases involving drug trafficking and various other things. They are required to be a lot more thorough and carry out things that possibly they had not done before. The money ... and I think realistically if the money is not ... if you do not agree this money for court and case costs for Home Affairs what that in effect is going to mean, and I think I am correct in saying this ... I have got some information that we have 10 inquiries going on at this present moment in time. They are current. What it means in effect if the House is going to turn around today and say: "Well, no, we are not going to grant you this money" then legally, I believe, those cases should stop here and now. The investigation stops. How is this going to present us, the Island of Jersey, our criminal justice system, to the outside world?

**Deputy M. Tadier:**

I think it may be a point of order, certainly clarification, we are talking about the reference back here so we are not talking about not voting for this. Can I just ask if that is the case?

**The Greffier of the States (in the Chair):**

I think Deputy Hilton tried to explain that she thought enough information was given and therefore she opposes the reference back.

**Deputy J.A. Hilton:**

I am just talking on behalf of the Home Affairs Department. My Minister has not had an opportunity to speak yet and I did explain yesterday that possibly he might give you more detail but I thought I had given Members enough detail yesterday to make a decision about whether they are going to support this part of the proposition and allow the Home Affairs Department and allow the States of Jersey Police to continue with these most important inquiries that they are currently involved in. If the answer is no, realistically under the States of Jersey Law, under the Finance Law, my understanding is that the inquiries stop here and now. So all those inquiries that are going on, whether it is abuse over the internet, whether it is white collar crime, are going to stop. So this is basically what we are talking about today. **[Approbation]** I do not know what more information either myself or the Minister for Home Affairs can give you without naming every single inquiry that is going on at the present time, where we are with it and what it involves. I do not believe we should be doing that. Anyway, I am going to leave it there. If my Minister wants to pick up on anything that I have said then that is fine, but I am going to leave it there. I am really, really disappointed. I understand why Members have got concerns about some of the aspects of this proposition, I do understand that but all I am saying to you is that realistically if you do not agree the funding for the Home Affairs Department today, legally I believe the inquiries stop.

**1.2.10 Senator T.A. Le Sueur:**

In the bad old days the States had very little in the way of financial discipline. As Deputy Le Claire says, committees would come forward at different times of the year with requests to spend additional money. One of the principles behind changing the Public Finances (Jersey) Law in 2005 was to bring in a greater measure of financial discipline to States Members, to officers and to departments. That law contains 2 important elements, perhaps 3. The first is that they would set a budget once a year and all spending for the following year would have to be agreed in that one debate, and that only in exceptional circumstances could there be any variation on that. That was why this Article 11(8) put into the law which said that in exceptional circumstances and only exceptional circumstances the Minister for Treasury and Resources could ask for a supplementary vote. I was the Finance and Economics Committee President at that time and the expectation was that Article 11(8) would be used only very rarely. From what we have seen in recent years, it has been used on a number of occasions. There were 2 other elements to that change in the law, the first was to eliminate any other funds, like a contingency fund, or any other way of spending money

in an undisciplined way. The imperative, as I say, was for financial discipline. The third element of that financial discipline was that Accounting Officers, who were generally chief officers, had an obligation, a legal obligation, not to allow their department's budgets to be overspent. It is they, the Accounting Officers, who will be liable if an overspend does occur. Accounting officers are very concerned about this and make sure that they do not allow their departments to overspend. That is why in certain cases we do have to have an Article 11(8) proposition, and we have one before us today. I accept that today we have one proposition before us that contains 3 elements. In fact the proposition really has 2 components. I think part (a) is rather different from parts (b) and (c) but it is nonetheless understandable that if a proposition under Article 11(8) is a rarity then there should be one proposition to bring all 3 together.

[11:00]

Deputy Le Claire also said very wisely that there is still an opportunity for others to speak, including maybe the Home Affairs Ministers. Certainly I am quite prepared to elaborate on the request in respect of the Law Officers, the Judicial Greffe, the Viscount or the Bailiff's Chambers. But I think what we have here, as I say, is a proposition with 2 different components and it is rather like the current catch phrase: "There are some things which are knowns, some of which are unknowns and some knowns which are unknowns." What we know without a doubt is that the court and case costs budget is currently not adequate. We do not know exactly how much it is inadequate but we do know it is significantly inadequate. It is not inadequate because we failed to implement the National Audit Office report of 2005, we have implemented those recommendations, we have improved case management, we have done contracting to get legal fees at below standard rates. The reason court and case costs are going up is that there have been a significant number of unusual high profile cases. There have been matters such as the greater awareness of the responsibility in respect of children's law cases. All these matters have increased the pressure on court and case costs so that we know that there is an overspend and no matter what we try and do about it, that overspend will continue. So there is no point in saying let us try to vote against this overspend and it will not happen, tell the Accounting Officer to go and break the law. Accounting officers are responsible people who do not want to break the law and we should not be inciting them to break the law. We should be setting them a realistic budget within which they can operate within the law. That is why, certainly as far as part (a) is concerned, it is imperative that we do proceed with court and case costs. Parts (b) and (c) are more what I would call the unknowns because we have got a pot for voluntary redundancy, we have got a pot for procurement, we do not know how much exactly we are going to spend on that, we do not know at this stage what benefits we are going to get from it. But it is a pot. It is a pot which the Minister for Treasury and Resources has said is a very closely controlled pot. It is not to say we are going to spend £6 million, we are going to have £6 million available for voluntary redundancy. Why? I think the simple reason why is that over the next 2 or 3 years we wanted to find savings of £50 million and any Member who thinks you can save £50 million just by cutting a bit of here and a bit off there and a bit off somewhere is sadly mistaken. The only way we are going to make savings of that sort of level is by changing the way we do things, changing the way we employ people, changing their terms and conditions of employment, changing the way we buy things or procure things. That change is necessary, that change is essential and that change needs to start as soon as possible. That is why this request has been brought forward in 2010 so that we can start, after the Business Plan has been approved in September, implementing that straightaway. Not having to wait 6 weeks after the Business Plan while the Minister for Treasury and Resources lodges plans then which could be debated maybe in November or December by which time it is too late for 2010. I want to get on with that work now or be prepared to get on with that work at least as soon as the Business Plan has been agreed. For that reason the suggestions that we defer this debate for more information, if we bring it back probably in the next session of the States, some time maybe late September-October, it is far too late. It is far too late for the Accounting Officers in the court and

case costs to be able to plan. They would have to slow down right and that would be detrimental to the justice which we have always said is something which has to be delivered come what may. It does not achieve anything. What we need to do is to reject this reference back. If there is more information required on some of the aspects of court and case costs I am happy to try to expand on my areas, the Minister for Home Affairs can expand on his areas of responsibility, the Law Officers may choose to add any comments on their areas of responsibility, but the one thing we do not want to do is to delay this matter simply because we do not feel totally comfortable. I do not feel totally comfortable because I can sense the mood of the Members of the States but nonetheless we have to make decisions, we have to support our Accounting Officers, we have to maintain the financial discipline that the Public Finances (Jersey) Law requires and we have to get on with it.

**1.2.11 Senator B.I. Le Marquand:**

The Members of this Assembly have to be careful as to how they use the procedure of reference back. The proper reason for using this is particularly when there is insufficient information, but it should never be used simply to put off a decision to another day when frankly the arguments will be exactly the same as they have been the first time around. Now a number of speakers have said, and I fully concur with them, including Deputy Le Claire and the Chief Minister, is that there are clearly 3 parts to this and a general reference back proposal frankly is not satisfactory because there could be some Members who might feel that extra information is needed on one part and not on others. I therefore would invite the Deputy of St. Mary to bring his proposition in 3 parts which mirrors exactly the structure of this so that we can see if there are parts in relation to which people think there genuinely needs to be additional information.

**The Deputy of St. Mary:**

Can I ask a point of order on that point? Because I have already been asked that with a note, and I ask the Chair, is it possible to ask for reference back in sections like that?

**The Greffier of the States (in the Chair):**

It certainly is possible to seek a reference back of a paragraph and not another paragraph. It is somewhat late in the debate to change it but I think in the interest of assisting Members if you were willing to say you were treating it as reference back on the 3 paragraphs and therefore take the vote on the reference back in each paragraph, I think that would be permissible.

**Senator B.I. Le Marquand:**

I am very grateful to you, Sir, and also to the Deputy of St. Mary if he is willing to go down that road. Now, in relation to what we have here, here is my analysis. It seems to me that parts (b) and (c) do not need a reference back because the arguments are going to be exactly the same. What is the additional information that is needed in relation to whether or not we need a voluntary redundancy fund? We have that information. Now some may feel we should not have it and some may feel that we should. In relation to part (c), what is the additional information in relation to whether we should have an improved procurement function? Some are very definitely against it, like Deputy Green, and some are very definitely for it. Again, what is the purpose of a reference back in relation to that? It is still, at the end of the day, going to be, in my view, the same position. Now I come part (a) which, of course, is the part that I am particularly interested in. I thought that my Assistant Minister had made an excellent speech yesterday, providing a great deal of information and indeed made a second excellent speech today providing even more information. I can, if needs be, provide even more information, if Members so wish. I think that Deputy Le Claire does, as so as the Chair does not then rule that I am off point on the reference back issue. But the fact is this, if we kick this into touch it is going to create enormous problems. If we put it off and it cannot come back until late September, it is going to create enormous problems certainly in Home Affairs and definitely, for reasons I will give shortly, in relation to the Judicial Greffe for the Accounting Officers. The fact is that in Home Affairs, particularly where we have a very high

percentage of staff as part of our budget, we simply do not have the flexibility in relation to other matters, and if we have got an additional need for finance, as we have, then the effect of that will be, to some degree, that the Accounting Officer will have to say to the Acting Chief Officer of Police: "I am sorry, you are going to have to slow down on the investigations because we cannot spend all this money in this year or you cannot commit yourself to spend it in this year." That will have all sorts of strange effects. What is he then going to do in relation to the Criminal Injuries Compensation Scheme? Presumably when awards come back he will simply have to say: "I am sorry, I cannot pay them until the States have given us the top up which we need." It will create real problems. It is worse for the Judicial Greffe because my understanding is included among the monies for the Judicial Greffe are monies which result directly from orders which the court has made. The court makes an order for payment of certain things, the role of the Greffier is to tax those, as was mentioned before by Senator Breckon. But what is he supposed to do? Is he supposed to say: "I am sorry, I cannot pay these, notwithstanding there is a court order, because if I do and the States then do not subsequently give me the extra money then I will be liable to criminal prosecution under the law." That is utter and complete nonsense. That is the sort of thing we must protect our officers against. They have been put in this impossible type of position. Having said that, and very quickly, I do want to add some additional information to the excellent information given by my colleagues. What the Members of this Assembly need to understand is that there has been a failure to provide a proper budget in the area of court and case costs for the Home Affairs Department for many years. The sum which has been allocated between the Police and Customs has been £500,000. That has been massively overspent for every year, for quite a number of years, and has been a bone contention between the Home Affairs officers and the officers for the Treasury in relation to this. The attitude seems to have been taken that while we know you are not going to have enough but we are not going to give you any more because if we did you might spend it, even though we know you are not going to have enough. Now, frankly, that is not an acceptable position but it seems to be the one that historical has been taken. So we know we have had a problem, we have had a problem every year. Included in the court and case costings are elements like processing criminal prosecutions, cost associated with staff and external professional services such as laboratory costs in relation to prosecutions. Forensic costs of different types, in terms of laboratory costs and so on, the fact is that you have to go out and get expert opinion on matters. Go often outside the Island. We have a budget for that; that is inadequate. Similarly with things like audio and video tapes, transcription services, interpreter call outs, doctor fees, other matters such as this which you could not very easily budget for. You need a loose approach to budgeting because you do not ... they are demand led. That is all included in this and, again, we know that we are going to need more for this year. Then we have 10 individual cases, as my colleague mentioned. I cannot give a lot of details on them but they include exploitation of local school children, they include 5 fraud cases, they include one major drugs case which we are all very well aware of where there are still costs being run up. So there it is. The fact is that if this is kicked into touch today then we are going to have difficulties. One other detail I did want to mention for the sake of openness, and this follows the answers which I have given to questions, entered in here is the part of the costs in relation to the suspension of the Chief Officer of Police inasmuch as is included is, for 6 and a bit months, the cost of the Acting Deputy Chief Officer of Police. Part of the costs have been absorbed by the Home Affairs, part cannot be. The fact is we have a tight budget. We always have a tight budget. We are under pressure in different ways. If this is kicked into touch today and does not come back until September it is going to create major problems.

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

Can I seek clarification from the Minister? I do not know if my eyes are deceiving me but if that is a confidential document that the Minister is sharing information with us from, surely we are all honourable men and women, if we all had that information perhaps we could avoid some of this argument and make an informed decision. Could he share more with us? Could we have the document?

**Senator B.I. Le Marquand:**

No, because it does include details of investigations which are not in the public domain. I have information, I have given a broad view of what can be put in the public domain but I cannot put this detail in. These are matters of investigations which have not yet been prosecuted and it would be totally improper for that to go into the public domain.

**1.2.12 Deputy A.E. Jeune of St. Brelade:**

On Monday I was not a happy chappie but having reflected on what was said yesterday in the debate I came in this morning and set out what I planned to say in the debate. Part of that I will say now because I think it is relevant. Who would want to be the Minister for Treasury and Resources?

[11:15]

Be it here or **[Laughter]** ... point taken, Deputy Pitman. But I want to add this. I was heartened yesterday to hear the Chairman of the P.A.C. speak so positively in respect of this proposition. I was reassured that he would be working with the Minister for Treasury and Resources to ensure all the checks and balances are in place. I have no doubt that we will find the Chair of the Corporate Services Scrutiny Panel will be hard at his heels, if not in front, ensuring that they too are doing the checks. I do not think it is right that we now have a reference back. I really feel we need to stop beating the Minister for Treasury and Resources and move forward.

**1.2.13 Senator J.L. Perchard:**

This Chamber is divided; we have those that are in Government and in control of the purse strings and those of us that are not involved in the Government whose job it is to hold the Government to account. That is why I have got some sympathy for this proposition. We have been told by Senator Le Marquand and the shroud waving of Deputy Hilton and the Chief Minister, that to support this reference back would create mayhem. I think Deputy Hilton even said some investigations would have to cease. Of course that is wrong. This is simply a reference back. It is not a denial of the funds and the funding. This proposal is to go back to the ... ask the Council of Ministers to take this back, understand in no uncertain terms that this House, and the taxpayers and the people of Jersey, have had enough of financial ill discipline. We have been told by the Minister for Treasury and Resources: "Oh this is then and tomorrow we are now about to embark or continue to unroll the Comprehensive Spending Review and that we need to settle our overdue accounts." I consider it is my job to say: "Enough is enough, Council of Ministers, you cannot keep coming back every year asking us to roll over with the 11(8) mechanism to fund ill financial discipline." I will support this reference back, not because I think we can avoid bailing out the overspend, it is inevitable we will have to bail out this overspend, but because I wish to send a message to those with the States chequebook that this House is serious about making financial discipline a part of the way we govern, and this House is serious about savings and intends to ensure that the Council of Ministers understands that. It does not mean, as has been suggested, that the police will stop prosecuting criminals. It only means that the Council of Minister have time to reflect on the importance of what they are doing here.

**1.2.14 Deputy J.B. Fox of St. Helier:**

First of all I am pleased that this reference back is allowed to be broken up into smaller sections because I think (b) and (c) do not come under the urgent list and I think we do need some more information coming out of it. I think on (a) we certainly need more information as well and a lot has already come out and it is regrettable really that we have not had the individual Ministers responsible being able to ... or having already had the opportunity to say what they intended to say. The Chief Minister advises us of what we have to do. As an accountant I can understand quite readily what we have to do. He being the accountant and me being the man on the street who see the public every day, like he does, and who are asking questions. But he is able to answer the accountancy much better than what I could. Unfortunately, the Minister for Treasury and

Resources left any additional explanation too late for most of us Members to be able to ask the questions on something that is as broad and as complicated as this, and certainly Senator Breckon today has outlined a whole load of questions that I would love to know the answers to before I make a decision on this. I will not vote for the reference back for (a) because I think it needs to be done, but I would like all the respective Ministers, from the reassurance that has been given by the Chief Minister, to treat it as a reference back and to give that information subsequently to the States Members so that we have an understanding, and if the various officers responsible, and I suspect that one or 2 of these things have happened belatedly, because there may be illness in the Treasury Department, then I think that it would help them to understand that we have a responsibility that should never have got to this stage of being brought to the States at the eleventh hour. The other predicament that I think that we are on at the moment, and I will finish on this, is that we do not know the severity of the cuts within the various departments, which makes it very difficult for us to look at something in isolation that is in the whole, and I think that is bad States policy. There are times when things go off the rails, this is one of the times. I think we are going to have to move forward certainly in (a); (b) and (c) I think can wait for a bit. It might not be desirable, but that is where we are at the moment in time.

**Senator T.A. Le Sueur:**

We are having debate on the reference back as a whole, on the proposition as a whole?

**The Greffier of the States (in the Chair):**

We are, but I did indicate from the Chair that the Deputy may wish to seek to vote on the reference back of the individual paragraphs; I think that would be permissible.

**1.2.15 Deputy S. Power of St. Brelade:**

The first thing I would like to say, and I confine my comments to the reference back, is that, as the newest member of the Council of Ministers, I can assure Members that when we discussed this recently the Minister for Treasury and Resources was not in a position to present further and better particulars, when this was discussed. I can assure Members that that is for the reasons he has clearly stated, and as the Minister for Home Affairs has said, there are matters, which are simply inappropriate to discuss in the openness of a public chamber such as this. The Minister for Treasury and Resources has been open and frank with all of us in this Chamber. We are in an unpleasant position right now, he is not happy about having to write these cheques. He has brought these 11(8) requests to this Chamber and sometimes in this Chamber we are all expected to make decisions, which are extremely unpleasant and extremely difficult, and that is where we are today. This reference back is not going to achieve anything. Sometimes this Chamber lives up to its name as a debating chamber, and this morning has been one of those, there have been some excellent speeches, there has been an excellent speech from Senator Breckon, from Senator Ozouf, from Deputy Hilton, and from Deputy Le Claire, and all of us are unanimous in one thing; that we have to deal with this problem and we have to deal with it quickly. Some of you are unhappy with the lack of detail. I think that has been expounded and I think the Minister for Treasury and Resources' responses in the last half an hour are realistic. He has been utterly frank with you this morning in terms of some States departments, where the wheels have come off. Court and case costs is a big issue, we have some huge legal cases going on at the moment, all of them well documented. The Minister for Treasury and Resources referred to Property Holdings, he is absolutely right, Property Holdings, the wheels have come off, and he has been utterly frank with you. We have States departments that are not working and it is all part of a bigger picture, which will have to be fixed. The message that is coming from this Chamber this morning is unanimous, none of us are happy, none of us are happy with what we have to decide today, but we have to, we are elected to this Chamber, we are elected to make decisions, good decisions, difficult decisions, and downright awful decisions, but we do make them. The Minister for Treasury and Resources is accountable to this Chamber for all these 11(8) requests, he is in an unfortunate position, as Deputy Jeune said, but

he has brought it to the Chamber, he has said he will fix some of the issues. I am not happy with what has been presented, there is a lack of information, but I accept it, so I will not be supporting this reference back and I urge Members to just really, can we just get on with it for once.

**1.2.16 Deputy P.J. Rondel of St. John:**

I have real concerns, and I sent a note to the Minister a few moments ago. I have concerns within the Judicial Greffe's Department and the Treasury and Resources, and I asked if he could, possibly under (a), if he will split that up when it comes to the vote, but I do not know if he will or not.

**Senator P.F.C. Ozouf:**

If the Deputy would give way, I am advised that is not possible because it is a part of; if it would be (a), (b), (c) and (d), but it is effectively one proposition and I regret to say that I am not in a position to split it.

**The Deputy of St. John:**

Because, as far as I am concerned, all this ...

**The Greffier of the States (in the Chair):**

For clarification, you mean within paragraph (a)?

**Senator P.F.C. Ozouf:**

Sorry, within paragraph (a), I fully intend to ask for a vote on (a), and then (b) and (c) separately, because clearly one is about putting a budget and the other one is about starting savings.

**The Deputy of St. John:**

I have real concerns, a lot of this should have been under the Business Plan or C.S.R., and I think it is totally wrong that we have it lumped together as we have. On top of that, I have just heard the Minister for Housing, he is not in the Chamber at the moment, but I have just heard him say that the wheels have gone off the rails in a couple of the departments, and he mentioned in particular Property Holdings. Well am I right that Property Holdings is not part of the Minister's remit? So, if he could not convince the Council of Ministers, because obviously you have been discussing this and you told the Council of Ministers, we are told, that ... sorry, the Minister for Treasury and Resources told the Council of Ministers, or he only had a limited amount of information. Well if he could not really convince his own Council of Ministers that everything was rosy in the garden and had all the information to give them, what on earth is he bringing this to the Chamber for, if he cannot answer our questions at a private meeting at St. Paul's Centre on Monday, he obviously had not answered the questions to his fellow Ministers at the Council of Ministers, is he trying to pull the wool over somebody's eyes, or the public of Jersey, that is what I have to ask, because at the end of the day we have to sell this to our relevant parishioners when they ask us questions; what on earth is the Minister for Treasury and Resources trying to do? We are not a crowd of numpties, because at the end I am appalled that he is not in a position to give us a lot more information, but more so than that, he did not give his own Ministers at the Council of Ministers the information because we have heard it from the Minister for Housing that his hands were basically tied. What is wrong with the Chief Minister getting his senior officers around the table with the Minister for Treasury and Resources and making sure that the senior officers from all these departments that we pay an awful lot of money to these officers, why are they not briefing their Minister for Treasury and Resources and Chief Minister to the hilt so that at least he is fully aware. But for him to turn around and say he is not up to speed in certain areas and is expecting us to vote this through, it is unacceptable, totally unacceptable, and to bring a report and proposition like this, this I would expect from a back-bencher like myself, not from a Minister. **[Laughter]** Not from a Minister, because I would not be in a position to get all the information, as a back-bencher, or as a Member not in the Executive, shall I put it, because we are all in government.



[11:30]

But the Minister himself is at the leading edge of government, goes around to China and all around the world representing us, and therefore I expect him to be fully informed, and therefore to keep his fellow Ministers and the Council of Ministers informed. As I said in the Council of Ministers meeting with the Chairmen's Committee a fortnight ago, or thereabouts, it is a matter of bringing everybody onboard, Chief Minister. It is important that whatever goes on you get everybody onboard and give us the information. That is not coming across today and, if you, Chief Minister, cannot make sure that your Ministers, in this case the Minister for Treasury and Resources, are fully informed, by their chief officers, from across the 10 ministries, there is something wrong, and for that reason I am minded now not to support this proposition, or this part of this reference back, because we have heard it from a Minister within your ministry that the wheels are off the rails in a couple of the departments.

**Senator P.F.C. Ozouf:**

Am I able to just clarify, Sir, because I like the Deputy of St. John very much, but he just cannot stand there and say that I have not given full information to the Council of Ministers. That is not what Deputy Power said. I am not able, because the information is not appropriate to share with the Council of Ministers on the court and case cost issues, and I did not say that the wheels had fallen off, I said that there are improvements to be made, and that is why the Comprehensive Spending Review has been done.

**The Deputy of St. John:**

Clarification, Sir, please, as I was the person being referred to. The wheels had come off, and I am sure they were reported on Hansard, and they were the words used by the Minister for Housing.

**1.2.17 Deputy I.J. Gorst of St. Clement:**

That is an opportune point for me start, if I could just offer a word of defence of Property Holdings, I think it is certainly unfair to say the wheels have come off, they are doing a lot of good day-to-day technical work. Perhaps they have been slow in bringing forward the big policy work, but, as Members will have noted from an answer that they submitted only yesterday, they hope to be in a position to do that I think before the summer recess, so I think it is too early to say that the wheels have come off, perhaps they have not worked as quickly as they might have done, but let us get back to the point. The mover of this proposition started his speech by saying that he felt we were somewhat like the English football team, and perhaps not united. I have to say it is the first time I have been referred to as being like a footballer. I do not think that is the case. I think, if Members have listened carefully to each other's speeches this morning, they will have realised that in fact there is more that we are agreed upon than we are disagreed upon, and I will just go through some of those points if I may. Quite simply, how does the budgeting process work? Well, departments submit budgets, they are approved by this Assembly, and then they work to those budgets throughout the year. Should a department, when it is doing its forecasting throughout the year, so one has a budget, one looks at what is being expended on a month-by-month and a quarter-by-quarter basis, should it become apparent that perhaps conditions are not equal to those forecasts, a department then has a responsibility under the Finance Law to flag that issue up; that becomes part of the financial report for that particular department, and ultimately it comes to the Council of Ministers if there are forecasts, either great underspends or overspends. The departments that have asked the Minister for Treasury and Resources therefore to submit the 11(8) request have done exactly that, they are working in a compliant way with the Finance Law and it would be inappropriate for them to do anything other than to ask this Assembly to approve increased budgets, and therefore it is incorrect for those Members to say: "Oh, I do not think that this piece of work would stop if we did not approve this budget." Of course it would, because those Accounting Officers are obliged, under the law, to restrict the spend to within their existing budget and

therefore they would have to carry on their work, which in fact would mean restraining it, cutting it back, or stopping it, to enable them to carry out their work for the next 6 months. Therefore, if we were to reference back this particular proposal, then in those instances perhaps it would take until the end of the summer, so therefore we are talking until September to bring the information back, if that is what Members decide they so wish, therefore throughout the summer the departments that are requesting the extra money, without a doubt, would have to slow down on those works, we have heard from the Minister for Home Affairs, that would mean stopping or making investigations even slower, I suspect, although it would be very difficult for the Attorney General to say such, it is for us to understand that in fact that would mean some prosecution decisions might have to be unnecessarily delayed until we ourselves have decided that we were going to provide those budgets, and that, in my opinion, is a totally unsatisfactory state of affairs and we would be acting very rashly indeed if we were to put that upon those particular departments. I can see that Senator Perchard is trying to jump to his feet; I imagine he is trying to suggest that the extra information could be provided by the 19th. I do not believe that would be a realistic expectation, bearing in mind some of the statements, however I will give way.

**Senator J.L. Perchard:**

Thank you, Minister. Through the Chair, is the Minister suggesting that the figures in P.64, the financial amounts, are a forecast or are actual? If they are actual, which they are, they exist now, they are not forecasts of year-end deficits.

**Deputy I.J. Gorst:**

I am a little bit surprised that the Senator should ask such a question. They are monies which are expected to be expended. Okay, I recognise that in some instances, perhaps under the Home Affairs line, some of those amounts perhaps have been expended, but in fact what that would mean is they would have to stop other work to ensure that they lived within their budget for the rest of the year. So we are talking about budget, we are talking about what is expected to be expended for the next 6 months of this year, and therefore, if we do not approve it, it will mean that services, that work, that prosecutions, that investigations will have to stop for the time period that we allow ourselves to make our minds up, and I do not think that is appropriate in these instances. I would like to turn to Senator Breckon's speech. I felt that he touched on a lot of very interesting and pertinent areas with regard to court and case costs. I was surprised that, however, having touched upon those areas, he felt there was no need for a review because, considering the areas that he raised, I come to the opposite conclusion and believe that a review is exactly the right thing to do. He was talking about areas in regard to setting legal budgets. I cannot say hand on heart that is what these departments do now, but I believe that it is something that they should do to ensure that those costs are properly controlled. He was talking about undertaking fee review work. There again, he will have my 100 per cent support; that is work, which I believe should go on, and I hope that will come out of a review, we will be able to see whether that is correctly taking place, or whether it is something that should take place in future. So he made some very interesting points and I believe and hope that they will be part of that review. He also touched on the area of who should be Accounting Officers within these departments, and he is absolutely right, we do perhaps, within these departments, have an anomalous situation where what we might consider the senior officer does not carry out the function of the Accounting Officer. I understand why those decisions were made, it does, I am afraid to say, sit somewhat uncomfortably with me, but I believe that operationally it is working to a satisfactory level, but also I believe that is something that the Treasury ought to keep under review and I am sure that they will keep under review if they feel that it is not working in an appropriate way. Of course we have the same situation within the Home Affairs Department where we have a senior officer who is expending monies who is not the Accounting Officer. Again, I have to say, I understand why that decision was made, it does sit uncomfortably with me, but I believe that again Treasury and the Minister for Home Affairs must keep those issues under review to ensure and satisfy themselves that it is working appropriately.

That is the first point, and I will hopefully touch on the other 2 in a more timely fashion. I believe, and other Members stood up and said that they also were in favour of cost cutting, making sure that we operate efficiently, and this is where we come to some very difficult decisions. It is all right for us to say we believe in cost cutting, it is all right for us to say we want to work efficiently, that is going to lead to some very, very difficult decisions, and some of those difficult decisions are going to be about letting our people go, but letting them go on fair and reasonable terms, and unless we put this money up front, we will not be able to achieve those savings in the medium and long term. The Chairman of P.A.C. yesterday said that these amounts should be netted off. Well, yes, to a certain extent he is correct, but as Senator Le Gresley said: "That is not counting like with like." It should be netted off, but the savings, when you reduce your cost base, let us remember that the vast majority of our costs are driven by staff costs, when you reduce that, that goes on year after year after year, providing people are not re-employed for those jobs. So we must make certain that these jobs are jobs that really can be eliminated from the workforce and we really do not need these functions to be carried out by the States in the future. So, I do not believe we need any more information about this particular area, we have to take our courage in our hands and make the decision and allow the States Employment Board and the departments to get on and begin the very difficult work of saving cost from our staff cost base. Central procurement; a number of Members have talked about this, and this perhaps comes down to we, as individuals, have different styles, we approach problems from different angles, and the way that we try to deal with them might be slightly differently. I have to assure Members that we have robust discussions around the Council of Ministers' table and on our away days, and Members will not be surprised to know that our discussion about procurement and increasing the strength of procurement led to some robust discussions. Deputy Higgins talked about the travel agency that we use, and he will not be surprised to know that other Ministers do not necessarily disagree with him. We believe that contract needs to be looked at, it needs to be reviewed. Yes, it is appropriate to have a centralised function, but not if we know that individuals within departments can get certain travel arrangements cheaper, and therefore we have to have a more flexible and a more realistic approach, while at the same time having a standard that we are all working to. Purchase cards; I do not think any Member in this Assembly would believe that we cannot cut down on purchase cards and have more appropriate and effective controls of them. We do not need more information about that, we just need to get on, strengthen procurement, and get on and get those cards taken off those individuals who are currently using them and develop a more satisfactory process, bearing in mind of course what Deputy Green said: "There are some instances, there are some speciality areas that need to be able to make their own procurements, because of the life and death nature of some of the work that they are undertaking." Senator Breckon also talked about JD Edwards. I would hope that a central procurement will have something to say in their new strengthened roles about how JD Edwards operates. I will not say that JD Edwards has been the success that it could have been, and one of the concerns I have had for a number of years about it is the amount of coding and the sheer number of codes that individual departments can use, and that is what has led to some of the inefficiencies and the ineffectiveness of control of expenditure, and that I believe should be also a function of Treasury and perhaps procurement to ensure that those codes are reduced and they are used appropriately. Again, we do not need extra information. To my mind, it is as clear as the light in front of me, we just have to get on and do it. I believe that we should vote for these monies, we do not need a reference back, and we should start to see the savings as quickly as we possibly can. **[Approbation]** I ask Members not to support the reference back and I also say that I think I have said everything I am going to say, so I will not speak in the main debate, I urge Members to approve this 11(8) request from the Minister for Treasury and Resources.

[11:45]

### **1.2.18 Deputy A.E. Pryke of Trinity:**

My fellow Minister has said a lot of what I was going to say so I will just keep it fairly brief and pick up the points regarding Health and Social Services. A lot has been said about the Minister for Treasury and Resources, and I think he is in a very difficult place. He is damned if he does and damned if he does not, and, as we know, it is only the Minister for Treasury and Resources that can bring the 11(8), so we can moan about that, but that is what is set down in the Finance Law. I can tell you that we did have a very good discussion within the Council of Ministers. He is held to account within the Council of Ministers, and sometimes he does not always get an easy ride, and sometimes I can say in my capacity as Minister for Health and Social Services, when I am looking at extra money, he gives me a very difficult time, which is quite right. Much has been mentioned about the case and court funds. I just want to mention a little bit about the Judicial Greffe amount, because in that amount too is in relation to the family law cases. Since the introduction of the Children's Law back in 2005, the children do come in front of the courts, they now have a guardian for each child, and the guardian is likely to have legal representation too, so the whole emphasis has changed dramatically, which is quite right, but that does come at a price, and the price, I do not think anyone quite at that time understood the price, and I would welcome the full review in that area especially, but that is set down in law and that cannot be changed, so someone has to pick up the bill for that. Regarding voluntary redundancies, as has been said, we are in a changing world, and I know that, within my department, some of the savings have been set aside for voluntary redundancies, and, bearing in mind what Deputy Southern said last week, it is the linen room, it is not the linen room, it is the Sewing Department that has been part of our voluntary redundancies. But, regarding that, redeployment is my number one priority and voluntary redundancies would be my last resort, if that was the case. But we must be able to give our employees a fair and appropriate package, so we have to start somewhere, if we did not start now, and started later, it is a bit of a chicken and egg situation, and as the Minister for Treasury and Resources said, it is going to be a closely controlled pot, and I am under no illusion that it will certainly be a closely controlled pot, and if the Minister for Treasury and Resources is going to set up a panel, or whatever, then full marks to that and I welcome that panel to really look at that closely controlled pot to make sure that money is not used, wasted or whatever. Just briefly on procurement within Health and Social Services, as you can imagine procurement within this department is huge, ranging from the usual in every department, from pens, chairs, desks, to everything medical, everything clinical, everything nursing, I cannot begin to think how many items would go through, it must be, I do not know, tens and tens of thousands, and part of that is done through ... some of it is done by the frontline staff, who really have better things to do than think: "Do I need to go through all these areas of looking at particular points?" So the procurement, and there is procurement within Health and Social Services, but it could do with extra strengthening, and it could do with that support, and to get that professionalism. We have, as you can well imagine, quite a few credit cards, whatever, purchase cards across the board, and I can reassure Members over the last year, the Assistant Minister and I, that he has gone through all the purchase cards and there has been a blitz on them and that has definitely been tightened, which in itself I suppose has been a saving. But there are more savings to be had within Health and Social Services on procurement, but that does need extra strengthening, and as has been said, with procurement and voluntary redundancy, having more information is very difficult, you either are or you are not more information I think. I do not know what else we can do, and the case and court monies, well it is there, it has been done, as far as the Minister for Treasury and Resources has said, he is able to give the information that he can do, and I have elaborated on the family law ones, which affects Health and Social Services. So I urge Members to vote against this reference back and get on and finish this debate.

#### **1.2.19 Deputy A.K.F. Green of St. Helier:**

Having listened to the speeches, I have been convinced not to support the reference back on (a) at least, although I have to say that I would have still liked to have had more information on the Treasury bit, £764,000, because what is it for? It is there just in case? Well we all need money just in case, and I am not happy about that, but I accept that there is a need to get on and do something

about the legal and court costs. I have to pick up a couple of points on the H.R. (Human Resources) and particularly in the redundancy fund, and the Chief Minister said that: "We are going to make people redundant over the next 3 to 4 years." So that begs the question, why the hurry for £6 million, why not just sufficient to get on with the work that needs to be done between now and the budget setting later on this year? So I would like more information there. I will just pick up a couple of points on the procurement. I know the Minister for Treasury and Resources and I have had discussions on this and I think we fundamentally agree that something needs to be sorted out there, but it is the way that we do it. My problem is that every time I see savings made, it is this expression I use, when is a saving not a saving? Well it is not a saving if you reduce expenditure by £2 million and then waste it somewhere else; that is not a saving. So what I would like to see, I have seen how you intend to do it, Minister for Treasury and Resources, I have seen how the Minister for Treasury and Resources intends to do it, what I want to see is a reduction in the bottom line on the budget. So if we are going to make a £5 million saving in procurement, tell me where that £5 million is going to come from. Give me the estimates. Is it coming from surgical or hospital equipment? Are we going to reduce their budget by £2 million, £3 million, £4 million, whatever, I want to know where that saving is going to be made, rough estimates I accept, where that saving is going to be made, so it just does not disappear into the ether like all the other savings, because savings are not savings when you spend them elsewhere. I would like to also just pick up on the purchase cards, and this is one of the reasons why I have concerns about the procurement, because I was employed within the States when purchase cards were introduced, not introduced, driven by Treasury as the big way of saving money. Now it cost my department more money, because the suppliers, and I would not want you to think that we used to nip down to the nearest butcher with the purchase card and buy whatever we needed, because people know I was a caterer, we still set proper contracts, we still set proper agreements, but the staff purchased the stuff, paying for it on the purchase card. That cost me 5 per cent more, did not save me any money, because the discounts I used to get were used then to pay for the prices of the charges to NatWest for the 5 per cent or 4 per cent or whatever it was they received on their thing, so it cost me money. But my point is, it was a Treasury driven initiative that this was going to save £60 per invoice, is the price we were quoted, and my department was putting something like 100,000 invoices through. I would just like to pick up on a point that the Minister for Health and Social Services made as well, staff at the frontline are far too busy to order, well sometimes it is far better if they do order, because once you bring in a central purchasing system, if you are not careful, they cannot be sure that they are going to get the supplies they need at the time they need it, so they hold greater stocks, and I can remember, when I first came into management as a caterer, all the orders used to come from the staff to me, I would look at them, approve them, and send them off. Now, sometimes that took a bit longer than people would like, so they held much greater stock, so we had much higher waste, and the most significant reduction I ever made in provision expenditure was when I allowed the staff to order their own, to an agreed price from an agreed supplier, and held them accountable for doing it. We saw significant reductions because staff felt empowered and much more in control. My other worry about the procurement thing is that we will start to buy more from the U.K., the delivery times will take longer, we will have to hold more stocks, and the savings will be lost in that way. Now those are just views I have, but the point is there is no information here to settle those concerns; that is my problem. We are going to make up to a £5 million saving. Where and how? That is what I want to know, so I will not support the reference back on (a) but I certainly will on (b) and (c).

#### **1.2.20 Senator T.J. Le Main:**

Similarly, I am not going to support the reference back, but I would like to just say that I have, and continue to have, a fear that the reputation of Jersey could be sullied or damaged, particularly if we do not maintain the very high standards that this Island has in the judiciary, prosecution service, Home Affairs, and the issues in regard to maintaining our reputation as one of the best places in the world to do business, to be transparent and offering the kind of financial services that are going to

be valued and recognised as being the best. Great strides are being made across all departments, and I am not going to support any reference back, and I am not going to support anything, but support this (a), (b) and (c). I live in a real world and every day, I do not know if many of you are, some of us old fellows wake up in the middle of the night, we put on the radio, and it is a continuous barrage of issues in regard to problems, financial problems in places like Ireland, the U.K. and the Euro zone, and all of them are having to come to grips with the whole issue of cutting back and being leaner and fitter. I would like to say that Jersey has to maintain its viability, its reputation, and the Minister for Treasury and Resources and the Council of Ministers are grappling with the savings of 2 per cent this year, 3 per cent next year, and 5 per cent in 2012. (b) is part of those savings. The departments have to know now that there is going to be funding available to reorganise and to shrink if necessary and to get rid of services that could easily be provided by other bodies or the private sector; services and jobs that will not be replaced. I am living in a real world and I understand, I mean places like Ireland, they are in huge deficits, borrowings of £50 million a day just to keep their heads above water; £50 million a day. They have recently run out of social security unemployment benefit funding. That is the mess they are in. We are in a very strong position, but the strong position means that we need to maintain that strong position, we need to be able to offer a future for the people of Jersey.

[12:00]

I have always stood on the basis, even 30 years ago, 31 years ago, when I stood for election, and I say this at every election time in the past: I live in a real world, I know what it is like to have borrowed a pound to have to pay back 3, I know what it is like to have had to bare my soul to the bank manager and explain all sorts of issues. I know that Jersey is a wonderful place to raise our children and to live and work, and I want to maintain that. I want to maintain Jersey as a great place. I walk through the town of St. Helier now and I realise ...

**Senator B.E. Shenton:**

Sir, I realise this a lovely ramble, but I fail to see what on earth it has to do with the reference back.  
[**Approbation**]

**Senator T.J. Le Main:**

It means a lot to the reference back, because I am not going to support a reference back, which is negativity again. It is all about we do not support it, and it is absolutely not, and I am not supporting a reference back, I am going to support (a), (b) and (c) in the main proposition and I am going to maintain the issue now. I have listened very carefully to the likes of Deputy Hilton and the Minister for Home Affairs, and of course the Minister for Social Security, in what they have been saying. It would be retrograde to vote for this reference back, and it would even be worse if we were to not support the proposition as a whole.

**1.2.21 Deputy F.J. Hill of St. Martin:**

I will not be very long; I just want to pick up on a couple of things. In fact it is just going to be difficult to support the reference back, if only because I think the way in which the House is divided, those who would want to support it would be defeated anyway, and I do not want to have a pessimistic approach, but that almost seems to be taken for granted now that those, if you oppose anything the Council of Ministers have in mind, you are not likely to have much success. That is a shame really, because I think that the value of the reference back has been probably as important as the debate itself, because what we are doing, and I think Senator Perchard made reference to it earlier, that we all have a responsibility about tracing and finding out where the expenditure is, but it is even more important for those of us who are not in the Executive, and what we are having to do; we are having to eke this information out, and I think what we have done by the reference back this morning, we were eking out that information, and even if we do support the reference back, which I regret to say probably will not get through, we are left with the alternative of voting for

something, and I have coined the expression about squeezing one's nose and voting, and I am getting fed up of having to squeeze my nose, because I know that I do not like what I am voting for, and we have not had the information, and even if we have the reference back, I do not know if we have, I am afraid to say, but I have been going through this and looking at it, you know, we are going to give £300,000 to the Bailiff's Chambers, and I have not heard why we want that money and what that has to do with court cases, and there is so much information we have not been given. I just want to pick up on something that Deputy Hilton said, that: "Investigations will cease because we do not have the money." I just cannot see that. I have come from a profession where, you know, 30 years, and if you have an inquiry you follow it through, you find a way of doing it, you do not suddenly say: "I do not have any money." So please do not be put off by what has been said there, because I think the reference back ...

**Deputy J.A. Hilton:**

I am sorry, I think it has been made quite clear by Members who have spoken in this debate that the Accounting Officers are obliged by law to have the money available to them, and if they do not have the money to spend then they simply cannot spend it, so if we do not have it, we do not have it. **[Approbation]**

**The Deputy of St. Martin:**

I am afraid we will have to agree to disagree. I just feel again that we are having this gun held to our head by Accounting Officers. Can I ask Deputy Hilton, or maybe the present Minister for Home Affairs, who justified £168,000 on Operation Blast? Who gave that? Who was the Accounting Officer? The very person who made the complaint initially. Now where is the proper accounting there? I think we are being taken for fools in this House. Certainly, anyway, I cannot see the value of the reference back because I do not think it is going to succeed and I think all our opposition Members will have the opportunities to do is voting for or against it, and I honestly think that we should move on and get on to the main debate, and those of us, including me, who do not agree with a lot of it here, will regretfully have to vote against things because, even though we may like some of the things, there are some things in here we do not like, and there are more things in here that I do not like than I do like, so therefore regretfully I will probably have to vote no on some of things where in many ways, if there had been more information, and in fact had (a), and I will ask the Minister for Treasury and Resources to look at (a) again. There are issues here that we are being asked to vote for a whole tranche of things, which really are hidden in there, and I do not know if there is justification for voting for it. I will not be supporting the reference back. I think it is well intentioned, but at the end of the day let us move on and vote for or against the main proposition.

**1.2.22 Senator A.J.H. Maclean:**

I am disappointed that the Deputy of St. John is not in the Chamber at the moment, he and one or 2 others took the opportunity to, I thought, unfairly beat up ... talk of the devil, he returns. He unfairly, I felt, took the opportunity to beat up the Minister for Treasury and Resources and indeed a couple of side swipes to the Council of Ministers at the same time, while he was on his feet, for good measure. I think it was he, or certainly some other Members, who referred to the England football team, suggesting the Council of Ministers were not united. I can tell Members that the Council of Ministers are united when this proposition was brought forward. Did we like it? No, we did not. We had the similar concerns to what other Members expressed in the Chamber this morning, and I can understand those. But, nevertheless, we have to be realistic, and I think, despite the fact there are reservations in certain areas, the realism of the fact is quite simple. First of all with regard to court and case costs, we are talking about 2010, we are halfway through 2010, we have already heard Deputy Hilton talk about cases that are already underway. These are costs that have to be funded for this year; there is no question of doubt about it. What is happening here, this is the Minister for Treasury and Resources, this is the Council of Ministers, coming forward and

being more transparent. In the past, what has happened? These funds have been dealt with, they have been dealt with out of the Criminal Offences Confiscation Fund, they have not been brought to this Assembly in an 11(8), as they have been in this particular instance. We have heard the Minister for Home Affairs talk about his budget being insufficient in the past, and this is going back over years, half a million pounds, when in fact the reality is that Home Affairs has been spending millions of pounds in some instances. Now, what we are seeing moving forward, we have 2 issues here: one, we have to deal with the present and past; secondly, as we are doing, we have to deal with the future. Better budgeting, realistic budgeting, and contingencies in each department to make certain that we are not put in a position where the Minister for Treasury and Resources is having to come forward with 11(8) requests, such as this, again. It is not acceptable, the public do not expect it, and certainly the Council of Ministers do not want to be in a position where we see these circumstances again. So I do not think there is a choice here about the court and case costs, we have to deal with it unfortunately. I found it interesting, Senator Perchard made the comment, he said: "We need to send a message." Well I can say to Senator Perchard, we understand the message, we have received the message, we know the message. The fact of the matter is, he also said: "It is inevitable." He is supporting the reference back; he realises the inevitability of the fact that we are going to have to pay these. What we have here is a reputational issue. If we do not deal with it, deal with it now, as we know we have to, then it is going to reflect badly on this Assembly and badly frankly on this Island, and I do not think that is acceptable. As far as (b) and (c) are concerned, this is about savings. The simple message is, are Members in this Assembly committed to savings? Are we committed to delivering savings? Because we are talking here about putting a pot of £6 million for voluntary redundancies in place to be able to deal with the difficult issues of voluntary redundancy that will have to be dealt with, and quite frankly it is going into a pot, which is going to be accounted for, it is up to that amount, it does not necessarily mean it is going to be that amount, and it will have the necessary checks and balances in place. That surely should give enough sense of satisfaction and a reassurance to Members to support that particular suggestion. As far as procurement is concerned, £500,000, again there are checks and balances in place, but we have to get on with showing that we are serious about saving money and this is a sensible way forward. This has been debated by the Council of Ministers; the Council of Ministers is united about it. I do however accept the concerns and reservations that Members have, but we have to show, as an Assembly, leadership in this matter, we have to show that we are determined to bear down on costs and deliver savings, it is a difficult decision to make, but that is not a reason for putting it off to another day, which is effectively what the Deputy of St. Mary is asking us to do. It is, in my view, a case of not putting off to another day, it is quite simply a case that some people do not like the idea of savings and they are not serious about it, and I do not think that is acceptable. I do urge Members to please reject this reference back in all respects, (a), (b) and (c).

### **1.2.23 Senator B.E. Shenton:**

I often get the impression in this Assembly that people do not read the propositions until the day they turn up in the Chamber to debate them. If you were holding a board meeting you would make sure that the board meeting papers go out a week before to give everyone the chance to read them and request more information if it is required. If you were sitting on a board with a Member that did not read his papers before the board meeting, you would in due course sack that Member from the board, because he would be of little use. This proposition was lodged on 25th May 2010. The Public Accounts Committee looked at the proposition from the point of view of the Public Accounts Committee. We were not looking at whether the policy was right; we were just looking at whether the procedures were in place to make sure that the money was well spent. This report was not picked up by Scrutiny; it was not reviewed by Scrutiny. As far as I am aware, very few Members of this Chamber asked questions beforehand, albeit there was a very late meeting on Monday of this week to deal with the arrangements. I believe that this House, through the reference back procedure, is not handling matters in the correct manner. When you receive a proposition, if you have concerns, you should address those concerns shortly after receiving the



proposition or in a timely manner. You should not turn up to the Chamber on the day and try and score Brownie points, or even worse than that, give the impression that you have not even bothered to open your post until you walked into the Chamber on that morning. The court and case costs figure is required. It is unfortunate. Previously we have never debated it because it has come below the line. It is not something that we particularly have a choice on. With regard to voluntary redundancy and the procurement matters, I would have expected Members, if they have concerns in this area, to have raised those concerns at a much earlier stage. I do not think a reference back is the way forward, because what it does, it shows a weakness in your own abilities to ask questions in a timely manner. I think today we should perhaps support this, but also learn from it. The Minister for Treasury and Resources has assured us that the budgeting process for court and case costs will be improved going forward, and this Assembly will decide in a timely manner what will be spent on court and case costs. In terms of procurement and the voluntary redundancy scheme, I would have expected someone to have put an amendment in, or at least ask questions, or ask Scrutiny to pick it up. None of this happened. Why was Scrutiny not asked to pick up on this matter? That is the question the House has to ask itself. This is a very unfortunate debate, because it is in some ways getting policy of the Government through the back door. As far as I am aware, this House has not agreed the policies that will lead to a voluntary redundancy scheme being needed, and this is where the Council of Ministers have let themselves down, because the policy should come before the request for the funding. So I think a clear message has to be sent out that, if this is passed today, we would still expect, as the States Assembly, to decide on the policy of this government with regard to the voluntary redundancy scheme, and that, although we may vote the money today, it does not give the Minister for Treasury and Resources or the Council of Ministers the natural ability to spend that money, and I think this is a very important message that we must adhere to. I find these debates very unfortunate, but I would ask Members to read their propositions well in advance, because, believe me, they do not do themselves any favours, or this Government any favours, by leaving it until the last minute to raise objections when they could have been raised much, much earlier.

[12:15]

#### **1.2.24 Senator S.C. Ferguson:**

The Senator has commented that Scrutiny has not particularly looked at this proposition. Well, from my experience and from what I know about what is going on in the States, I am aware of considerable work that has been going on in the Law Officers' Department since that original report was published, and I understand that there were a number of amendments and rejigging and so on that has gone on, and perhaps the Attorney General would comment on that. As far as the voluntary redundancy policy goes, this is a policy that was well established, I think probably, if urban myth is correct, by the Senator's father when he was on the States Employment Board and the whole parameters were set out and it is on the States website, the States management website, the terms and so on are set out very clearly, and it is a very well established policy. The difficulties with procurement and, to a greater degree with the Property Holdings, Property Holdings have been unfairly treated, I think, today, and I think it should be noted that, when the property was transferred to Property Holdings, there were a lot of games played by major departments, and the full budget was not transferred, and so Property Holdings have been under-budgeted every since they started, and the same with procurement; the budgets were not put in place and were not transferred from the major procuring departments to support procurement, and on that basis I must support extra money to procurement in order to get the system going. I am sorry Deputy Green is not here, because I do understand that there will be a specialist unit in Health and Social Services, which will deal with the specialised procurement like buying the odd metal knee or the metal hip or those sort of things that are very technical. So that one I find no problem. I think we do need to support very much items (b) and (c), and therefore I think that the whole point about the reference back is really, as Senator Shenton has already said, we have had the proposition since 25th May,

you know, Members are quite at liberty to go and speak to civil servants and ask them for the details. You cannot just sit and wait for information to drop through the letterbox and drop from on high like manna, you do have to go out and get it sometimes, and I think this reference back is, to some degree, is perhaps a spur to some of the Members, the newer Members, that they do have to go out and look for things, they cannot expect things to be dropped in their laps, and therefore I am very much against the reference back.

**The Greffier of the States (in the Chair):**

I call upon the Deputy of St. Mary to reply on the reference back.

**1.2.25 The Deputy of St. Mary:**

Yes. I thank all those who took part in the debate, although it has been rather long. I want to make a couple of overall points, and then (a), (b), (c) through the specifics of the reference back and of the proposition. We have heard a number of speakers, I suppose urging us to get on with it, just get on with it, just get on and do it, said Minister Gorst, and in the same sort of vein we had the Minister for Housing who basically was saying: "Hold your nose" implying that we have to get on and vote on the original proposition today, we just have to get on with it, and Deputy Le Claire: "We are going to be a laughing stock if we do not get on with it." But I believe one can turn all that on its head. It is time to get a grip, and that is really what this reference back is about, and when people say: "Okay, just hold your nose, we will do another one, we will vote for another thing that has not been properly presented." Then when is the next time? I have a little note, I wonder how many wrong decisions this House have been taken on the basis of, well, just get on and do it. Just get on and do it. We had a curious speech from Senator Le Main who, on the one hand held up the massive deficit in Ireland, which is totally incomparable to Jersey, no connection at all, but then said: "Business as usual. Just let us carry on. Just let us vote it through, wave it through." Here, in this debate, I am being the apostle of stringency and effective control, and efficient delivery, so it is not that I am not interested, or Members are not interested in controlling costs, as has been suggested by some, that is not the issue. If there is waste and inefficiency then clearly that has to be addressed, but that is not the issue we are voting on, so that is the first sort of general points. Another general point is that (a), (b) and (c), taking them together, bringing the original proposition in that form, was itself problematic, and that is part of the reason why the reference back debate has been so long, and why the other debate is somewhat convoluted. (a) does not fit with (b) and (c); (a) is (a), oh crumbs, here is an overspend, we have to sort it, as Deputy Hilton pointed out, and I am going to come back to that in a minute, but we have these costs, we have to fill them some way or another. That is a very separate issue from future pots that we need for a policy in the future, which is what the V.R. pot was for, paragraph (b), and paragraph (c) is procurement, which is a totally separate issue again, and is another future issue. So lumping (a), (b) and (c) together was perhaps unfortunate, and has made this debate more complicated than it need to have been. I will be asking for the vote separately, because they are 3 completely separate issues, and I do believe in transparency and not lumping things together that should not be lumped together, and in that connection it was very unfortunate when the Minister for Treasury and Resources was trying to defend putting all those lines in the table on page 4, all together, the Home Affairs, the Judicial Greffe, the Bailiff Chambers, all together in one lump as paragraph (a). It was not appropriate and it probably should not have been done, but then if there were separate propositions we would have been able to handle this whole matter better. So, moving on to the first, paragraph (a), because I am, taking them separately, court and case costs. The first issue is information, and we heard in the reference back debate from Deputy Hilton the details of some of the Home Affairs costs, and maybe she mentioned them in the previous debate when I was at the dentist. Now that is fine, she did explain the requests for Home Affairs, so one line we have had an explanation of the detail why that money is being requested and why it was not within the original budget or an attempt was made at that. Now that is how it should have been for all the lines, and we should have had that in writing before. Yes, I did ask those questions, and we have heard today, well, you know, we

cannot really go into detail and it is for some reason difficult to expand on, but we did get some information on one of the lines, we have heard legal aid costs of £800,000 and £1 million for the family issues that the Minister for Health and Social Services referred to and so on. So we received a little bit of detail there as well, and if we sit here long enough we would probably get all the information that we needed, but it should have been there in the first place, da-da-da, and then we could have said: "Fine, this looks more or less all right. We do not like it but it is more or less all right." So the information question is real, and the information should have been there and we have had to eke it out, and some of it we have had in this debate, and some of it we still have not. The second point is delay, and we have heard from the Minister for Social Security and the Assistant Minister for Home Affairs, we have heard about how the investigations would stop. It would just come to a juddering halt if we do not vote the money today and therefore we cannot vote for the reference back. This cannot be true, the investigations are carrying on right now, somehow, and if the reference back was carried and the Minister was to bring paragraph (a) back in 2 weeks' time, lodge it quite soon with the lines filled in, and using the Standing Order that says that the reputation of Jersey, et cetera, et cetera, that would be perfectly legitimate, we would have the information, and there would be no giant juddering stop in the Home Affairs Department, so I really do believe that notion that everything on those investigations would simply cease if we vote for the reference back, I really do not think that stacks up and I think that the Minister for Treasury and Resources and the various departments could surely give us the information that they must have, they must know what is in those costs, and we could do all that in 2 weeks' time.

**Deputy J.A. Hilton:**

Is the Deputy prepared to give way? Can I just say, I think the Deputy of St. Mary has said he was probably absent for my speech yesterday, and I did give a level of detail yesterday to justify the amount of money brought forward by Home Affairs that we needed funding.

**The Greffier of the States (in the Chair):**

I think the Deputy said you had.

**The Deputy of St. Mary:**

Yes, I am quite happy with the fact that Home Affairs produced the information during the debate, but I am not happy with the fact that we could have had each line in that table filled in, in that way, in writing before, and that would make for shorter and tidier debate. So I am grateful that was done by the Assistant Minister yesterday and today, but I am just saying that we have not had it for the other 6 lines that we are supposed to approve in the sum of £8.5 million, and it is not satisfactory. So, that is delay, I do not think that is an issue, and the third issue with court and case costs is financial control. Now we heard from the Chief Minister that we do not want to go back to the bad old days where there was little financial discipline. Well, is that not strange? Because the Proceeds of Crime Compensation Fund has simply been used as a loose pot, dipped into as and when necessary. We had the report in 2005 saying: "You guys have to tidy up your legal costs situations." We had that recommendation in 2005, and because the pot was there, and because it was overflowing, we did not bother to get a grip on those costs, so 5 years down the line: "Can we have £8.5 million on the hoof?" Where is the financial discipline that the Chief Minister is talking about, that we have left behind? I am sorry, the message does need to be sent, it does need to be sent that we are not just going to nod this through, we want, not only the information, but we also want a firmer commitment on the review side and on, yes, we are going to sort this. We just want that absolute reassurance and 2 weeks' delay might just possibly send the message. Sending a message, you know, we heard from the Minister for Economic Development that we have received the message. But, I am sorry, the message was sent 5 years ago by the National Audit Office and it was not listened to. So let us send the message now, and then in 2 weeks' time we can vote, probably vote the court and case costs through under paragraph (a) as a separate proposition, no problem with that. But they do have to get it, the Council of Ministers, they really do have to get

that financial discipline message, and that if there is a pot lying around that just happens to be full of court compensations then we do not have to worry about that, it will not come and bite us. Because it has come and bitten us, the pot is no longer full.

[12:30]

The second, paragraph (b) is the C.S.R. and the voluntary redundancy. Now, Senator Shenton made 2 points, one of which I take exception to, and one of which I completely agree with. The first was he was talking about scoring Brownie points in the context of getting propositions on 25th May and then not asking questions, and suggesting that the reference back was somehow due to some failure to ask questions. Well I am sorry, the whole point about the reason for referring (b) back is that information that I asked for a month ago still is not there; we still do not have the fundamentals of the C.S.R., we do not have the timeline, we do not have the advisers and the commissioners, or what they are doing, simply we are just voting this money to put in a pot against cuts that have not even been agreed, on a basis of underlying factors that we have not been sent the information at all, and Senator Shenton correctly said that: “Here we are, voting money, when we have not voted the policy.” So I would urge Members to refer (b) back, simply on the basis that, when and if cuts are agreed in certain areas, and not other areas, and so on, and when we have looked at the growth areas as well, when we have looked at the C.S.R., then we vote the appropriate pot. The third point was (c) procurement. Procurement; well now the Minister for Home Affairs said something extraordinary, he said: “If we were to delay, if we were to refer this back, and a new proposition was brought, we would have the same debate, because people think yes or no already.” This is simply not the case. We heard from Deputy Green some of the issues, we heard from the Minister for Social Security some of the issues around procurement, but the fact is, as I mentioned in my main speech, that the evidence is simply not there. We do not know how the savings were achieved, if they were, of £2 million, and we have no idea how the £5 million or the £10 million would be achieved, there is not a pattern or template, it is simply: “Give us £800,000 and we will spend it on a new procurement setup.” Sorry, that, I would not have thought, is what Members are here to do, to hope that the new procurement setup will work if we vote the money. The track record here is not good. Atlantis has not met its full potential; I am not sure what Atlantis is, but it did not meet its full potential. JD Edwards is not even used by all departments yet. The cards, 2000 issues, and then rolled out, and then rolled back. It is not a good track record to say: “Fine, vote the money, let procurement sort itself out and it will all be roses and we will save a lot of money.” Well maybe we will and maybe we will not, and it is not right to vote that money in advance, bundled into a supplementary vote, there is absolutely ample reason to refer (c) back and have a proper proposition on procurement and how it would look and how the savings would be achieved. So, I put this separately, refer back (a), (b) and (c) separately, and I call for the appel.

**The Greffier of the States (in the Chair):**

Very well. I would invite Members to return to their seats. The Deputy is proposing the 3 paragraphs should be referred back, but we will vote individually, so the first vote, Members, are in their seats, is therefore that paragraph (a) regarding court and case costs, should be referred back to the Minister, and the Greffier will open the voting.

<b>POUR: 8</b>	<b>CONTRE: 39</b>	<b>ABSTAIN: 0</b>
Senator J.L. Perchard	Senator T.A. Le Sueur	
Senator A. Breckon	Senator P.F.C. Ozouf	
Deputy R.G. Le Hérissier (S)	Senator T.J. Le Main	
Deputy J.A. Martin (H)	Senator B.E. Shenton	
Deputy of Grouville	Senator S.C. Ferguson	
Deputy of St. Mary	Senator A.J.D. Maclean	
Deputy M.R. Higgins (H)	Senator B.I. Le Marquand	

Deputy D.J. De Sousa (H)	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. 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 J.B. Fox (H)	
	Deputy G.P. Southern (H)	
	Deputy of St. Ouen	
	Deputy of St. Peter	
	Deputy J.A. Hilton (H)	
	Deputy P.V.F. Le Claire (H)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy K.C. Lewis (S)	
	Deputy I.J. Gorst (C)	
	Deputy of St. John	
	Deputy M. Tadier (B)	
	Deputy A.E. Jeune (B)	
	Deputy T.M. Pitman (H)	
	Deputy A.T. Dupré (C)	
	Deputy E.J. Noel (L)	
	Deputy T.A. Vallois (S)	
	Deputy A.K.F. Green (H)	
	Deputy J.M. Maçon (S)	

**The Greffier of the States (in the Chair):**

Very well. I will ask the Greffier to reset the system and the Assembly now comes to the vote on referring back paragraph (b), which relates to the voluntary redundancy scheme funding, and he Greffier will open the voting.

<b>POUR: 12</b>	<b>CONTRE: 35</b>	<b>ABSTAIN: 0</b>
Senator J.L. Perchard	Senator T.A. Le Sueur	
Deputy R.C. Duhamel (S)	Senator P.F.C. Ozouf	
Deputy G.P. Southern (H)	Senator T.J. Le Main	
Deputy of Grouville	Senator B.E. Shenton	
Deputy of St. John	Senator A. Breckon	
Deputy M. Tadier (B)	Senator S.C. Ferguson	
Deputy of St. Mary	Senator A.J.D. Maclean	
Deputy T.M. Pitman (H)	Senator B.I. Le Marquand	
Deputy M.R. Higgins (H)	Senator F. du H. Le Gresley	
Deputy A.K.F. Green (H)	Connétable of St. Ouen	
Deputy D.J. De Sousa (H)	Connétable of St. Helier	

Deputy J.M. Maçon (S)		Connétable of Trinity	
		Connétable of Grouville	
		Connétable of St. Brelade	
		Connétable of St. Saviour	
		Connétable of St. Clement	
		Connétable of St. Peter	
		Connétable of St. Lawrence	
		Connétable of St. Mary	
		Deputy of St. Martin	
		Deputy R.G. Le Hérissier (S)	
		Deputy J.B. Fox (H)	
		Deputy J.A. Martin (H)	
		Deputy of St. Ouen	
		Deputy of St. Peter	
		Deputy J.A. Hilton (H)	
		Deputy P.V.F. Le Claire (H)	
		Deputy of Trinity	
		Deputy S.S.P.A. Power (B)	
		Deputy K.C. Lewis (S)	
		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 Greffier of the States (in the Chair):**

Very well. The Greffier will now reset the system and we come finally to the vote on referring back paragraph (c), which relates to the additional funding for the procurement function, and he Greffier will open the voting.

<b>POUR: 14</b>	<b>CONTRE: 33</b>	<b>ABSTAIN: 0</b>
Senator J.L. Perchard	Senator T.A. Le Sueur	
Senator A. Breckon	Senator P.F.C. Ozouf	
Deputy R.C. Duhamel (S)	Senator T.J. Le Main	
Deputy R.G. Le Hérissier (S)	Senator B.E. Shenton	
Deputy J.B. Fox (H)	Senator S.C. Ferguson	
Deputy G.P. Southern (H)	Senator A.J.D. Maclean	
Deputy of St. John	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 St. Helier	
Deputy M.R. Higgins (H)	Connétable of Trinity	
Deputy A.K.F. Green (H)	Connétable of Grouville	
Deputy D.J. De Sousa (H)	Connétable of St. Brelade	
Deputy J.M. Maçon (S)	Connétable of St. Saviour	
	Connétable of St. Clement	
	Connétable of St. Peter	
	Connétable of St. Lawrence	
	Connétable of St. Mary	
	Deputy of St. Martin	

	Deputy J.A. Martin (H)		
	Deputy of St. Ouen		
	Deputy of Grouville		
	Deputy of St. Peter		
	Deputy J.A. Hilton (H)		
	Deputy P.V.F. Le Claire (H)		
	Deputy of Trinity		
	Deputy S.S.P.A. Power (B)		
	Deputy K.C. Lewis (S)		
	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 Greffier of the States (in the Chair):**

The reference back having been rejected, the debate can continue on the proposition. Does any Member, who has not previously spoken, wish to speak? Deputy De Sousa.

**1.3 Public Finances (Jersey) Law 2005: funding requests under Article 11(8) (P.64/2010) - resumption**

**1.3.1 Deputy D.J. De Sousa:**

When the Minister for Treasury and Resources began his speech, I wrote down 2 things instantly: how much will the total savings of the C.S.R. at 2 per cent be? £12 million I believe. Then I also wrote down the £8.5 million we were told he was asking for here. I am no mathematician; I am no accountant, and usually my speeches are extremely short, but I do have a couple of things that I do need to say here today. This is a Minister for Treasury and Resources that, when he gave us the Strategic Plan, the Business Plan, and the Budget, has constantly said to us: “We need to cut. If you want to bring any propositions, you can, but you have to bring the savings.” We are being told that we need to find £8.5 million to pay for these things. If I am not wrong, we are being asked for more. We are being asked for nearly £2.4 million on the Law Officers, just over £2 million on Home Affairs, £3 million in the Judicial Greffe, and the other figures that we all have there. Then we are being asked for £6 million towards the voluntary redundancy, then another £500,000 for procurement. So, as you can probably tell from the general consensus of the debate that we have had over the last day and a half, this has not been handled well at all by the Minister. The proposition, as we have been told, was lodged way back in May. The presentation was only given on Monday, the day before the debate. This could have been done much sooner, so then questions that were not answered at that presentation could have been asked, and then we would have had a more informed debate. We are looking at savings on the C.S.R. of £12 million, but we are being asked here to find £15 million to pay for all of these costs. Where is the saving? The Treasury, as other departments, seem to be very good at hiding increases. Let us look at some of these. In the C.S.R., Home Affairs are looking to make a cut in Customs and Immigration. In this proposition, Customs and Immigration, as we were told twice by the Assistant Minister for Home Affairs, Customs are looking for £195,000, but the cut in the C.S.R. is £29,000. Do these figures add up? No. Is there a saving? No. There is another one, procurement, £500,000. We have been told we need to make job cuts. Where are those job cuts going to be made? They are going to be made on the frontline staff; they are not going to be made at the very top where the money really can be saved. In the procurement, if you look at the proposition, page 9: “To achieve these savings, it is proposed to entirely restructure the procurement function across the States. A new ‘head of category’ post would be required for each major department e.g. Health, Education and Infrastructure.” We will need a new top procurement officer. The Minister is saying yes, but

where are the real savings? We are being told we need to find this money now through urgency. Yes, we all realise, even though we do not like it, we are going to have to find the ones for part (a), but do we really now need to find (b) and (c)? No, we do not. We have not voted the C.S.R., we have already had the Minister for Education, Sport and Culture yesterday retract one of his. I am also going to be contacting the Minister for Economic Development about his as well. So there are others that will be pulled out. So do not tell us that we have to vote this money now, because we have not voted on the C.S.R., and also we have been told he could probably do it with £3.5 million, but he is asking for £6 million, just in case, and this is the same Minister that keeps telling us we need to cut our cloth and make savings. I am sorry for taking your time, but it needed to be said, and thank you. **[Approbation]**

### **1.3.2 Deputy A.E. Jeune:**

As I said earlier, I have had the benefit of having time to reflect on what was said in respect of this proposition yesterday. My thoughts have been something like this: like other Members I attended Monday's presentation, indeed Deputy Martin was correct in what she said about the apparent frustration, because the adrenalin was pumping through my system that afternoon. But reflection is a good thing, and what I would say to Members is this: who, given the current global financial problems, as I said earlier, would want to be any government's Minister for Treasury and Resources. It does not matter whether that is America, Portugal, Ireland, as we have said, U.K. or Jersey, there are major issues to be addressed. It is going to be a very difficult job. Here in Jersey, we know, because of the boom years, we have something put away. With better past management, that maybe could have been more, but there we have it. But it has put us in a better position than most other places.

[12:45]

So to the proposition; in respect of the court and case costs, we need to be sure we are delivering a very clear message to wrongdoers: "Be assured we will get you and we will deal with you." But in delivering that message, we know there is a cost, and I believe the Minister will be looking at how to get the best out of the money we are giving and there have already been some suggestions. Senator Breckon, this morning, has elaborated on this. But on this, I would like the Minister to confirm that any confiscated proceeds do go back into the court and case costs pot and nowhere else. On Monday, somebody made reference to prosecutions and hip replacements. As difficult as that decision on whether we do or do not do hip replacements may be, that decision can be made. It is a lot more difficult to say: "Oh, well, we will not just prosecute this one because we need a few quid." In terms of (b), voluntary redundancy payments, I note in the report of the proposition on page 7 reference to the use of fixed term appointments or temporary contracts. I think we have been there before but the effect of them did not happen. It was more a case of: "Give it time, keep quiet, and you will get a permanent contract." So such contracts need to be managed. No, we do not need more managers. What we need is efficient, effective managers, be they current or be they replacement managers and we need accountability. I believe that the Minister is looking to ensure this. But when posts are made redundant, the Minister is going to need to have an eagle eye because I and others know that you get shot of one post but create just the same with another title and, hello, they then need more staff. In terms of procurement, half a million is not much if you say it quickly and it is the smallest of the 3 requests but it is the one that gives me the greatest concern. I believe if you look after the pennies, the pounds will look after themselves. At the presentation, if I understood correctly, we have a department that lacks skills. That sounds to me like bad management. My understanding is that there has been a tendering process going on for a very lengthy time. That should not happen. It is proposed to entirely restructure the procurement function. Well, not before time. Purchase cards were not managed. It is as simple as that. Staff can do the ordering. They know what they need, they know what they want but then if the order can go through to the centralised procurement department. Further on, it says the department



would be significantly strengthened. My question, how many staff? What grades? Will these be 'j' cats or will we be recruiting from within the Island? Do not be saying we have to pay so much more. Working in Jersey offers many benefits: low taxation, low social security contributions, generally a safe environment to live and work and to bring up a family. If you have children, then there is a very good education system. Life is not all about money and as things get even tighter, people will realise this. Having a job will be the important factor. But centralising the function of procurement I do agree with. I was heartened yesterday, as I said earlier this morning, to hear the Chairman of P.A.C. speak so positively in respect of this proposition and I am reassured that he will be working with the Minister for Treasury and Resources to ensure all the checks and balances are in place. I have no doubt we will find the chair of the Corporate Service Scrutiny Panel will be hard on the heels of the Minister and the P.A.C. chair in checking that everything is in order. Let us learn from past issues. I am not saying do not look back but I am saying please look forward. As I said at the beginning, who would want to be the Minister for Treasury and Resources? So instead of beating our Minister for Treasury and Resources, let us work with him. On reflection, I, right now, am minded to accept (a) and (b) and I think I can go with (c) and I urge other Members to reflect similarly.

**Deputy R.G. Le Hérisier:**

Could we withdraw Deputy Jeune's adrenaline pills **[Laughter]** and could we move the adjournment?

## **LUNCHEON ADJOURNMENT PROPOSED**

**The Greffier of the States (in the Chair):**

The Assembly stands adjourned until 2.15 p.m.

## **LUNCHEON ADJOURNMENT**

[12:53]

[14:15]

**The Greffier of the States (in the Chair):**

Very well, the debate resumes on the proposition and I saw the Connétable of St. Helier.

### **1.3.3 Connétable A.S. Crowcroft of St. Helier:**

I think I may be right in suspecting that if the matter had been put to a public vote, that is, those people listening to our debate, at the end of the Deputy of St. Mary's speech following also Senator Breckon's speech, I think a large majority of those listening, if they have the access to these buttons that we have, would have voted against the proposition. I will come back to the importance of a public vote in a few minutes. Clearly, we have had a debate about the reference back. A lot of people have discharged their slings and arrows during that debate which is a good thing if you are going to say unpopular things because there are fewer people to attack you personally sometimes. I did not support the reference back, I had no intention of supporting the proposition itself and I could not see how giving more information on any of the 3 paragraphs would have enabled me to support it, which is why I voted against it and I thought I would save my speech, which is really no more than a few observations, for the main debate. I say that because I think, as I said already, the Deputy of St. Mary and Senator Breckon made 2 extremely well researched speeches today. I think it is a shame, in passing, that the Deputy of St. Mary was persuaded to call for a reference back because after those 2 speeches, I think the mood of the House was quite clearly set against not agreeing certainly parts (b) and (c) of this spending request. But there we are, that happened, and we had the reference back debate. Members may share with me sometimes the frustration when you go to a cash point machine and it tells you that there is a fault and you have put your card in, you have waited to tap in your number and you cannot have any money but luckily for the Council of Ministers, that does not seem to happen with States expenditure and the Ministers have been

queuing up around the cash point machine or the Treasury taking out the money that they need for various matters. I think it is true to say that we have not heard much from the Constables, at least not yet in this debate, but I think the Constables, at least, understand the link between public expenditure and the pound in the public pocket or public purse. The Constables understand the phrase: "It is not my money" and it is a phrase I have used before in the States. This is not our money we are talking about collecting from the States cash point machine. A lot of analysis has gone on during the debate about why some of these costs are necessary and I am not going to go on a long time about it, but it is fair to say that some of these costs, even the court and case costs, could have been avoided. In January last year, I offered the new Minister for Home Affairs in a proposition the chance to move on from the situation he had inherited with the suspension of the Chief Officer of Police. For reasons which he has explained on various occasions, he decided that was not the case and we got into the situation where we are spending more than 4 times what it would have cost to pay the person off to the end of his contract, more than 4 times. I think there are few people in this Assembly who could stand up and say that the management of police investigations and, indeed, into suspensions in general, stands up to scrutiny. We suspend an officer apparently, we do not know yet why, but we suspend somebody over alleged financial mishandling and then we financially mishandle the investigation. Now, that seems to me pretty inconsistent, pretty ironic and extremely unsatisfactory. Members may say: "Well, that is all very well but it has happened now. The bills have been run up." We heard an interesting "gun to the head" approach today by many Ministers who said: "Well, if we do not pay this sum, then the police will have to stop investigating criminals." I am sorry but is that really what happens in the States of Jersey, because it does not happen in the Parishes. If a pot of money that has been voted by ratepayers for a certain thing runs out, then the Constable sits down with the Procureurs and says: "What are we going to do? Can we use other funds? Do we have other funds we can use? If we do not, shall we go to the ratepayers and ask them for increased funding so that we can meet this unforeseen cost?" That is how it is done in the Parishes and it seems to me to work very well. Not so long ago, and we are talking only a couple of years, the Council of Ministers blew £11 million which they have not accounted for. It was another time when the Ministers queued up around the cash point and £11 million extra money was spent by a number of things. I still remember the speech Deputy de Faye made about the recycling initiatives that were going to come in and so on. Some of the money went into improvements in childcare allowance and I support that, but I did not support taking it from this extra money that should have been returned to the taxpayer. We have spent untold sums on Victoria Avenue, of course, and the anomaly of fiscal stimulus money being awarded in the same year as we have been told about a £50 million shortfall is not lost on the public. Last year, we blew £106 million on an incinerator and, without naming names, a member of the Council of Ministers said to me: "We are going to buy it out of cash. Because we are cash-rich, we are going to use that money and we are going to buy it all now." We are not going to do any of the other financial procurement options that were around and we are not even getting into the hedging of the Euro yet because that was before that but we are going to spend the money. I am sorry, we have not had the debate yet on ... is it fundamental, no, it is now Comprehensive Spending Review. That was the last one. We have not had the debate on the spending review yet but it will be very difficult for the public to swallow the kind of cuts the Ministers are looking for with the recent history of wasting money by this Assembly. I am sorry, again I have mentioned it before, but there are other ways of getting the money and what I would have liked to have seen the Minister for Treasury and Resources do, because I thought that is what ministerial government meant, was to go around the other silos of the ministries checking for surplus grain. Okay, we have gone through the years of plenty. We did not put any grain in the silos or we did not put enough in the silos but surely the whole purpose of ministerial government is we get away from the silo mentality, and there was a problem with court and case costs so the first thing the Minister for Treasury and Resources does is he says to his ministerial colleagues: "Come on, we have got to find this money. I am not going back to the States for more money. Which of you has got this kind of money sitting unspent in your budgets?" I am trying not to look at any Ministers in particular

because that would be invidious. So what are we to do? Well, my view is, and I think Members have said that they are not at all convinced about putting money aside now for voluntary redundancy. It is interesting people have not looked at redundancy as far as I can see. There is voluntary redundancy. It is premature to put that money aside when we have not had the debate yet. The procurement matter, many Members have spoken about this nonsensical situation and it is all very well for Ministers to talk about this great new dawn of financial responsibility. I have been in this House for, I do not know, 12 years. We have been having these “new dawns”, they are obviously false dawns, because we have been having them regularly at regular periods, that is when we have not had money coming out of our ears and we have been spending it on schemes that need doing. So I find this new financial discipline that has been talked about quite hard to swallow. I think the Minister for Treasury and Resources would relish the opportunity and the challenge that he would get if we refused these spending requests today. I think he would because he would have to go back to the Council of Ministers and say: “Right, which of you in your departments can help me out of this jam?” If Ministers said: “Well, I am sorry, we are not going to give away” the Minister could come back to the House and he could ask the House to instruct the Ministers to find that money. That is how things can happen. Make the savings first. I do not know for how many years now St. Helier, in its job recruitment, puts whether it is a replacement post, a compensatory staff saving or a new post in, I have never seen that done by the States and we keep seeing new posts coming in at the managerial level and many Members have said that it is simply not right to keep cutting frontline staff while these highly paid senior civil servants have the money. The Minister for Treasury and Resources set himself his own snare when he referred to Property Holdings Department not performing. He did not say the wheels had come off, that was another Member, but he did say that this department is not performing and my question is, where is the accountability? Where are the political heads rolling? What is happening in the staffing of that department? I wonder how the staffing of Property Holdings compares with the staffing we used to have in Property Services. Property Services may not have done what people wanted it to do but I seem to remember it was a pretty small office that was headed up by a local person with years of experience. So I believe that the savings should be made first. It is wrong to ask the Assembly to approve, as Deputy De Sousa rightly said, such a large amount of money, more than appears to be obvious in the proposition, without that radical belt-tightening going on in the Council of Ministers. Now, I am going to be criticised for not going to the presentation and I have to say, of course, that this is the week when the Parish Assemblies go to set their budgets, and I just thought a quick plug. We have ours tonight in St. Helier, 7.30 p.m. I will be held to account tonight for the spending of the Parish in the last year and the proposals we have for spending in the next year will be scrutinised. They would have been scrutinised by the Accounts Committee. They will be scrutinised by the public. It is a marvellous form of discipline for the Constables and for the way they spend money. We are not claiming that we have got it right and that the Parishes are the epitome of efficiency and value for money. That would be foolish. There are big savings I want to make and I am sure the other Constables share my views. But every year we submit to the annual discipline of allowing the ratepayers, those who pay these costs, the people, if you like, behind the cash machine, we submit to that annual discipline and I believe that is something the States needs to do. So for these reasons, and I am not wanting to criticise the Minister for Treasury and Resources but I do think that for the public to really believe that this is a new dawn of financial control, then he really has to go round those silos of the other departments and check them and see exactly how empty they are. Then I think he needs to come back and say: “Well, yes, we have met these costs by savings in other departments.” I always remember, I do not think it has ever happened since, when former Deputy Dorey gave back I think it was £500,000 from the agriculture budget to the centre and I do not think that example has ever been followed, but that is the kind of corporate response to this that we should have seen in the Council of Ministers before they came to the Assembly and asked us to approve this kind of spending. So for those reasons, I will not be supporting the proposition.

#### **1.3.4 Deputy K.C. Lewis of St. Saviour:**

Much of what I was going to say has already been said so I will not go over it. Suffice to say that the Attorney General is duty bound to act in the best interests of the Island so this must be adequately funded but, of course, fully audited. If I may quote from the proposition: "While it is acknowledged that there should be no political interference in the judicial process, the Minister for Treasury and Resources is obviously concerned at the costs involved. As a result, as part of the Comprehensive Spending Review, a review has been commissioned to consider costs across all the legal departments." So that will be well covered. I would just finish with a question to the Minister. At Monday's Treasury briefing, in answer to a question by myself, the Minister stated that - I am sure he will correct me if I am wrong - little or no money has been received recently to put towards the court and case costs from the criminal asset confiscation. Will the Minister inform Members whether he is expecting in the not too distant future any money from the Criminal Asset Compensation Fund from recent high profile court cases?

[14:30]

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

I will be extremely brief. I was asked for some items of advice yesterday during the course of the debate. I have been informed by the Member asking that those are no longer required so I do not propose to speak at any kind of length on matters relating to legal aid unless there is a request generally from the Assembly for advice on that subject. I think I should just make one or 2 remarks about the request that relates to the budget for the Law Officers' Department and the Assembly will, of course, understand fully that I am highly reluctant to discuss anything by way of criminal prosecutions and investigations, so I do not do so. What I will say is that the large part of the money that is sought for the Law Officers' Department relates precisely to that, to the anticipated costs of prosecutions and complex investigations. I believe we have 9 on at the moment and more may well come, many of which involve international elements where we have to go to foreign jurisdictions, where we have to seek evidence elsewhere and where we have to carry out very careful financial analysis of transactions. That is an extremely expensive exercise. It is not something that is incorporated within the base budget of the Law Officers' Department. We do not have the personnel within our establishment to do it. This is expertise that, in order to investigate properly, we need to buy in. So if we do not have the provision for it, we cannot do it because it is a bill that has to be paid. My understanding is that this is a best assessment of the expenditure that is likely to be incurred going forward towards the end of the year. In terms of the control over expenditure, it is fair to say that since the National Audit Office Report of 2005, we have implemented most, if not all, of the recommendations except for those where we felt that we could not implement them and we have explained to the centre why that could not be the case. We are introducing a tendering process in respect of children's work for the outside sector and, depending upon our experience of that, I am intending to introduce a tendering process for external legal advice as well. It is perhaps also important to say that the investigatory work that we have done historically up to date has brought more money in than it has cost. It is merely that, on this occasion, the source of funds, the Criminal Offences Confiscation Fund, at the time that this was assessed, did not have sufficient money to meet the anticipated costs. But historically that has not been the case and, historically, the investigations have, in fact, taken as a whole, certainly returned enough money to cover their cost. It is very important that we are able to continue to do this. It is important reputationally as I believe other Members have also said. It is one of the reasons our successful prosecution of money laundering offences, our successful prosecutions of offences relating to international corruption, that gave us the recognition on the international stage in the recent I.M.F. (International Monetary Fund) Report. I think that is all I would wish to say. I just wished to explain the 2 or 3 points relating to that part of the request relating to the Law Officers' Department. Unless anyone has any questions or legal advice needed, that is all I wish to say.

### **1.3.6 Senator B.I. Le Marquand:**

I was somewhat disappointed by the comments of Deputy De Sousa in relation to this where she sought to say that the cuts being proposed for the next financial year by the Home Affairs Department were not real because we had growth in this area. Unfortunately, the Deputy seems to have failed to understand that the provision that has been sought here by Home Affairs is a provision apart from the Criminal Injuries Compensation Scheme, which is a particular case where we have no provision, that otherwise is for provision that we have always had. We have always had a provision for these sums. It is just it was financed in a different way. This is not growth.

### **Deputy D.J. De Sousa:**

Sorry, but your Assistant Minister said that £195,000 of that money that the department is asking for is for Customs. Those were her words.

### **Senator B.I. Le Marquand:**

Yes, that is correct, but unfortunately if I can just explain that for the benefit of Deputy De Sousa as well as the other Members of this Assembly. Customs always had a provision in this area. In fact, it is the figure which on page 4 is the £30,000 provision. It was grossly inadequate. We always knew it was grossly inadequate but there was always a provision in case there were exceptional cases and, of course, exceptional drugs cases do occur as well as other cases. So I accept that the Deputy may not have understood this point. In relation to the contribution of the Connétable of St. Helier, he is, in my view, perpetuating a myth which has been also perpetuated for some time by the Deputy of St. Martin, both of whom have chosen to nail their colours to the 'Power' mast, if I may put it that way, most firmly, perpetuating the myth that somehow the Chief Officer of Police would have gone away. But the fact is that he chose, from day one, to seek to say: "I have done nothing wrong. I want to come back. In fact, I am going to bring legal proceedings against the Minister for Home Affairs so that I can be reinstated." The fact is that there never was the option open to the Minister for Home Affairs to simply pay him off. That was not something he was going to accept. That was not something he was ever going to agree to. So this is a complete myth which has been put over, that somehow I had some other option open to me. The fact is it will very shortly be demonstrated when I reveal reports, which I hope to do next week in relation to these matters, that the Chief Officer of Police was very seriously at fault in a whole number of different ways. Members will then be able to judge whether my opinion of the matter ...

### **The Connétable of St. Helier:**

I think I ought to raise a point of order. I think for the Minister to pre-empt the disciplinary process is entirely wrong. The person concerned has no right of reply. This is not a judicial court. I would suggest the Minister withdraw his remarks.

### **Senator B.I. Le Marquand:**

I am not withdrawing the remarks. They are absolutely true and I have had to wait a very long time to say them and I will demonstrate that that is absolutely true next week from the reports which I have. I am well aware of the disciplinary matters. I am able to inform Members if they are interested that I have today abandoned the disciplinary proceedings against the Chief Officer of Police upon the basis that it is impossible to finish it within the time, solely upon that basis. There were ample grounds for disciplinary proceedings as will become apparent shortly. **[Interruption]** I am not giving way. It may be that those Members who have chosen to nail their colours so firmly to the mast without checking with me as to what the real facts would be may have to eat humble pie. **[Aside]** I am sorry, I have strayed slightly. I will gloss over my next point because it was already raised by the Connétable of St. Helier. It is, in fact, irrelevant. I did want to say one or two other things. There was a very useful contribution from Deputy Fox in relation to the issue in relation to drugs offences and particularly in relation to the issue of trying to get people arrested elsewhere. Frankly, this is something we do. As I made it plain at the briefing the other day, one

of the difficulties that we face in relation to that is we do not always get co-operation from other jurisdictions. Some jurisdictions are very willing to co-operate to arrest people elsewhere so that they are charged elsewhere but not all jurisdictions are. We do try to work in relation to that. I also wanted to go for some explanation in relation to the issue of the particularly difficult situation that arises in relation to court and case costs in relation to lengthy criminal cases. Now, I recall that this first arose in the case of the Town Jewellers. The Town Jewellers' case was a robbery of the Town Jewellers some years ago and what happened was the advocates involved in that were involved in a very lengthy case. One of them who was involved was a sole practitioner. In other words, he was the only lawyer in his practice and effectively his whole practice was paralysed for the entire period of that case. After that, it was decided by those who make such decisions that it would be appropriate in very lengthy cases of that nature that there be some sort of financial provision made. That seems to have been what happened in the more recent drugs case. I may say that by way of explanation but what the Members of this Assembly do need to understand is the whole issue of legal aid is a very delicate issue, a very delicate issue indeed because, frankly, if push came to shove, it would be difficult to justify the existing scheme in the sense that the whole basis of the Legal Aid Scheme has always been based upon the oath taken by advocates when they became advocates. If push came to shove, that may not be justifiable and so there has been, for quite a number of years, a delicate balance between the position of the lawyers who are very willing to help but do not wish to have too much of a burden on the one hand and, on the other hand, the public purse which does not want to be drawn in to paying for a full publicly funded legal aid scheme. So there is a balance there and I merely mention this by way of explanation of how delicate that particular balance is. That is all I wish to say.

#### **1.3.7 Senator T.J. Le Main:**

I wanted to respond to the Attorney General really. I totally support, in fact, what the Attorney General has said but there was just a question I wanted to ask. Two or 3 years ago, I cannot remember exactly what date, the Constable of Grouville and myself, one or 2 others, I think you were there, Sir, attended a C.P.A. (Commonwealth Parliamentary Association) conference in Nigeria and there was the big conference of 600 or 700 people in the conference when the then Attorney General allowed me to say to the conference that Jersey had repatriated some £100 million or US 100 million dollars, whatever it was, to the Nigerian people because of money that had been stolen many, many years ago before there were any checks and balances from the people of Nigeria by a General Abacha. I think, if I am right, the Attorney General may correct me, but it has probably doubled since then. I know that more funds have been repatriated, something like £150 million or so. I would like to ask the Attorney General whether there is any possibility, when I suppose this is probably the only time we are going to find that sort of money because the issues of control and regulation now does not preclude it. But in that case, could we have recovered considerable costs from the repatriation of the monies? I know that the Nigerian people were very, very pleased and Jersey got a standing ovation for declaring that but I just wondered if there is any sort of funding that is either repatriated or cases go, whether there is an opportunity of making a charge for the work that has been done on cases like that.

#### **The Attorney General:**

The answer to the Senator is that it very much depends. I am not sure of the full details of the Nigerian repatriation. I believe the current figure, although I may stand to be corrected, is US 150 million dollars has been repatriated by Jersey over a period of years to the Republic of Nigeria. It is also my understanding that we have retained from sums recovered sufficient to cover the costs inherent in any of the investigations that gave rise to that. I may be incorrect in that but that is my understanding of the current position.

#### **1.3.8 Senator T.A. Le Sueur:**

I do not think I have got much more to add. I think we have debating this for more than long enough by now but I do want to make a couple of comments, firstly about court and case costs. There was a suggestion that there was not enough detail about certain areas such as the Judicial Greffe, the Viscount's Department and the Bailiff's Chambers. As Chief Minister, I am happy to speak and represent their elements of this additional spend, the £3 million for Judicial Greffe, £8,000 for Viscount's Department and £300,000 for the Bailiff's Chambers. The Judicial Greffe balance of £3 million is really, as has already been mentioned, 3 roughly equal areas, £1 million for legal aid, £1 million in respect of the statutory costs of certain cases and a further £1 million in respect of additional cases, which I mentioned earlier in respect of the Children's Law and the need for proper separation of the responsibilities within that law.

[14:45]

The Viscount's Department, £8,400, is a relatively small sum and that deals with the costs required in respect of the proceeds of crime and also insolvency legislation where the defendants themselves have got no assets. Now it is still right that the prosecution goes ahead but there is no way in which one can expect to recover costs from the people concerned who may or may not be guilty but, whatever it is, there are costs which are irrecoverable. The Bailiff's Chambers, which appears to be an anomaly, is because the Bailiff's Chambers is the area under which the Commissioners fall and therefore, because there are additional costs because of more trials than expected, that requires Commissioners to sit for more days than expected or for more Commissioners to be appointed. So this represents an estimate of the additional costs required for Commissioners to hear cases. I hope that that deals with people who felt that there were not sufficient details within the original proposition about court and case costs although I do echo the comments that Members did have those questions. They have had 6 weeks to ask that amount. I pick up also on comments which I think were started off by Senator Breckon and echoed by the Deputy of St. Mary in respect of the 2005 review of court and case costs by the National Audit Office. These court and case costs are not because that review has not been implemented. That review has been implemented. There have been significant improvements in case management and in the procurement of defence counsel at a standard and reduced hourly rate. A lot has been done otherwise sadly this figure would have been even higher. This figure is there because, as I said earlier, of the increased complexity of certain cases and the increased number of cases of a difficult nature or in respect of new arrangements under the Children's Law. But really, as I say, that has been already dealt with. The other aspect of this proposition, which in my comments about the vote of no confidence I referred to, was that of voluntary redundancy which is a rather separate issue of a different nature. The policy for voluntary redundancy is not one set by the Minister for Treasury and Resources. It is one set by the States Employment Board and it was set many years ago, as someone has already said. I am not satisfied that that policy is still the appropriate policy and it is a policy which is under review and, as I said in the written answer earlier this week, is likely to be changed by the end of 2011 and possibly changed to a lower standard of generosity. I cannot say at this stage what the new arrangements might be but I think it is fair to say that the present arrangements, as Members will have seen from page 8 of the proposition, are probably quite generous, certainly in certain areas and anomalous in other areas. So that needs to be reviewed. But the fact is that policy exists. It has existed for many years and if people apply even now for voluntary redundancy, they are entitled to be assessed and they are entitled to be judged if appropriate or not. What I am saying in respect of the £6 million, which appears to be a very large figure, is that if the message goes out that in 2011 and 2012 the terms are going to be less generous, there are 2 consequences. Firstly, there is likely to be an increase in the number of people trying to get in while the going is good and I do not know how many that will be but however many that may be, it is, from my point of view, very welcome because I would far sooner see people volunteer to be made redundant and the job not refilled than have to enforce compulsory redundancy. So while it may appear a large figure, I think, coupled with the fact that the terms are likely to change next year, it is a realistic figure to put

in and it signals the fact that we want to get on with this job right now. So I think as far as Senator Shenton was concerned, he has suggested that we should approve the policy before making the funding. The policy, as I say, has been in place for some considerable time now. I could go on for other matters but I think Members are probably getting a little bit tired with the flow of this debate now and minds have been, I think, generally made up and I do not want to add to the delay so I propose to say no more other than to urge Members to support all 3 parts of this proposition.

### **1.3.9 Senator J.L. Perchard:**

The Chief Minister has rightly reminded Members that the proposition will be voted on in 3 parts. I would just like to talk about them individually and briefly. Part (b), as the Chief Minister pointed out, is about making £6 million available between now and the year end to pay for anybody who should wish to seek a voluntary redundancy. That is £1.2 million a month starting in August. I do not know where the Council of Ministers have been or where the Chief Minister has been or the Minister for Treasury and Resources has been, but to put that money aside for the next 5 months is completely and utterly an utter over-estimate and I would urge people to hear carefully what the Chief Minister said. He said he is not satisfied that the redundancy scheme that is offered at the moment is appropriate. It is too generous and yet we are promoting it. So I urge Members to vote against (b). It is ill thought out, ill conceived and it is just tagged on. With regard to (c), the £500,000 set aside invest to save to buy and procure cheaper. Well, it is not about employing senior managers, Members, it is about Ministers biting the bullet and taking some responsibility. It is about the Minister for Education, Sport and Culture going to universities and saying: "Look, universities, you are behaving like you are in business. I am going to behave like I am a business. I am going to deal with 30 or 40 universities. I want you to bid for Jersey's work." It is about the Minister for Health and Social Services doing the same with hospitals. Go to the U.K. and say: "I have got quite a lot of business here. Do you want it?" It is about political drive and enthusiasm and initiative. It is not about employing another manager. Get it right at Council of Ministers and things will drop into place. I urge Members to discount (c) as well. It is just throwing good money after bad. We have been here before investing in senior management to beef up our procurement process. Drop it, Members. Ask the Council of Ministers to do their job. Now, I have got to talk about (a), court and case costs. I think deep down even the Minister for Home Affairs knows that it has been a gravy train for far too long. People have got extremely rich in invoicing the States for court and case costs over many, many years. The Chief Minister has just highlighted the new Children's Law and the deficiencies and presumably the incredible costs that the Family X has incurred as a result of its new legal representation: unaccountable lawyers creating work for themselves and invoicing the States. Good and important work, it may have had to be done, but there is no measure, there is no yardstick and there is nobody holding the judicial process to account. I have got to highlight the crazy, the unbelievable suspension of the Hospital Consultant for 3 years. Now, I was involved in that. I inherited it, as Members will know, as did the Deputy of Trinity, as did my predecessor, Senator Shenton. The legal advice was clear. While there is a judicial process, you cannot do anything. I have friends in the private sector who would have taken different advice. They would have said: "Look, if he is good enough to suspend for 3 years, he is good enough to sack. If he is good enough to suspend for 3 years, he is good enough to reinstate", one or the other. Leaving him in limbo is not an option and I am afraid that legal advice was absolutely clear. You cannot do anything. Well, I am sorry, I challenge that, and I hold our Law Officers' Department responsible for the extreme costs that have occurred as a result of that advice. We must be practical. Its gravy train must stop. Similarly, the Assistant Magistrate. We are off again. In 2 years' time, we will be having this chat, will we? The gravy train must stop, and, of course, the Chief of Police. We have just been told, I think the Minister said and I scribbled it down somewhere, he has known for months there were good enough reasons and it will all come out shortly. Well, had he known for months, the man should have been dismissed. I am sorry. We cannot leave people in limbo. You either sack them or you reinstate them. You just cannot leave them on the shelf. It is just not right, it costs too much and I am sorry to see the Attorney General



looking at me like this because I passionately believe that we have to take financial responsibility for what we are doing and I cannot support this. I want to support it because I do understand the Minister for Treasury and Resources is in a bit of a pickle here. But I go back to the words I said in the postponement debate or the reference back debate which was that I think we need to shoot a large cannon ball across the bows of the Council of Ministers and say: "Enough is enough." You just cannot use 11(8) when you overspend or you have not got your finger on the pulse. If you have not got your finger on the pulse, it is not the fault of the rest of the Chamber. So I will not be supporting this and I urge Members not to support it. It may well be that the Ministers will have to come back in September and say: "Look, we will have officers contravening the Public Finances Law unless we support it" so we will be bound to but for different reasons. There will be an acceptance that there have been mistakes made. At the moment, it is just we are expected to fall over and have our tummies rubbed. It is not right. This is public money and I want the Council of Ministers to accept there have been huge mistakes made, come back to this Chamber, take responsibility and ask for financial assistance to ensure that those involved are not contravening the law. I think I have probably said enough. I think people realise that we just cannot keep spending millions of pounds of public money on a whim like this.

**The Greffier of the States (in the Chair):**

Does anyone wish to speak? I call on the Minister for Treasury and Resources to reply.

**1.3.10 Senator P.F.C. Ozouf:**

Well, Senator Perchard, who was a ministerial colleague for some time said this was about the Minister for Treasury and Resources coming in, I think, and asking Members to tickle his tummy so that they would roll over or something. But we have had a wide-ranging debate and if I am honest with you, I am not sure what I can take away from the debate in some respects because some of the messages are very clear but some of them, in terms of implementation, are quite confusing. Certainly, the arrows have been coming from all sides of the Assembly and so it should be in a sense that any decision on public money should be tough and it should be difficult to persuade Members. I do think that this is an opportunity, however, to improve cost control, improve budgeting, which I will refer to. There has been a day's debate on this and I am not going to be very long in summing up but I do want to respond to at least some of the points that Members asked me because no doubt they would ask me if I did not respond to them. I will just start, if I may, I am sorry that he is not here, with the Constable of St. Helier, because I think that he was, if I am honest with him, is being unrealistic. He beat and beat at the Treasury and I fully accept that there are lessons to be learned from his experience in the Parish of St. Helier and cost control.

[15.00]

Without wanting to be too personal, I would observe, however, that he is the Member that brought forward, quite legitimately and quite rightly, a proposition to spend more money in the town park which we have dealt with. He cannot have it all his own way in respect of delivering public services and delivering more projects. I would also ask him to consider his valuable experience as a trustee of the Jersey Heritage Trust. I am afraid that simply saying to an organisation that there is no more money without giving assistance and the right and effort to restructure does not work. You end up having to deal with an even bigger problem after the event and that is, in many ways, what I am facing in trying to control financial management in the States. Simply saying to Ministers ... and there is no automatic ability for the Minister for Treasury and Resources to say: "That is it, you have not got any more money" and it is a case of trying to win people by argument, by persuasion, in terms of helping them deliver some of their difficult services. I hope that he reflects his experience on the Heritage Trust with the remarks that he made about simply telling people: "There is no more money." I do accept that overall budgeting has an important role to play in financial management but, as I said in the reference back debate, financial management is not

just about setting the right budget. It is about having the controls and the in-year financial controls right the way through in terms of the expenditure. I know that there is concern among Members about the issue of court and case costs. Members can rest assured that all efforts will be made in order that the draw-down of the money is appropriate and there are appropriate checks on that. I am quite sure that the Attorney General, who I know has ideas about the better procuring of legal services, perhaps if I were to put the procurement amount of money into legal services, I may get that proposition through in terms of better procurement of legal services. The Attorney General and all of those who are dealing with court and case costs are going to improve procurement and they can do so if we give them an appropriate budget. The hand to mouth, case by case allocation and draw-down of court and case costs has not delivered value for money and we are trying in part (a) of the proposition to deal with that. A number of questions and Deputy Lewis asked whether or not because he is quite right to take from that question the fact that there is an issue of budgeting versus how it will be paid for and I can say that there is likely, and I am expecting, that there is going to be an asset confiscation transfer from the criminal asset confiscation to the consolidated funds. But I do not think that absolves the need to set the right budget and for this Assembly to make that decision and so as difficult as it is, I am going to ask Members to support (a) in terms of all of the parts. I cannot split it in order to put an appropriate budget. I will just say in relation to the Treasury amount, we are in the Business Plan going to bringing forward a proposal for a contingency. I know that that is confusing in terms of if it is simply given in the cash limit of the Treasury and Resources Department because it is most certainly not an amount of money like Deputy Green has said "just in case". It is an amount of money, it is a reserve, to be drawn down if it is required and that, with the greatest of respect to Deputy Green, is not just simply handing a department, Education or Treasury, an amount of money. It is a contingency because it is uncertain and we do not know whether or not all of those costs will be incurred. I would have thought that contingencies and asking the Assembly for contingencies is something that Members would support. It is not money being spent. It is money set aside in the event of it being needed and Members can rest assured that if I have any say in the draw-down of it, which I do, there will be appropriate strings attached to that and there will be the appropriate oversight. I am grateful for the support and, indeed, the helpful report by the P.A.C. The P.A.C. have made a number of observations about the whole 11(8) request and I completely accept that there should be an arrangement whereby any savings that are achieved through (b) and (c) are removed from the cash limits of departments. That is where Treasury can do something in terms of that and I will just refer to that in relation to H.R. issue. He raised the issue of policy, as a number of Members did, and there are 2 issues of policy. There is the entitlement, there is the scheme for voluntary redundancy, and there is the process of opening up a scheme to public sector workers. What I have to say to the issue of the policy is that that policy, and Deputy Southern also raised it, the policy, the actual entitlement of public workers in terms of a voluntary redundancy scheme, is known. It is almost non-negotiable. It is not possible to negotiate it, even though we know that the terms are generous. I signal that it is something that is going to need to be renegotiated but it will take inevitably 12 to 18 months before it can be renegotiated and, frankly, I want to get on with dealing with some of the manpower levels in departments which I will come to in a second. I want to start getting on with removing excess manpower levels and, yes, middle management immediately. I do not want to have to wait for 12 months while we renegotiate a redundancy arrangement which effectively may mean that we may well pay maybe 6 or 9 or 12 months' less for somebody that has worked for the States for 12 months. I prefer to give those people a chance to be voluntarily redundant in the next 6 to 12 months in order to get on with removing cash limits from departments and delivering £50 million. Deputy De Sousa asked how much is it going to be, because it was a very good question, what are the savings, the year on year savings that are going to be achieved as a result of supporting (b) and (c)? Well, my estimate of what we can save in terms of H.R. is north of £3 million a year recurring spending for a £6 million redundancy fund. It is almost the chicken and egg situation. We cannot start with a voluntary redundancy programme unless we have a fund. I realise that is a difficult issue but we simply cannot start unless we have the funding to do it. I do

not think that there is any Member of this Assembly that knows the management, that knows the staffing level in some departments, that would not recognise the following situation. Can we honestly say that all people in the public sector, while there are hundreds of workers in the public sector who are dedicated and who are hard working, can we honestly say that the manpower levels and every individual that works within the public sector is in the right position and we should be paying on an annual basis? I think that there has been relatively poor management in some areas and in dealing with a voluntary redundancy scheme, in giving workers an opportunity to come forward with a redundancy scheme, gives us the opportunity of shaking up departments at all levels. I believe that it is going to only be realistically possible to deliver savings of £50 million which are necessary in terms of our deficit if we tackle manpower and I believe that we should be starting that manpower savings straight away. I do not think that we should be waiting into next year. Deputy Le Claire, I think he made his conditional upon a Garden Lane road improvement but I was not sure. **[Laughter]** I am sure the Minister for Transport and Technical Services was listening and I am sure the Constable of St. Helier was listening. It is almost the difficult situation of politicking in relation to your constituency issues. I understand the point the Deputy made and I thank him for his support because I know that he understands the difficulty that I have in terms of persuading and I am grateful for his support. The Deputy of St. John asked whether or not the accounts for the Criminal Asset Confiscation Fund are published. They are. They are in the annex to the Annual Report and if the Deputy wants a briefing on the accounts of the Criminal Asset Confiscation Fund and the Drug Confiscation Fund, then that is available if he wishes. They are published and they are known in terms of the amounts that are paid, not necessarily the payees, but certainly the amounts that have been paid in the past. I share his view and I share his frustration about issues such as the Magistrate but I would respectfully point out that this is not a political appointment and not something that we can deal with but we have to deal with the financial consequences. I do accept that setting appropriate budgets for departments, including the judicial services departments and the prosecution budget is an absolutely vital way that we can control expenditure and he can have my assurance that we are doing so. Senator Ferguson rightly said that vacancy management and misuse almost of a voluntary redundancy scheme was the oldest trick in the book and she is absolutely right. I just reiterate the point that if an individual coming forward for a voluntary redundancy is accepted and there will be strict criteria and strict independent oversight for it, that will be removed from the cash limit of the department. I am determined to deliver that £3 million recurring costs of manpower and staffing levels in the Assembly. I should just also say that I just remind Deputy De Sousa that in terms of procurement, we are targeting £10 million from the £150 expenditure of non-staff costs for goods and services as part of this process. If she and other Members are not persuaded that we are delivering on the procurement, then they will not give the procurement budget in due course. Deputy Le Hérissier said that I was funereal and I am sorry about that. He also very kindly sent me an article from the *Times* yesterday of how to be a good Chief Secretary **[Laughter]** and, of course, the Treasury Minister in Jersey has a number of functions and while he has a very good Assistant Minister who helps him in relation to cost control, he does not have a Chief Secretary. So I will take the article. It says: "All you need is guile, sensitivity and a rhino skin." Well, I think he is right and also he said that the article said that it was the hardest job in politics and there were some survival tips and many of the things that Members have raised, and perhaps I will send around the article, are exactly some of the difficulties that the Treasury has. I accept that there is an issue of legal aid and there has certainly been an issue of legal aid in terms of reports making decisions which, in fact, are legal aid in almost a publicly-funded form. There is an issue and there is a debate about legal aid. I do not think that the current legal aid arrangements are going to be sustainable in the longer term and we are almost playing a stop-gap arrangement, or the courts are making a stop-gap arrangement in respect of legal aid and we are going to have to have a look at it. But unfortunately, I think that there is going to be a cost to it and that is one of the examples why I do not say that there is simply a deficit which this Assembly has to deal with of £100 million. There are unfunded issues and, of course, there are issues about legal fees, of course there are issues about the competitiveness of the legal services

industry but there is an issue about legal aid which we are going to have to deal with. He says about quangos and do quangos pay? I would refer him to the Deloitte's report which I published 2 weeks ago in relation to what the Treasury does do in relation to utility pay and yes, I do use the powers that I have to vote on remuneration at A.G.M.s (annual general meetings) and it does work. I do not want to go into any details because it would be inappropriate but are there some hard questions? Are there some refusals in relation to directors' pay and are those refusals becoming more bold in terms of remuneration of directors? Yes they are. Senator Le Gresley was, I think, supportive and I am grateful for his support. I hope that he is not too dispirited that we have spent a day dealing with expenditure but it is an important political issue and he asked whether or not it was possible to widen the group that would sign off on a redundancy scheme. Absolutely. There is an issue about engagement of other Members and I, as other Ministers, want to deal with this, them and us issue in terms of the Executive and non-Executive. It is not comfortable to sit here and receive arrows from non-Executive Members in the way that we have. There is a real issue about engaging with Members across the Assembly in terms of involvement and I think that we, the Council of Ministers, in terms of the debate that Senator Breckon will have, we will have some things to say about that. Certainly, there should be involvement and I am happy to have discussions with P.A.C., the Corporate Services Scrutiny Panel and Senator Le Gresley, if he is interested in signing off or being part of a group to sign off redundancy. If that is what it takes to give some independence and validation through assurance with Members then so be it. That should be done and we should allow that to happen. Deputy Martin raised the issue of incentive in terms of going after asset seizures. I have to say that the Law Officers and our prosecution authorities do not have an incentive in terms of a bonus or anything else to go after asset seizures. But their track record, I think, stands for scrutiny and stands for positive scrutiny. They have pursued assets and they have brought in millions of pounds into the Criminal Asset Confiscation Fund and I do not think that passing an appropriate budget for court and cases will dent or will stop them going after the appropriate asset seizure. Yes, I am aware it would be inappropriate to go into details and I am certainly not aware of all of the details. But I am certainly aware of assets ... attempts of confiscation orders which have been pursued and I hope that that cost of court and case costs will be significant. The Law Officers are professional and they have their professional reputations and I think that they do a good job and I would not be worried, if I was Deputy Martin, not to support them in the continuing in their work. Just a couple more points. Deputy Fox and others criticised the lateness of the meeting on Monday and I apologise to Deputy Fox if there is a lack of detailed engagement on every single issue. We are all extremely busy in dealing with the Comprehensive Spending Review and Fiscal Strategy Reviews. I take the point of Deputy Fox. I will try and, in future when lodging a proposition, to bring forward a meeting which is at least is within the time of bringing amendments to the proposition. But certainly, as other Members have said, I am available for answering questions and I do try.

[15:15]

But I am sorry if I have not met his high expectations on this occasion. I hope that is not sufficient for him not to support the driving attempts at cost control. I do believe that this is almost in (b) and (c) are chicken and egg. I believe and I understand that there is scepticism that cost saving attempts have not been made in the past. The reality is, there needs to be a budget. There needs to be a budget in order to deliver cost savings and this is what (b) and (c) are about. I do not think that I have to answer any more specific questions that Members raised during the course of the debate. I simply will say that in terms of the court and case cost budget, I think the debate has been had and there is a realism in terms of what States Members have to accept, that there is a budget required. I will say in conclusion that I cannot atone for all of the sins of the past but I can try and I can try and put in better financial management and better systems, and I need to have the support of the Assembly by persistence, by argument, to constrain costs. I am determined to control expenditure and I am determined to improve financial management but I cannot do it without assistance and (b)

and (c) is asking Members for assistance, strengthening procurement and putting in place a fund to start the process of cost reduction in our manpower levels and I think every Member will understand that there are issues of manpower and there are opportunities to slim down the public sector, particularly in terms of middle management and in other areas. This proposition being passed today will allow a voluntary redundancy scheme to be opened up and delivered. I think, in fact, it may well be that in terms of the £50 million deficit reduction, we may require higher levels of restructuring costs if we are to get the year-on-year savings. Not just a one year saving, not just a promise next year to reduce money but a year-on-year saving. To do so requires support and it requires a redundancy fund and I hope that we can deliver with manpower levels on a voluntary basis not a compulsory basis. I hope I have answered all Members' questions. I hope that I persuaded them. I did say that it was possible to take the vote in 3 parts; firstly, court and case costs; secondly, redundancy; and thirdly, procurement. I urge Members to support.

**Senator S.C. Ferguson:**

Can I ask for an answer to my query, please? I was a little confused because the proposition on page 6 talks about the £50 million deficit but we are also having to do £50 million on the F.S.R. (Fiscal Strategy Review). I wonder if the Minister for Treasury and Resources could be definitive about the level of the deficit that we are having to fund.

**Senator P.F.C. Ozouf:**

Happy to answer that. The deficit at the current spending level projecting income is £50 million. We are, however, adding to the deficit the almost hidden costs which have not been accepted as part of States spending in the past. That includes £5 million court and case costs. We spend £5 million court and case costs so that means that truly publishing a deficit means it is £55 million. In addition, we are saying that £10 million is required for a contingency to be held to avoid the need of coming to this Assembly when there is a crisis such as a pandemic flu or volcanic ash. There is a residual amount of money which is accepted that is going to be required for maintenance in terms of patching up, in terms of a lack of funding of infrastructure which is something the Deputy of St. John has argued for many years. There is a real issue for this Assembly to deal with capital spending in terms of underfunding and there is also a reality that while we are asking departments, particularly Health and Social Services, to save on their existing expenditure, there is going to be requirement to put more money in future, potentially, subject to this Assembly's approval for new services. So I am almost predicating a worst-case scenario of a £100 million deficit which needs to be spent, £50 million in terms of a savings reduction and an acceptance that there is going to have to be some new money for items that have not been properly budgeted for in the past. I hope that explains it.

**Deputy M.R. Higgins:**

Could I just seek a further point of clarification on that? During the debate the Senator was saying, for example, about a structural deficit but he is also talking about cyclical elements. Now, we know when there is a recession receipts are down and spending on social security goes up and everything else. They are cyclical items. How much is genuinely structural and how much is genuinely cyclical?

**Senator P.F.C. Ozouf:**

The cyclical deficit is in the region of £70 million to £80 million to £90 million which is the deficit that will be incurred this year and the Assembly has made a decision to transfer money from the Stabilisation Fund to pay for that cyclical deficit and I think that that is the right thing to do. Not matching income and expenditure in 2 years would not be the right thing and we have kept up employment numbers and we have kept confidence in the economy because we have not drawn down from expenditure to meet income. The structural deficit, the best advice, and the F.P.P. (Fiscal Policy Panel) are in the Island yesterday and today, they are analysing the figures. They

will report independently on the structural deficit. That number, unfortunately, is in the region of £50 million as a result of lower ... because you will never gather back the economic growth that we have missed and because the Assembly's decisions to spend more money. As difficult as it is to say, this Assembly has spent more money and, therefore, the structural deficit is bigger. Structural spending.

**The Greffier of the States (in the Chair):**

Minister, you are willing to take 3 votes? The first vote is therefore in relation to paragraph (a) in relation to court and case costs. If Members are in their seats the Greffier will open the voting.

<b>POUR: 33</b>	<b>CONTRE: 11</b>	<b>ABSTAIN: 1</b>
Senator T.A. Le Sueur	Senator J.L. Perchard	Deputy M. Tadier (B)
Senator P.F.C. Ozouf	Senator A. Breckon	
Senator T.J. Le Main	Connétable of St. Helier	
Senator B.E. Shenton	Connétable of St. John	
Senator S.C. Ferguson	Deputy of St. Martin	
Senator A.J.D. Maclean	Deputy R.G. Le Hérissier (S)	
Senator B.I. Le Marquand	Deputy J.A. Martin (H)	
Senator F. du H. Le Gresley	Deputy of Grouville	
Connétable of St. Ouen	Deputy of St. Mary	
Connétable of Trinity	Deputy M.R. Higgins (H)	
Connétable of Grouville	Deputy D.J. De Sousa (H)	
Connétable of St. Brelade		
Connétable of St. Saviour		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Mary		
Deputy R.C. Duhamel (S)		
Deputy J.B. Fox (H)		
Deputy of St. Peter		
Deputy J.A. Hilton (H)		
Deputy P.V.F. Le Claire (H)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy I.J. Gorst (C)		
Deputy of St. John		
Deputy A.E. Jeune (B)		
Deputy T.M. Pitman (H)		
Deputy A.T. Dupré (C)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		

**The Greffier of the States (in the Chair):**

Very well, I shall ask the Greffier to reset the voting system and the next vote when the system is reset will be on paragraph (b) which relates to the withdrawal of up to £6 million in relation to a voluntary redundancy scheme and the Greffier will open the voting.

<b>POUR: 31</b>	<b>CONTRE: 14</b>	<b>ABSTAIN: 0</b>
-----------------	-------------------	-------------------

Senator T.A. Le Sueur	Senator J.L. Perchard		
Senator P.F.C. Ozouf	Connétable of St. Helier		
Senator T.J. Le Main	Connétable of St. John		
Senator B.E. Shenton	Deputy R.C. Duhamel (S)		
Senator A. Breckon	Deputy of St. Martin		
Senator S.C. Ferguson	Deputy of Grouville		
Senator A.J.D. Maclean	Deputy of St. John		
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 A.K.F. Green (H)		
Connétable of St. Brelade	Deputy D.J. De Sousa (H)		
Connétable of St. Saviour	Deputy J.M. Maçon (S)		
Connétable of St. Clement			
Connétable of St. Peter			
Connétable of St. Mary			
Deputy R.G. Le Hérissier (S)			
Deputy J.B. Fox (H)			
Deputy J.A. Martin (H)			
Deputy of St. Peter			
Deputy J.A. Hilton (H)			
Deputy P.V.F. Le Claire (H)			
Deputy of Trinity			
Deputy S.S.P.A. Power (B)			
Deputy K.C. Lewis (S)			
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 Greffier of the States (in the Chair):**

We come finally to the vote on paragraph (c) which relates to the withdrawal of up to £500,000 in relation to the procurement function and the Greffier will open the voting.

<b>POUR: 26</b>	<b>CONTRE: 19</b>	<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur	Senator B.E. Shenton	
Senator P.F.C. Ozouf	Senator J.L. Perchard	
Senator T.J. Le Main	Senator A. Breckon	
Senator S.C. Ferguson	Senator F. du H. Le Gresley	
Senator A.J.D. Maclean	Connétable of St. Helier	
Senator B.I. Le Marquand	Connétable of St. John	
Connétable of St. Ouen	Connétable of St. Mary	
Connétable of Trinity	Deputy R.C. Duhamel (S)	
Connétable of Grouville	Deputy of St. Martin	
Connétable of St. Brelade	Deputy R.G. Le Hérissier (S)	
Connétable of St. Saviour	Deputy of Grouville	
Connétable of St. Clement	Deputy of St. John	
Connétable of St. Peter	Deputy M. Tadier (B)	

Deputy J.B. Fox (H)	Deputy of St. Mary		
Deputy J.A. Martin (H)	Deputy T.M. Pitman (H)		
Deputy of St. Peter	Deputy M.R. Higgins (H)		
Deputy J.A. Hilton (H)	Deputy A.K.F. Green (H)		
Deputy P.V.F. Le Claire (H)	Deputy D.J. De Sousa (H)		
Deputy of Trinity	Deputy J.M. Maçon (S)		
Deputy S.S.P.A. Power (B)			
Deputy K.C. Lewis (S)			
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)			

## **2. Civil servants earning over £60,000 per annum: publication of salary bands (71/2010) The Greffier of the States (in the Chair):**

The Assembly comes now to the proposition of Deputy Higgins relating to civil servants earning over £60,000 per annum. I will ask the Greffier to read the proposition.

### **The Deputy Greffier of the States:**

The States are asked to decide whether they are of the opinion (a) to request the States Employment Board to publish the names, position, job description, department and salary band of each person for all civil servants earning over £60,000 per annum with the salary figures to be in bands of £5,000 starting from £60,000 and, (b) to request the States Employment Board to publish the names and terms of any civil servant contract that contains provisions that are not contained in the normal civil servant contract and, in particular, any terms that would result in the said civil servant receiving an enhancement to his or her basic salary for any purpose or for any reason.

### **2.1 Deputy M.R. Higgins:**

This proposition has been lodged for 3 main reasons. Firstly, because I believe that transparency promotes accountability and that secrecy leads to bad decisions. As a long time advocate of freedom of information and rights to data, I believe that the public should have as much information about the working of our government and public sector as possible, not only to ensure that decisions are being made for the right reasons with the fullest possible information but also to restore the public's trust in its politicians, civil service and institutions of government. Secondly, because I believe at a time when the public are being informed by the Minister for Treasury and Resources, and other Ministers, that there will be cuts of up to £50 million in public sector services and tax rises probably equivalent to or greater than £50 million, that they should know what our civil servants do and at what cost and if they are providing value for money. Thirdly, because I believe the publication of this information will aid the Comprehensive Spending Review process by providing Members and the public at large with more information than they have at present or are likely to get from the Council of Ministers in the future from which to judge the proposed spending cuts being put forward by our senior civil servants and Ministers. If this proposition is approved, we cannot only establish the number and cost of the senior civil servants in each department but also what they do. By publishing their job descriptions we can see what the role and functions of the civil servants concerned are and, therefore, their importance and relevance to the department's activities and to whether there is unwarranted overlap, duplication or featherbedding or whether the departments concerned should be engaged in some of the activities they are engaged in. I must make clear, however, that this proposition should not be seen as civil service bashing or as an attack on the many hard working civil servants who are providing essential services to the public of this



Island but rather it should be seen as shining a light on the inner workings of our public sector and making for better and more transparent decision making. What I am seeking is with one exception what the citizens of the United Kingdom have already been promised from the coalition government from September. The government there have already delivered on the first tranche by publishing the names and salary bands of the most senior civil servants and they will be following up in September with the names, positions and salaries of all senior civil servants from level 1 whose salary grades starts at approximately £58,500. I ask you, why should the citizens of the United Kingdom be given more access to the inner workings and costs of their senior civil service than our citizens? I believe our citizens have a right to know. My proposition largely mirrors what Her Majesty's Government is doing in the United Kingdom but with the addition of the publication of job descriptions of the civil servants concerned, as I believe that the figures alone, although informative of the cost of our civil servants, are largely meaningless unless we know what we are paying them to do. We know now that the Council of Ministers are opposing this proposition; something that does not surprise me. Their comments paper circulated to Members yesterday lunchtime states that the States Employment Board cannot support the proposition because it entails publishing the personal names of each employee earning over £60,000 and the personal details of any enhancements to basic salaries. Why? They say that if the proposition is passed it would (1) seriously undermine those individuals' right to privacy, (2) strain the implied contractual duty of mutual trust and confidence between employer and employee, and (3) have serious implications for employee rights under Article 8 of the European Convention on Human Rights and the First Data Protection Principle. I naturally disagree with their objections and I hope Members will agree with me. Why is it that the coalition government in the United Kingdom can do these things but we cannot? The U.K. and Jersey through the U.K.'s ratification of the European Convention on Human Rights are subject to exactly the same convention conditions.

[15:30]

Why is it that the coalition government in the U.K. is not in breach of the First Data Protection Principle when our own Data Protection Law is exactly modelled on the U.K. Act? Why is it that we cannot name our civil servants but the U.K. coalition government has the power to name them and fully intends to do so? Why should the public not know about the enhancements to basic salaries? I think Jersey taxpayers and the public at large have a right to know that in addition to some generous salaries, some of our senior civil servants may receive resettlement allowances, car allowances, free car parking, housing allowances and may even receive exit payments and goodness knows what else. Why should this information be hidden from them and from Members in this House? Why can a value not be placed on these extras and either their value be rounded into the salary figure expressed in one of the £5,000 tranches, or why can we not be told that that they receive any extra benefits at all? They are all, after all, public servants paid out of taxpayers' money. Why can we not be told, for example, if the former Chief Officer of Health received when he left for personal reasons shortly before 2 damning reports on the hospital were produced, an exit payment rumoured to be £200,000? Now, I hope Members will support this proposition and in doing so support more open government in Jersey.

**The Greffier of the States (in the Chair):**

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

**Connétable D.J. Murphy of Grouville:**

Yes. I was going to rise on a point of order because I now realise that the comments have been circulated between the Council of Ministers but they have not reached Grouville, yet, I am afraid. So I have just had a very, very quick look at them and I was going to query this on the grounds of the human rights and the data protection and I would like to be absolutely assured that the proposition falls within those laws and is clear.

**The Greffier of the States (in the Chair):**

Are you seeking some advice from the Attorney General on that point? Do wish for some time to consider, Attorney, or are you expecting the point?

**The Attorney General:**

I will be as helpful as I can on the point at this stage and I may come back during the course of the debate and give further advice as and when it may occur to me that the Assembly would benefit from it. The disclosure of personal information relating to individuals who work at the public sector seems to me a matter of balancing the legitimate interest of the public in understanding how public funds are paid and the legitimate interests of individuals in preserving their own privacy and confidentiality. But it seems to me that is a balancing exercise for this Assembly to do but to assist in that balancing exercise, I might make the following observations. It seems to me that there is a right to privacy available to individuals in respect of private and public life under Article 8 of the Human Rights Convention and that, of course, is part of our law. Therefore, any interference with that right has, it seems to me, to be necessary and proportionate. This Assembly would have to be entirely satisfied that it was both necessary and proportionate to disclose the names of individuals as opposed to, for example, their status or rank or the position that they hold. A similar argument seems to me to apply in considering their precise salary details. It would have to be satisfied that it was both necessary and proportionate that precise salary information was given as opposed, for example, to salary banding which is what I see is proposed in the Council of Ministers. So there is an Article 8 consideration and I think taking Article 8 together with the First Data Protection Principle which gives restrictions on the processing of personal data, it is undoubtedly the fact that the names of individuals and their precise salaries linked to those names is personal data within the Data Protection Law, then it would necessary to fall within one of the consents and it seems to me a determination as to whether one falls within one that consents again is an exercise as to whether it is necessary and proportionate to do so. There are, I think, other legal themes to be drawn from the issues raised in this proposition. There is an implied condition of trust and confidence that exists between employer and employee. There is a presumption that an employer will keep an employee's information confidential and, again, I think any departure from that must be satisfied by the Assembly deciding that it is necessary and proportionate to do so. So I think the question for the Assembly, if I may respectfully say so from a legal point of view is it necessary that an individual's name is disclosed and that their salary, therefore, is known by their next door neighbour in order to achieve the legitimate ends of monitoring public expenditure and the use of public monies or is that a step too far? I think that is, in lawful terms. Can it be achieved in a different way? I think in legal terms that probably is the decision that the Assembly needs to make. There is also, it occurs to me, to be what I would term a *vires* point. In the United Kingdom, for example, as in other jurisdictions, there is a Freedom of Information Act. There is a statutory framework which underpins the disclosure of information and, as far as I am aware, that statutory framework does not exist yet within Jersey and that is a factor. There is no statute that one can point to and say: "We are authorised to make this disclosure, therefore, we should make it." Which it seems to me it falls squarely back on whether it is both necessary and proportionate to do so and that, as I say, is a matter for this Assembly to decide in my opinion. Whether there is a third issue, I did look at the Code of Conduct for the disclosure of information which, of course, is a code adopted by this Assembly and, in fact, it is for access of information and I do note that under 3.2.1 of the exemptions, the exemption which says that one should not make a disclosure: "Such disclosure would or might be liable to constitute an unwarranted invasion of the privacy of an individual." That seems to me to give a code-based further enhancement to the provisions of Article 8 of the European Convention on Civil Rights. But I fall back on simply making the statement that I think it is a judgment for this Assembly as whether it is both necessary and proportionate to decide whether this level of detail should be disclosed about individuals.

**Deputy M.R. Higgins:**

Could I just follow up with a question to the Attorney General?

**The Bailiff:**

Perhaps if we have the Constable first because he asked the original question.

**The Connétable of Grouville:**

Yes, I am very grateful to the Attorney General for that. In my opinion, I do not think we should be debating this at this time. I do not think that these ... I think there is sufficient doubt thrown by the Attorney General now that we should not debate this until the whole situation is made a lot clearer and I suggest I would ask the Deputy to withdraw.

**The Bailiff:**

Deputy, you wanted a follow-up question to the Attorney General?

**Deputy M.R. Higgins:**

Yes. In answer to the Constable of Grouville, I will not withdraw it. In terms of the Attorney General, can he just confirm first of all that Jersey is subject to the European Convention on Human Rights because the U.K. signed it on our behalf and that the convention that applies to the United Kingdom also applies to us in its exact state? Two, that the Data Protection Law that we have in Jersey is modelled exactly on the U.K. one and, therefore, on those 2 points, if the United Kingdom can do this, then we can certainly as well.

**The Attorney General:**

I can confirm that the European Convention on Human Rights is the same in Jersey as it is in the United Kingdom and I believe it to be the case that our Data Protection legislation is modelled on the United Kingdom Data Protection legislation. My understanding is the Data Protection Commissioner has in balancing up the necessary pros and cons in the past indicated that it is in the legitimate public interest to disclose a position held and a salary band applicable to that position but it went too far to disclose the names of individuals and precise details of their salary and there are examples, I believe, of declaration from the Data Protection Commissioner in the United Kingdom doing that. The statutory regime is, however, different in the United Kingdom and the Freedom of Information Act certainly, perhaps among other statutory provisions, provides for a more automatically enhanced disclosure in the United Kingdom than would be statutorily mandated within Jersey.

**Senator J.L. Perchard:**

I have a question arising from what the Attorney General has just said. Given what he just said about the statutory provisions, why then is it in order for people on higher salaries in Jersey to be named and their salaries mentioned? Why would one be in order with regards to Data Protection and Human Rights and somebody on a lesser salary being named, what is the difference?

**The Attorney General:**

To my mind, from a human rights point of view, the difference lies in the fact that those who are of higher rank expect to be public facing and expect to be publicly known, the offices they hold and the duties that they disclose and I think in terms of the balancing act, if I may put it that way, that needs to be done in balancing one set of rights against another, that might be of material consideration, but I have to say, I have not considered that specific aspect raised by the Senator.

**2.1.1 Senator T.A. Le Sueur:**

I am sure we all share the objectives of the Deputy to make the public sector more open and transparent, and to ensure our senior staff are fully accountable. Where I do differ from him is the manner and the extent in which this common objective can be achieved. I am grateful to the Attorney General for his views and indeed, like him, I start from the basis of what I call 3 Ps. The

first P, that of principles, I believe States Members have the right to a certain level of information in order to make proper decisions. That information should be shared with the public on the grounds of transparency and openness. My second P, that of privacy, and balanced against the need for open and transparent information is the need for ordinary States employees to have some degree of privacy into their personal activities. The third P, at the risk of repeating what the Attorney General has said, is that of proportionate. The need to balance disclosure against privacy. So that balance will vary depending on the seniority of the employee concerned. That is something I will come back to later on in my speech. Both the States Employment Board and myself are committed to providing information on remuneration of senior employees and that has indeed been pursued for several years by way of notes in the annual financial statements which show the number of employees with earnings of £70,000 and above analysed in bands of £20,000. This year we have gone a stage further and published the actual remuneration figures for all civil servants from Crown appointments summarised in those statements and receiving total remuneration in excess of £70,000. Effectively where this falls short of the requirements of the Deputy's proposition is that it does not reveal those employees' names. To do so, in my view, and I am grateful to the Attorney General, would seriously undermine those individuals' right to privacy. In my view they would have implications under Article 8 of the European Convention on Human Rights. I agree that there are also data protection issues which I know cause concern for the Data Protection Commissioner. Concerns about a possible breach of the first principle of data protection, and I am grateful to the Constable of Grouville for raising this issue at the outset so we are quite clear about the scope of this proposition, because there is a distinction to be drawn between the mass of civil servants who would be caught under this proposition and the relatively few very senior employees and chief officers, for whom there can be greater degrees of public exposure and scrutiny. The situation for them is very different from the much greater number of employees caught by this proposition, and the problem really is where do you draw the line. I am presuming that civil servants includes all employees that are employed coming under the States Employment Board but exclude Crown appointments because they are not civil servants. In my view, it is entirely appropriate and proportionate that we should know and identify all the details about senior officers' remuneration, but that we already have.

[15:45]

But, it is equally inappropriate and disproportionate that we should know all the names and particulars of the 600 or so people who are middle ranking employees caught by this proposition. Their job descriptions very often run to 5 or 6 pages, so can you imagine 5 or 6 pages worth of job descriptions times 600 people? Really, is that what is expected? Because what additional benefit does one get from knowing the employee's name? Surely what concerns or what should concern all of us is not the name of the person but the level of remuneration of the post itself. Not who occupies it. There is, in my view, a level of disclosure which is proportionate to this staff, and to which I refer in the comments of the States Employment Board. If this proposition was rejected the States Employment Board would nevertheless be willing to give fuller disclosure referred to in its comments. That is to say, they would identify the salary bands in £5,000 bands, the departments and the number of employees in each of those bands by each of those departments. That is, I think, a perfectly reasonable level of information on which all States Members can make informed decisions. The spending of public money is something which concerns all of us as States Members and it is absolutely right that we should know which departments are employing more higher paid staff and how many of them. What is not right, in my view, and what does not help us in any way to formulate policy, is knowing the actual identity of those individuals. Surely the benefit from disclosing senior salary levels is in knowing which departments may or may not be employing a disproportionate number of higher paid staff. Identifying such individuals by name does not add anything to help decide whether such starting levels are appropriate or excessive. In summary, can we obtain the necessary information to make well informed policy decisions on staffing levels

without identifying such middle ranking employees by name? Our objective must surely be to obtain all the information we need to make a well-informed policy decision without unnecessarily - and I repeat unnecessarily - intruding into that individual's right to privacy. I believe that the offer from the States Employment Board does exactly that and that we should therefore reject this, in my view, extreme proposition in favour of the more realistic and proportionate alternative which will nevertheless let us make good valid decisions but maintaining the rights of the individual employee. I urge the House to reject this proposition but to accept the offer of the Employment Board to give those details in £5,000 bands by department and in number.

### **2.1.2 Deputy D.J. De Sousa:**

I struggled with the comments first of all to the proposition, and being a new member elected on to the States Employment Board I was asked to take them on board. So the first thing I did was phone the Data Protection Commissioner and asked her for some information and basically what we have received today from the A.G. (Attorney General) is the advice that she gave me. So I took all of this on board. Members will know me and know that I am all for openness and transparency. For many years I was a care worker and knew what I could talk about and what I could not. Before I was elected I was also a business woman and had to register with Data Protection to hold people's information. Again, I knew what I could and could not divulge. As a States Member, most of us have to register with Data Protection because we hold people's information. There is information there that is sensitive and they would not want to get out. While I agree that those on the higher echelons should be named because they hold positions of extreme importance and they make decisions that affect everybody, so yes, we did the right thing when we announced those people and what they earn. As I said before, the Chief Minister missed out because he told ... the Members have said that he was going to release this information before England said that they would release theirs. Employees have a right to privacy, the public pay public employees' wages, so again they have a right to some information. Where we have a problem is we currently do not have an F.O.I. (Freedom of Information), this is what is needed and then more information can come out. What does worry me is that there are rumours because of budget constraints that we may not get that F.O.I. yet. It is urgently needed and when it comes I hope Members will vote for it. There are issues with this proposition as to Article 8 of Human Rights. We are always being told we must bring things that are human rights compliant. There are already a large number of complaints dealt with by the Data Protection Department and if this information is granted there will be a huge influx of complaints from employees. There are departments within the States that struggle to recruit employees. There will be even bigger difficulties if the whole of this proposition is accepted. As I say, I have really considered this and I do not have any problem and I think it should be a lower band, not £60,000. We earn, as everybody knows, £40,000-odd, what is wrong with bands of £5,000 from that level? But we do not need the names of the lower earners. We do not need to know every detail of their job description. I think that S.E.B. (States Employment Board) has come up with a reasonable compromise, that the information will be there, just without the names and the intimate private details.

### **2.1.3 Deputy R.G. Le Hérisier:**

I have a lot of sympathy for Deputy Higgins and, as the Chief Minister knows, I had an extensive correspondence with him at the time he was contemplating the release of information and in the end he did to a point. I have to give one of these speeches which pleases Deputy Martin enormously where I have to look at both sides of the argument and work my way through. I am proud to do that because I think it is great not to come with a fixed dogmatic position. It is good to think the thing through and to see both sides. I think these are debates where what I would call the fundamentalist preacher approach does not perhaps work as well it might in other contexts. I am worried, I have to say, about the revelation of names because we are ... and I am sounding like an establishment clone at the moment, but if you will permit me a few moments, almost an oligarch, it just gets worse by the minute. In the sense that we are a small society, it is easy to target people and it is easy to make

issues into personal issues. There is no doubt, if we do this, information about ourselves will be hunted down as well. People will say: "I want to look at your other sources of income. I want to do this, I want to do that" and it could become in that sense a bit of a witch hunt. But having said that, and this is where I am able to satisfy Deputy Martin that I have not changed a lot, there is no doubt that in looking, for example, at the operations of W.E.B. (Waterfront Enterprise Board) and of the Post Office and organisations like that, it has been vital to know what is being paid, and of course it has all be easily identifiable because Companies Law, as I understand it, or legislation requires that the remuneration be placed in the annual reports and we have been able to read certain very unsatisfying conclusions as to whether value for money is being obtained on the basis of the salaries that are being paid, which as I said in several cases, exceed those paid to the Prime Minister of Great Britain. Now, you have to analyse whether the payment of a director in the Post Office and the responsibilities thereby incurred match those of the Prime Minister of Great Britain. It is important, and I am being facetious but it is, in a sense, quite important that we have that debate, and oddly enough, ironically enough, by having had that information, which does ultimately focus on individuals, it has raised some very serious concerns in the public domain. Having said that, where do I stand? I would have liked this a lot better, I think, in the overall sense because of what the Chief Minister said and about the vast numbers involved, I would have preferred names not be attached. I think we could have had the debate about the public service and we started the debates in the last day and a half about the levels of salaries, about whether we are getting value for money for those salaries and I think we are managing to have that debate, helped by Scrutiny and the P.A.C. as to whether we are getting it. I think the presumption should be in favour of openness and I admire Deputy Higgins for having pushed it but I think to attach names to it is a step too far.

#### **2.1.4 Deputy J.A. Martin of St. Helier:**

I think that was quite clear what side of the fence Deputy Le Hérissier was on there and I thank him for his coming to the point. I had no confusion with this and I had no confusion when I was sitting and we are bringing an F.O.I. Law, and we have taken lots of advice from the U.K., we do not have one yet. Public interest test, public employee paid by public money. Is that in the public interest for those to know the people? I would say yes. It is happening in the U.K. My problem, and the Chief Minister has just said if we accept their mediocre halfway, 600 people or more, he said, are on this band, do we really need to know all the information? Yes, we do. It is paid for by taxes. People are paid for by taxes. Public sector workers very rarely move on in Jersey. You have just voted and the people who vote against this, just voted £6 million to make some of these people redundant. Were they doing their jobs well? We do not know. Were they worth value for money? We do not know. We do not know who they are. The rumour mill, if you publish all these salaries, will be everyone looking left, right and behind and saying: "Is it you getting this much? You do not do this, you do not do that." If I was a public employee I have no problem with my salary being paid. I cannot resist what Deputy Le Hérissier said, the pack will turn on us and start saying they want to know where our extra income comes from. Well, they can certainly find mine, and we used to have that. We used to be paid on a means testing system. Now it does not matter if you have no other salary. It does not matter if you have no property. You get exactly the same as the millionaire across the way or wherever they sit in the House. I do not know if anyone is a millionaire but if that is what they want to tell us, that is fine. I really had no problem with this and I will tell you a little story. When I was very first in the States the Chief Officer, I will not say which department because it was agreed at the time, it is probably out in the open now, they did not live on the Island and into their contract they had been told they could have 20 flights a year back to the U.K. and back to Jersey obviously. After 2 years it had been discovered that Jersey was such a lovely place that their family came here more than they went back home and I think they used 4 to 6 flights.

[16:00]

But some other civil servant had decided that they had not used those flights and at the meeting the Chief Officer has to excuse themselves because it is a bit embarrassing the next ... it would have been embarrassing because they were being given a £15,000 cheque for the flights they had not used, and that is exactly how it was written in the contract. I said: "They do not need to be embarrassed. They do not have to take it." But they did. Well, that was it and that was done. So these little things we do not know what is on top of it. I am looking at my Chairman of P.P.C. (Privileges and Procedures Committee) and I can think when she does ever bring F.O.I. we are going to have a fight because everyone goes back to public interest test, freedom of information and as the speaker, and it escapes my name, who had to resign in the U.K. said: "But it does not mean us, and it certainly does not mean politicians." They cannot have their expenses and when they did and it was one lady, and I think she was a Canadian or American journalist and she fought and fought and fought under the Freedom of Information and she got it, and well, did she get it. What has been going on for years over there? I am not saying it is going on here, but why not the transparency? What is everybody afraid of? What is this small Island? These are small county councils. These are small councils. They are public employees and if you do not think that the public get the hump when you will not tell them where their money is spent and it is spent well, the person doing the job is not being very nicely wheedled out with a ... been there x amount of years and you are going to get a very nice package, thank you very much. They do. But we can all sit here and I know by the mood, the foot stamping that the Chief Minister got, thinks that you are in the right, but it will happen. It might not be this week, it might not be next year, but as soon as F.O.I. comes in this will come back, if it does not get passed today, and even if it is not retrospective it should be starting now. People in the public service want the job. We know the band. It is not against data protection. If the data is collected for the purpose it is being used and they are told it is going to be used, it is going to be published in the annual accounts of that department, you are not breaking any laws under data protection. Simple. So anyway, I really know that I am probably out on a limb, and I do not normally disagree with Deputy De Sousa, but I think under Freedom of Information, I do not care how small the Island is, you are going for a job, you get a job, as I said at the beginning, many of these people are in jobs for life. It does not happen in the private sector. It is a complete - I call it a rat race probably in some of them - they are head hunted, they are under pressure, there is no home time now. I know people who work and they say: "Your hours are 9.00 a.m. to 5.00 p.m." "I am not over, I cannot leave before 7.00 p.m. or 8.00 p.m. because there is someone behind me to do my job and they will stay to 9.00 p.m." They are stressed, they are under pressure. They do not have their salaries paid for by the public and they work ... oh, they are not there anymore. We do not do that. We are very bad at doing that. That is another thing that obviously will be looked at in all these reviews because I do not want to pay people who are not up to doing their job. I do not want a softly softly way out either. We do not get paid for it if we do not do the job. We do not get re-elected in 3 years' time. Simple again. Absolutely simple. There are some who do not do the job and you are quite right, Senator Le Main. I think I have said enough.

### **2.1.5 Deputy M. Tadier:**

This is by no means an easy proposition and I think it certainly makes many Members feel uneasy for various reasons. I think there are compelling arguments either way and I want to outline some of those. With the risk of first of all sounding like my colleague Deputy Le Hérissier because, as I said, it is not an easy subject. There may also be a stream of consciousness so it may well end up by keeping my powder dry that I end up like Deputy Le Claire speaking against the proposition but saying I will vote for it anyway for some unfathomable reason. But anyway let us get on with the main arguments. The reason this is fraught with difficulties is, as my colleague Deputy De Sousa has said, I am completely in favour of transparency. I think that is the way forward. These are public employees at the end of the day. They are employed by the public and any of us who are in business would surely want to know who we are employing and we obviously know how much we pay those people, so that we can hold them to account. There is a clear argument there and I think that is a valid argument. One of the issues though, is then why only members who are employed

that get over £60,000, that seems a bit arbitrary? Why not have every member of the workforce employed in the public sector having their names and salaries published, and the names is a separate issue, as has already been said. I would be a lot more comfortable if the names were not in there, although as I have said, there is an argument if you want to make it for the names to be kept there because we are employing them as a States body but also as members of the public. I guess you could argue that it is in the public interest because it is very topical at the moment. The public are not particularly interested in the low earners. They are interested in the high earners. That is where a lot of the anger is being targeted and that may be the way that Deputy Higgins will try and read that. I have to say at this point I do very much agree with the direction and the sentiment that Deputy Higgins is trying to get here. But I would also add the caution that the public interest is also sometimes misdirected and misguided. It is not always correct that the public anger, sometimes you could call it, is directed at civil servants when there are far bigger issues that go on. But there is also a problem even if we do not talk about names and we just said that every salary should be published because there are certain jobs which only one person does or that a group of people do, and we have one sitting in the room at the very top here. I will not speak to embarrass the President but let us take the former President, for example. We know that there is only one Bailiff in the Island at any one time so if you publish the salary of the Bailiff it is quite obvious who that salary belongs to. To say that we cannot publish, let us say, Sir Philip Bailhache because that would infringe his data protection or his human rights is logically a complete nonsense when there is only one Bailiff anyway. But that works right across the board. There are many departments in which there is only one type of job. There are 53 States Members now. We could say you are not allowed to publish the fact that Montfort Tadier gets x amount of money per year but we can publish the fact that a States Member gets x amount a year. They will know that we are all States Members so this is the kind of logical absurdities that we are dealing with here. So that is just another consideration. I think the radical position is probably, yes, let us have complete transparency in the public sector. I am starting to sound like one of the candidates now from the previous election, but I do not think that is the position **[Laughter]** ... starting to feeling like him as well. But I think that is a position that we are not at at the moment. I think that is an ideal for some but it is not something that is going to be taken up quite yet. I think it was very right that the Constable of Grouville did raise the issue of human rights compliance. I will read from Article 8 because I think it is relevant and if I take what the Attorney General said previously, it is really up to us to decide what we are comfortable with as States Members, that the argument is to be had in this House. So Article 8, part 1 does say that: "Everyone has the right to respect of his private and family life, his home and his or her correspondence." I am guessing that the nub here is the matter of private life. It is seen that one's income is a private issue. Again, that is a moot point. There will be people in the Assembly who say: "Well, it is not private if you are a public employee." But then again do you want somebody who works for the States having everybody know what he earns and then somebody doing a very similar job in the private sector and he has got the right to complete privacy. These are the kind of contradictions we have to look at. But there is a carve-out in part 2 which says: "There shall be no interference by a public authority with the exercise of this right except in such as in accordance with law and is necessary in a democratic society in the interests of national security, public safety, the economic wellbeing of the country, for the prevention of disorder of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others." I think the ones that do come into play here, the ones that are necessary in a democratic society, economic wellbeing of the country, that could be seen as a valid argument. I think bringing these things to the forefront, making them transparent, will have a trickle down effect because the public will have more information, they will be able to scrutinise us and we will be able to scrutinise the positions and ask why is this person getting paid x amount of money and what does he or she do. I think the other one you could argue is the rights and freedoms of others. As I have said before, the public do employ us. They do employ other members, other workers, in the public sector so you could argue that it is their right and it is their freedom to know where their tax money is being paid. I think those are the main points I wanted to sum up. I do not



feel completely easy about this one. I would feel a lot more happy if the names were not included, but I would also be happier still either way if it was just more consistent, so it is right across the board, everybody that we employ we have to know how much they earn. But it does not solve the facts of overtime, so even if positions are published and we say this person at this position, let us say, gets £50,000 a year it does not tell you if that person has been off sick or they have had to get somebody else in, and that they have been working 50 hours of overtime at time and a half, double time, it does not tell you the nitty-gritty. I am supportive of the principle. I will keep my powder dry for now, as I said, but I am not comfortable with the proposition as it stands. What I would encourage Deputy Higgins to do is maybe just come back, resubmit either the same proposition with the names taken out or resubmit a different proposition and come and talk to some of the other Members who are genuinely supportive and let us see if we can get something through which is perhaps more comprehensive, and which will get the backing of the House.

#### **2.1.6 Deputy A.E. Jeune:**

Like many of the other Members today I have a problem with this because we are looking for names. I do not believe that is completely necessary. Certainly within the health service for years and years they have published by band employees within the different trusts or departments. On top of the band that they are employed at it identifies enhancement money, for example, overtime expenses and pension. Doing it in bands, to be quite honest, it does not take too many grey cells to work out who is getting what. The Chief Minister, when he spoke, has said he is publishing, and certainly in the comments we see that, but I think I heard him saying he would do it by department in order that we can see whether these posts are proportionate. If it is by department rather than by the States as a whole I think that would be very beneficial. In terms of Freedom of Information Law we do not have it, it looks like it may be delayed for a number of different reasons, but I do not see why we cannot work by the principle, the spirit of the Freedom of Information. That would go, I believe, a long way to satisfying people in the Island on how we do things. Once again, I cannot support this while it holds the statement to publish names.

#### **Deputy R.G. Le Hérisier:**

I wonder if the speaker could say why she made the statement that the F.O.I. Law may be delayed?

#### **Deputy A.E. Jeune:**

Because my understanding was that because of funding it was going to be held back. That was my understanding and I would be delighted if somebody tells me I am wrong.

#### **2.1.7 Connétable J. Gallichan of St. Mary:**

I would like to do just that. Just for Members' information, to answer the point first raised by Deputy De Sousa, to the best of my ability I intend to bring Freedom of Information legislation to this House for debate during the autumn. I intend to bring it and I intend to bring it in a format that will allow for it to be adopted. Whether or not that course happens is a matter that I cannot predict, but that is my intention. During the course of that debate, and I would remind Members that we would be talking, as we talk now, with a code of public access to public information.

[16:15]

We are not talking about States Members' access. That is something different. But I hope Members during the course of that debate will have a greater appreciation than they do now of the difference between something which is in the public interest and something that might be interesting for the public. There is a very, very great difference and we will deal with that in the course of that debate, I am sure. We struggle in our daily lives to maintain privacy in this age of information technology and ready access to everything on the web. As an Assembly we have struggled to maintain the privacy of individuals in the propositions that we bring and reports that we write because we know they are instantly searchable. It is beyond me why on earth we would

try now to expose this number of people to such very intimate personal details on the internet for ever accessible. I am grateful to the Attorney General for the information he has given us on the legal point of view, but Deputy Higgins, when he proposed this, said he could not understand why things could be done in the United Kingdom and not done here. Without resorting to legal ideas and legal theories I feel that we must understand the nature of living in an island, and in a small island community, that is part of what proportionality means. On an island where we are instantly accessible as States Members and other States Members ... there is a proposition which has been lodged recently which talks about how a Member is instantly accessible when he is in the shop buying whatever, and people know what he earns, what he spends on his clothing, et cetera, and everything else when they are watching him in the street. Do we really want to put that scrutiny down to all our public employees? People are employed by the public but they are not public property. They go home after their day's work and they are private citizens. As States Members we put ourselves above the parapet and we expect to have a certain amount of attention paid to us, but is it really fair that our public employees, and I am not talking about the very, very top ranking civil servants who are employed in a different capacity with much greater responsibility and an expectation that more attention will be paid to them. We are talking about ordinary workers. People who are doing a job for us. If we do not believe that certain members of the workforce are performing or meeting the expectations or achieving targets or meriting their terms and conditions, that is a matter for the States Employment Board to deal with. It is something we have a mechanism in process for, and I was grateful to Deputy De Sousa's comments because of course she is now a member of S.E.B. I believe, and I am grateful that she can see the wood for the trees in this, which I think the proposer possibly cannot. Members have spoken of the public having a right to know how public money is spent and in the round that, of course, is true. We need the broad figures. We need the banding. We need to know what departments have allocated various things and are they achieving their targets. How far do we take this? Do you say: "Well, public money pays for income support? I would like to know who is getting that." I mean that might be interesting to some members of the public but certainly that could not ... I do not see any propositions bringing that and I certainly would not support it because there comes a time when there is a level of privacy which individuals need, and I believe that this proposition goes too far. We must always make sure that we deal with legislation and requests that are suitable for our Island community and this goes, I believe, much too far. I have had no comments from members of the public that I have spoken to who would not be satisfied with knowing ... I suppose the term is the ballpark figures in each band for each department. That enables us to judge the performance of that department without drilling down into the private lives of the individuals who, as well as being public servants, as I have said, are private people deserving of some degree of privacy. I know it has been said before but I would urge the Deputy to withdraw this item because I think it goes too far and, if not, please can we move to the vote soon because I think we all must know by now whether we believe this is right or wrong.

**Deputy M. Tadier:**

Can I ask for clarification from the last speaker? She said that she had no comments from many members of the public who would not be supportive of just knowing the bands, but have you had any comments from the members of the public at all on this subject?

**The Connétable of St. Mary:**

I find that an extraordinary question, I am a States Member. I talk to members of the public about forthcoming business all the time.

**2.1.8 Senator B.E. Shenton:**

I agree with the Constable of St. Mary on one thing; hopefully we can move to the vote quite quickly. I am going to support this proposition. In my time in the States I have come across a lot of public sector salaries that are, quite frankly, taking the Michael. The levels are much higher than

in the private sector. You get call-out arrangements for people in management when the chances of them being called out are almost non-existence. You get people with their home phones paid for and their mobiles paid for. It is quite breathtaking, the expenses. No wonder the public sector costs us so much. With regard to the issuance of names, how often in this Chamber does a Member of the Chamber do something wrong but it is not named which Member it was, so the finger points at everyone. A number of Members have said you can work out who it is. Is it not a lot more honest just to say who it is, who is receiving those sums of money and those sums of money? I can see absolutely nothing wrong with this whatsoever. It is public money, it is taxpayer's money that we are spending. I think the public have a right to know. I will be supporting it.

#### **2.1.9 Deputy P.V.F. Le Claire:**

I take the States money, I take the States expenses. I have got a States laptop. I do not have any lunches anymore. I do not have a car parking space. But I do dismay at some of the comments that are made in debates and I will try to take a leaf out of your book, Sir, and try to be a gentleman above my own normal self. I am reading from the statement from Deputy Tadier where he said: "I will do what Deputy Le Claire does, speak against the proposition but for some unfathomable reason vote for it." I do not know if he was using that as a reason to then enter into his speech or whether it was a criticism of me in general as to how I debate things. Some people are born privileged and some people are privileged with an education and they are able to up the ladder. Some of us, however, are born flat broke in a family that has nothing with nothing and comes from nothing and maybe once upon a time have something. But I certainly am of the ilk where a lot of my relatives have got lots of money, the old Jersey way, we have got nothing. Still at the bus stop watching our cousins go past us in Rolls Royce's, et cetera, or on horses. Our family from Scotland was educated, highly educated in fact to the point where it is ridiculous. Some of them were in upper levels of higher education until their early 40s and library scientists and professors, et cetera, so they are extremely educated, in the other half of the family. But I was not so well blessed and I took my education in the main from experience. I came into the States 10 years ago, as you will recall, highly inexperienced and fathomable then probably, and I have tried my best in my speeches of late to try to pull as one with Jersey because of the difficult period I think we are in as an Island in terms of financial position and also having cognisance of the situation for people out there in our community who are, as Senator Shenton recently pointed out, losing everything. From having a job to losing everything. I once experienced that situation myself and having gone from bodyguarding the chairman of Merrill Lynch with 15 Mercedes Benz down to one Mercedes Benz to being unemployed for about 18 months, and having lost £20,000 of my business, I know what it is like to have nothing. I think that really it does not do us any good whatsoever to have the politics of envy. I think that there is a certain element of that in this proposition today. I am struggling because I think while I would like to support it it just does not make sense to support it. The proposition from experience, I understand, is what we are asking to decide upon. Not what is in the report or what the merits of the speeches are. The proposition is quite clearly worded to request the Employment Board to publish and in part (b) to request the Employment Board to publish. Quite clearly in the Chief Minister's comments the Board cannot support the proposal. So we are going to ask them to do something which they cannot support. They have given it to us in writing already. They clearly cannot support it. But they have come halfway and considerably further than when I asked questions of the Chief Minister in April, and all of the other Ministers and then followed that up in written questions in June, when I asked them all to give me a breakdown of their department's organisation, and I asked them all the same question: "To help and assist the Comprehensive Spending Review would the Minister provide an organisation chart of the department identifying every post, the post holder's duties and responsibilities, the salary grade and whether the post is currently filled or vacant and if possible if any of these post holders are suspended." To a man and a woman they answered practically the same sort of thing. It would take a vast amount of resources and a vast amount of time to give you this information when in reality they were telling me privately: "Ooh, we do know there is duplication. In fact we do know

there is triplication but these are sensitive issues, Paul, do not mention these things.” Here we have Deputy Higgins bringing a proposition to try to identify for our understanding the Comprehensive Spending Review, where are the monies going and where it can be saved, and quite rightly what we need to know. In fact, interestingly the Minister for Treasury and Resources, if you read Hansard from his speech today, at the back end of getting £15 million more he said there is no Member in the States who does not know the inner workings of each department, that will not admit that there can be savings made. Now I did not want to interrupt him at the time but I certainly will drag that sentence out from Hansard and make my point again in the future. We do not know how many people there are or if we do we cannot get confirmation. We know that there is duplication in the civil service. We know there is triplication in the civil service. Some of the answers I got were very poor. One of them, we will give them marks out of 10: the Minister for Education, Sport and Culture, 10 out of 10 for the Education Department. They gave me all of the posts and all of the answers pretty much. It did not take a vast amount of resources and they had 1,549.4 staff. So they could do it. I do not know who the point 4 was. The others did not. Really, without going through them all the only second decent answer we had was from the Minister for Social Security. I do not know if he is paying attention. I am praising him. He has got his head down. **[Aside]** No, there are no buts. He has given me a lot of information and he has given me an organisational chart which is great. It is exactly what I wanted to see because I am not in the departments, I am not in the ministries and contrary to - I do not know if it was meant - the inference that I just blindly follow on, I am against an idea no matter who brings it if it is stupid. I am for an idea no matter who brings it if it is good. I am sorry to say this idea is not going to get my vote because while I will speak for it, I hope I have not been unfathomable in making people understand. I have explained as best I can with my limited background and my limited ability and my vast amount of experience that they do not want us to know. They do not know and the people they employ do not want them to know. Until we collectively understand that, publishing salary bands and the amounts of money people get is not going to solve a thing. Knowing how many people get £100,000 and how many people get £60,000 and how many people get £70,000 means nothing if there is 13 times that many getting £55,000 that we are not publishing. It is absolutely ridiculous. It is politics of envy. It really, really infuriates and upsets the public when they see on the front page of the *J.E.P. (Jersey Evening Post)* how many States Members, just blandly, all these employees getting all this money. Nobody is asking what they are doing, with the exception of Deputy Higgins, and myself. I am asking and we did agree, and I will remind the Chief Minister, we did agree this in the Strategic Plan that the Government of Jersey would be more open and transparent. I will just repeat that so the Chief Minister can hear me because ... did the Chief Minister catch that, through the Chair? The government of Jersey agreed in the States Strategic Plan my amendment that we be more open and I am hoping that there is a signal there from his report that there is a willingness from the Employment Board that although they cannot, even if we do agree 53 Members to ask them, they will not and cannot do what we are asking.

[16:30]

It is just a waste of time. But what I would say is that we have moved a million miles since 20th April and 8th June, when I asked my questions, because the Chief Minister and the Employment Board have agreed to do a little bit of disclosure. What we really need to do is say, look do not bother with all that. Let us just have an organisational charge across the States. Let us get some people together with some understanding of the issues, there are some ex-managers from the States in here, some accountants, there are some human resources people, let us get some diagrams up and rather than just having in those diagrams like a hierarchal structure from a family tree where you have pensions and health, income support, let us have numbers in there. Let us have numbers in there. How many in there? “Look, you have human resources here in this office and you have human resources there. Look, you have human resources here too.” Three human resources officers, and the rest; 3 Human Resources Departments in one ministry, and 3 Treasury

Departments in one ministry. That is what is going on and the sensitivity is around the fact that they do not want to do this, only very, very quietly over a long period of time. I am sorry if I am unfathomable but I am trying to be quite clear and succinct. This is a proposition that is unwinnable so why vote for it? Speak up, let us go through the whole day talking about it if we want to and to finish with, I would recommend a book: Dale Carnegie *How to Win Friends and Influence People*.

**2.1.10 The Deputy of St. John:**

This is in my view a bridge too far. We see street cameras watching every move we make. People can be identified from mobile phones wherever they are in the world, and so forth. Deputy Higgins, as much as I respect you, on this occasion it is a bridge too far. Therefore I am going to propose that we move on to the next item.

**The Bailiff:**

Just before you do that, of course you are able to do that, and given the number of people who have spoken it would not be an abuse of procedure or an infringement of the rights minority, but I only have one other Member at the moment wishing to speak.

**Senator T.J. Le Main:**

I was going to speak but I am quite happy to go with ...

**The Deputy of St. Martin:**

I would like to speak, Sir. I have waited to hear everyone else before coming in.

**The Bailiff:**

Do you make your proposition then? Yes. So we have a proposition to move to the next item of business. Is that seconded? **[Seconded]** Under Standing Orders there is no debate upon this. Do you ask the appel, Deputy? The appel is called for then in relation to the proposition to move to the next item of business. I invite Members to return to their designated seats and the Greffier will open the voting.

<b>POUR: 15</b>		<b>CONTRE: 26</b>		<b>ABSTAIN: 0</b>
Senator P.F.C. Ozouf		Senator T.A. Le Sueur		
Senator T.J. Le Main		Senator J.L. Perchard		
Senator S.C. Ferguson		Senator A. Breckon		
Senator B.I. Le Marquand		Senator A.J.D. Maclean		
Connétable of St. Ouen		Senator F. du H. Le Gresley		
Connétable of Trinity		Connétable of St. Saviour		
Connétable of Grouville		Connétable of St. Clement		
Connétable of St. Brelade		Connétable of St. Mary		
Connétable of St. Peter		Deputy R.C. Duhamel (S)		
Deputy J.B. Fox (H)		Deputy of St. Martin		
Deputy of St. Peter		Deputy R.G. Le Hérisssier (S)		
Deputy J.A. Hilton (H)		Deputy J.A. Martin (H)		
Deputy of Trinity		Deputy of St. Ouen		
Deputy of St. John		Deputy of Grouville		
Deputy A.T. Dupré (C)		Deputy P.V.F. Le Claire (H)		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy M. Tadier (B)		
		Deputy A.E. Jeune (B)		

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

**The Bailiff:**

Deputy of St. John, I am going to take that as your speech in the debate unless you wish to add anything now?

**The Deputy of St. John:**

No, Sir.

**Senator J.L. Perchard:**

I will not waste Member’s time. I have nothing further to add.

**2.1.11 The Deputy of St. Martin:**

I deliberately held back because I wanted to hear what people had to say because I think Members do know of my interest in human rights. Quite interesting, Deputy Higgins also shares a keen interest and it just goes to show how important it is for Members to know more about human rights because it is quite interesting that later on today, it may not be today, it may well be tomorrow or some time in the future, but Members will note that there is a proposition by me asking for the States Members to be told why a particular law is human rights compliant and, guess what, here we have a Chief Minister who is using human rights to defeat a proposition brought by a private member, by a back-bencher, and we have the Chief Minister using human rights again to stop making up your mind. It does seem rather strange, and I am not surprised the Chief Minister is having a sly smile down there, of course we have another battle to come, but it just goes to show how complicated human rights is. Unfortunately the Attorney General is not back but he may well, if he can hear me talking, come back, because I would like to compliment him on the, in almost layman terms, how he did explain the human rights situation and how complicated it is, and it just goes to show that the more we understand human rights the better it is for all of us because the better our knowledge will be. I know we may get a few smirks from some people on the other side of the Chamber but really I can only say that the more we know the better it is. I have not spoken to Deputy Higgins about this particular case and I am like Deputy Le Hérisssier, who has an interest in human rights and also Deputy Tadier, because this is a struggle to know where it is right. I am grateful to the Attorney General is back because he is not going to get the rest of the afternoon off because I have got a question of him. Quite interestingly, I feel Deputy Higgins was a bit ambushed like I was when you get the late comments coming in when you have prepared yourself for the speech and suddenly you have the late comments. The comments for my proposition came forward yesterday and indeed for Deputy Higgins yesterday as well. So one has got to change, in fact had Deputy Higgins had this maybe a week ago he may well have thought about not going forward today, and that is where I come to presently. But in the report under (2) it says: “The Board cannot support proposals” et cetera, and it says: “To do so would seriously undermine those individuals’ right.” I would wonder where this word “would” comes from. It could be “could” and there is a big difference between “could” and “would”. I would ask the Attorney General ... just before I do, it also says: “Will have serious implications” and yet we have heard Deputy Higgins, and I have no reason to disbelieve what Deputy Higgins has said, that this has been deemed to be acceptable in the U.K. as human right compliant and yet according to this report here that we have had from the Chief Minister one would assume his information has come from legal advice, and it is why I come to the Attorney General. Could I ask the Attorney General that the opinion that is given here, is it an opinion based on a stated case or is it just an opinion because I think the

Attorney General will know what I am getting at. That as often the case that the people say it is against my human rights, but until it has been tested in a court of law it is still open to interpretation. I do not want to finish my speech but I would like to come back. I will ask the question now and come back. Could I ask the Attorney General that is it a fact that it is a violation or it could be a violation? In other words, has any of these cases ever been before a Court of Human Rights and a case has been stated that if indeed one did disclose this information it would be a violation or is it a case that there has not been a case yet tested, in which case you could say the jury is still out?

**The Attorney General:**

I am not able to give an unequivocal answer to the Deputy in response to that specific question. I am not aware of a specific authority which deals with this, which is on all fours with the facts of this situation. I think it is right to say that there is a very serious question mark over the preservation of someone's Article 8 rights to privacy by disclosing their name unless it is necessary and proportionate to do so. If it is not necessary and proportionate if it is unnecessary because the correct level of information could be provided in a different way then I think it would be extremely strongly arguable, and that is lawyer's speak for I think it would be the case, that that would infringe Article 8 of the Convention.

**The Deputy of St. Martin:**

Again, I am grateful for the clear interpretation because the way I see it really it is a case that the jury is still out. It could but it is not would. In other words there is a possibility but it has not been tested so the U.K. have taken the line that really it is proportionality, it is all right to have a disclosure and that is the concern we have. Indeed the Attorney General did say it is for Members to make the decision and it will be for those Members to make the decision. What we have got to do is look at the proportionality and the Constable of St. Mary was quite right. She talked about proportionality and everyone has to look at the difference. We are an Island community so it is not terribly difficult sometimes to identify who so-and-so is because we are a small Island community. So proportionality does have an impact in a small community so, again, one has got to take that into consideration and, of course, we have to look at the public interest. Deputy Martin mentioned the right to know and I do have a lot of sympathy for that as well, but the one thing I always have concerns about, I think there is more concerns raised through things being kept secret. I know Deputy Pitman and I and a number of others have been bashing our heads trying to get some information from the Minister for Home Affairs because there have been occasions he will be saying: "I cannot because it is a secret" and I think probably there are occasions when the Minister for Home Affairs would be more than happy if he would be able to give the information we wanted because it would have saved us coming back to questions, because quite often as he knows we know the answer before we ask the question. At the same time, it gives publicity to the argument. But I think there is a lot to be said by more openness so, of course, if indeed we had this information we could identify those people concerned. It is a point that was picked up by Senator Shenton. From my own personal perspective, my income has always been made public. As a police officer, people knew what a P.C. (Police Constable) earned and what a Sergeant earned and what an Inspector ... So it would not have been difficult to find out how much I would have earned. Indeed, as a States Member people know how much I earn. I can honestly say it has never had any effect in my life at all what I earned so I do not know what effect it would have. Back to Deputy Le Hérisssier about this balancing act and what side the fence one is going to sit on because I do have sympathy for both sides. I think this is the difficulty one has when one looks at a human rights issue - is it proportionate in a small Island for people to know what other people are earning and it may be acceptable for the higher earners but is it acceptable for the lowers. I think what we have got to do is compliment Deputy Higgins on bringing forward this proposition because we have come, I think, a million miles forward from where we were - this business of not knowing - and we have come from nowhere to where we are now. Quite a concession made albeit I think probably at

the end of the day the S.E.B. (States Employment Board) or the Chief Minister realises really he was not going to win this unless he came with a compromise. I have been there before with the Chief Minister. If one knows I have got another proposition today which is being opposed by the Chief Minister, and it is very difficult for people like myself and indeed Deputy Higgins to come forward with a proposition when you are opposing the Chief Minister and, of course, by implication it is all the Council of Ministers and also the Assistant Ministers. So I think Deputy Higgins may be on a sticky wicket but as somewhat of a colleague there may be a way out and I was pleased that States Members did not move on to the next item. I think there would be a lot of value in it and I would ask that Deputy Higgins to seriously consider what I am going to suggest that you have got a partial victory here. Do not spoil it by the possibility of losing what you have got and I think there is a great real benefit here for going back to the Chief Minister and negotiating something. I would certainly go back and let us get by departments. I think the bands could be a lot narrower, £10,000 rather than £19,000. So as a colleague of Deputy Higgins he might not be expecting what I am going to say but maybe he might consider withdrawing; go back to the Chief Minister because you are halfway there. It would be a shame to lose something when you are so close so I would ask maybe that Deputy Higgins would withdraw while he is on the winning side.

[16:45]

#### **2.1.12 Senator F. du H. Le Gresley:**

I have listened through all this debate today and I am quite surprised we have taken this long because to me it is quite simple. **[Laughter]** It is quite a simple matter. The Attorney General at the outset gave us 3 reasons why we have to decide whether it is necessary and proportionate but the one that I want to focus on very briefly is the breach of confidence between employee and employer. It has been stated that the States of Jersey are the employers of the civil servants. That may be correct but we also have a States Employment Board who are given that responsibility to deal with relationships between the employer, being the States Employment Board, and the employees. We have the response, the comments of the States Employment Board, and they quite clearly state and I will read them just in case people have not read this piece of paper. They say: "To reveal personal details: to do so would seriously undermine those individuals' rights to privacy straining the implied contractor duty of mutual trust and confidence between employer and employees." Now that is exactly what the Attorney General told us to be very careful about; whether it is necessary and proportionate for a breach of confidence between the employer and the employees. We have heard from the States Employment Board that they think it would be inappropriate. I would just mention that Deputy Le Hérissier pointed out that now we have some, I think they are called public companies - I think that is the right expression - Jersey Post for example, where we now have a Board who look after the employees and are responsible for their salaries and their terms of contract. Deputy Le Hérissier was wrong when he said it is under company law that there are disclosures. It is to do with the audit process. These companies are to comply with audit procedures and, therefore, in certain cases salaries over a certain level have to be declared but they would not be declaring in those companies the salaries of people who are less than the figure that they have to declare. So we would end up with a situation, if Deputy Higgins' proposition is approved, where some civil servants, in fact a lot of civil servants, would have all their salary details and their situations declared for public knowledge and those who work for people like Jersey Post would not have that information declared and I think that would look absolutely ridiculous. My own view, and I will definitely be voting against this proposition, is that this is a breach of confidence. Deputy De Sousa who is on the States Employment Board says she has been in touch with the Data Protection Commissioner, she is against this. She said she will be inundated with complaints and I fully believe that and if we go down this route we will be having to give her extra staff, probably new premises, and I think the whole thing is ridiculous and I will be voting against it.



**Deputy M.R. Higgins:**

A point of clarification on this; I have just spoken with Deputy De Sousa and she tells me the Data Protection Commissioner did not oppose it.

**Deputy D.J. De Sousa:**

She did not say she was against it. She gave me advice.

**2.1.13 The Deputy of St. Mary:**

Three points briefly. First is that normally I would be in favour of the right to know and clearly with top executives, Jersey Post and so on, the case has been made that it is very useful but there is a problem and I am uneasy with isolating public workers in this way. To help Members think about that, there is no requirement here that all private sector wages be disclosed and if you think about that balance, you know, why is it the boot is only on one foot and not the other foot? Okay, they are taxpayers and taxpayers pay the bills and so on but it still makes me uneasy that the disclosure is only of one set of people, not of another set of people, and that should make us uneasy. The second point is Senator Shenton who is not here outlined some of the shocking practices that he says go on with remuneration. That is a management issue. That will not be solved by disclosing all salaries above £60,000, the fact that people have 3 mobiles and get call out payments when they do not get called out. So that is really not relevant to whether Members vote for or against this. The third point and the most important is the one raised by Deputy Le Claire and I will sort of bundle it in with what the Deputy of St. Martin said. Deputy Le Claire pointed out the importance of knowing the functions of these people, of the workers who vote for the States. What do they do, not just what are they paid but what do they do and how many of them are there managing the grants in higher education and so on. How many are there sitting in the room, what do they do and that would be really useful information and maybe we could bundle that into the recommendation to the proposer from the Deputy of St. Martin and say: "Please, salary bands, yes. Go back to the Chief Minister, negotiate this, you are halfway there. The comments of the Chief Minister show a clear move in this direction and bundle in the functions as well" and then we would know what public sector [Aside] ... The job descriptions are there, fine, okay. Well, that is great then and we are heading for more transparency so there we go. That is enough.

**The Bailiff:**

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

**2.1.14 Deputy M.R. Higgins:**

First of all, thank you to everybody who has taken part in this. It has been interesting. I must admit opposition I did expect from certain quarters, not from some quarters. I would stress again though that before I embarked on this I did look at the Data Protection Law and also the European Commission of Human Rights. I also had discussions with the U.K. Cabinet Office and I spoke to the people who are involved in the project in the U.K. with this type of information disclosure. I want to stress again - the U.K. have done it and there is no difference between the European convention applying to the U.K. and here and the first Data Protection principle in the U.K. is the same as here. There is no difference whatsoever. The other thing too is I have been sent by the Cabinet Office the information they got from their Commissioner and believe it or not you can even disclose exact salaries of employees in certain circumstances. I did not choose to do that. I chose to follow what they were doing which was to put bands of £5,000. Again, if you look at what I have got in the ... In fact, I will come back to that in a second in terms of what is in the proposition. Let me just go through some of the points. I agree it is a question of balance, how far do we go and how far we do not go. I was asked, for example, by Deputy Tadier why I chose £60,000. Well, the answer was quite simple. In the United Kingdom the senior civil service bands start at £58,500. I was trying to sort of identify a sort of senior level. Now I think £60,000 is probably twice the average income in Jersey and I felt that was an appropriate level to sort of do it. I do not believe it

is right to go further down and sort of drill down through everybody else but most of these people are quite senior. In fact, perhaps somebody can tell me what the civil service grade is for that. Now, in addition to ... That was the £60,000. I have already answered the question too about I deliberately did not choose to pick a specific salary and name each individual. That was my original intention I will be perfectly honest and I did look at this type of thing and then I decided to go for the bands because, again, I do accept the argument that if you drill down to a specific salary it is getting too personal, but a band I think is acceptable and in fact a band ... not the £10,000 the States Employment Board are putting forward, £5,000 bands are acceptable. One thing that I have not mentioned ... in fact, I will mention it now. In terms of the proposition, if you look at the proposition it does not instruct the States Employment Board to publish the names. In both cases I am saying it requests them too. In the United Kingdom and I would envisage it here as well there is a lot of knock down. I am not asking for us to do anything that the United Kingdom is not doing itself. There is a knock down for certain members. If they do not wish their name to be published they are not published believe it or not. Of all the ones that the U.K. published there were 24 people who said that they did not want it to be published and they were not published. In the same way I believe that if we followed a similar system there is no reason, okay, if they did not want their name published, publish the job title. Again, we do not know who most of them are. Tell us what the job description is. Give us the wider information. So just remember it is not totally prescriptive they must publish. I am saying I would like them to bring in an equivalent system to the U.K. to give us as much information as possible with the one exception - give us the job description information which the Deputy of St. Mary was calling for. We do not know what most departments do. We do not know what most civil servants do. I do not even think the Ministers know what everybody does in their own departments. In fact, one thing I am surprised about as well is The Deputy of St. Martin mentioned for example how he always gets the comments at the last minute especially when it is a private Members thing. They have also known this for quite some time. You know the proposition has been out there for a while, why did they not amend it, or why did not some other States Members say: "Take out the names, we will agree to the rest" and why did we not debate that? The point is, people have had the opportunity to come back with modifications but they have chosen not to. Again, that goes back to all those people who are saying: "I am not happy with the names but I am relatively happy with everything else." You could have amended it and brought it forward. One other point I would make is one of the reasons for bringing this forward ... I can tell you now I am absolutely convinced when freedom of information comes from the Constable of St. Mary on the part of P.P.C. it will be opposed root and branch by the Council of Ministers. I am absolutely convinced of it. Deputy Jeune who was at a member of the Council of Ministers meeting, perhaps she is thinking of similar conversations there, I do not know, but the point is there is definitely an opposition to openness and transparency despite the lip service that we pay to it, despite what is put in the Strategic Plan. They really do not want people to know and I can assure you we will have a big fight when it comes forward and I can tell you now the opposition is going to come from those benches and part of my reason ... Well, I would not say part of it; I wanted to know this information but part of the reason for bringing it now is to show the sort of opposition we are going to have to any freedom of information. I have got other propositions by the way which are also going to come forward to deal with further openness and transparency, not necessarily on salaries but again we are going to have the opposition from the Council of Ministers, I can assure you. Just going back to the point that it is a small island that is made by the Constable of St. Mary, a small island and, therefore, if you know people's names it is maybe not proportionate here. This legislation in the U.K. and this transparency is now drilling down into local councils, and local councils and smaller communities are now starting to release more information. Non-government departments are also being subject to that. I am not always a great supporter of what the U.K. does but I do support the coalition government in their desire to provide more information to the public. I have got the message from a number of people here that this is probably not going to go through and we should really sort of take what the Council of Ministers are saying. I am going to withdraw this and I will have the

discussions [**Approbation**] with the Council of Ministers but I will be coming back again with other propositions so I hope they will be quite open and we can get in some productive talks and try and, as I say, open up things for the public and give them the information they really deserve.

**The Bailiff:**

Does the Assembly agree to give leave to Deputy Higgins to withdraw? The vote has to be called for then because a proposition at this stage can only be withdrawn with leave. The appel is called for so if you wish to agree that Deputy Higgins should have leave to withdraw, you will vote pour, if you do not think he should be given leave to withdraw so that it will then move to a vote, you vote contre. Is that clear? Very well, I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 21</b>	<b>CONTRE: 23</b>	<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur	Senator T.J. Le Main	
Senator B.E. Shenton	Senator S.C. Ferguson	
Senator J.L. Perchard	Senator A.J.D. Maclean	
Senator A. Breckon	Senator B.I. Le Marquand	
Senator F. du H. Le Gresley	Connétable of St. Ouen	
Deputy of St. Martin	Connétable of Trinity	
Deputy R.G. Le Hérissier (S)	Connétable of Grouville	
Deputy J.B. Fox (H)	Connétable of St. Brelade	
Deputy J.A. Martin (H)	Connétable of St. John	
Deputy J.A. Hilton (H)	Connétable of St. Saviour	
Deputy P.V.F. Le Claire (H)	Connétable of St. Clement	
Deputy I.J. Gorst (C)	Connétable of St. Peter	
Deputy M. Tadier (B)	Connétable of St. Mary	
Deputy A.E. Jeune (B)	Deputy R.C. Duhamel (S)	
Deputy of St. Mary	Deputy of St. Ouen	
Deputy T.M. Pitman (H)	Deputy of Grouville	
Deputy T.A. Vallois (S)	Deputy of St. Peter	
Deputy M.R. Higgins (H)	Deputy of Trinity	
Deputy A.K.F. Green (H)	Deputy S.S.P.A. Power (B)	
Deputy D.J. De Sousa (H)	Deputy K.C. Lewis (S)	
Deputy J.M. Maçon (S)	Deputy of St. John	
	Deputy A.T. Dupré (C)	
	Deputy E.J. Noel (L)	

[17:00]

**The Bailiff:**

He is refused leave: in which case then we now move to a vote I think then on your ...

**Deputy M.R. Higgins:**

Do I have the chance just to make a comment because again I stopped my comments on the assumption ...?

**The Bailiff:**

Yes, I think it would be fair to allow you to continue.

**Deputy M.R. Higgins:**

I think this is very interesting, the tactical sort of voting that is going on here and I think really what it shows is a deliberate attempt to kill this. **[Approbation]** I really do believe if you really support open government then you should vote for this because you can see the manoeuvrings that have been going on behind the scenes and you can imagine what the likely consequences of any talks we are going to have with the Council of Ministers.

**The Bailiff:**

Very well, the appel is called for then in relation to the proposition of Deputy Higgins, P.71. I ask Members to return to their seats and the Greffier will open the voting.

<b>POUR: 11</b>	<b>CONTRE: 33</b>	<b>ABSTAIN: 0</b>
Senator B.E. Shenton	Senator T.A. Le Sueur	
Deputy R.C. Duhamel (S)	Senator T.J. Le Main	
Deputy of St. Martin	Senator J.L. Perchard	
Deputy R.G. Le Hérissier (S)	Senator A. Breckon	
Deputy J.A. Martin (H)	Senator S.C. Ferguson	
Deputy of Grouville	Senator A.J.D. Maclean	
Deputy M. Tadier (B)	Senator B.I. Le Marquand	
Deputy of St. Mary	Senator F. du H. Le Gresley	
Deputy T.M. Pitman (H)	Connétable of St. Ouen	
Deputy M.R. Higgins (H)	Connétable of Trinity	
Deputy D.J. De Sousa (H)	Connétable of Grouville	
	Connétable of St. Brelade	
	Connétable of St. John	
	Connétable of St. Saviour	
	Connétable of St. Clement	
	Connétable of St. Peter	
	Connétable of St. Mary	
	Deputy J.B. Fox (H)	
	Deputy of St. Ouen	
	Deputy of St. Peter	
	Deputy J.A. Hilton (H)	
	Deputy P.V.F. Le Claire (H)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy K.C. Lewis (S)	
	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)	
	Deputy A.K.F. Green (H)	
	Deputy J.M. Maçon (S)	

**3. Public Employees Contributory Retirement Scheme: Membership of the Committee of Management (P.79/2010)**

**The Bailiff:**

We come to the next item of business on the Order Paper which is the Public Employees Contributory Retirement Scheme: Membership of the Committee of Management, P. 79 lodged by the Chief Minister and I will 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 Regulation 3(5) of the Public Employees (Contributory Retirement Scheme) (General) (Jersey) Regulations 1989, as amended, to approve the appointment of Mr. Roderick Gordon Bryans as an employer representative on the Committee of Management for the period ending 31st December 2012 and so increase the employer representatives to 7 in number.

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

Members may recall that several weeks ago I lodged a report and proposition proposing a number of people could serve as members of the Committee of Management at the Public Employees Contributory Retirement Scheme, including Mr. Bryans. Those candidates have all been selected following a proper advertisement and selection process. Subsequently, it came to light that there was an indication that Mr. Bryans might have been a candidate in the recent senatorial by-election and for that reason I withdrew his name from the proposition at that time. When it transpired that Mr. Bryans was not going to be a candidate in that by-election, I put his name back into the frame to fill the one remaining vacancy on the Committee of Management and that is the proposition now before us. Mr. Bryans is well known in the pensions industry and elsewhere and his C.V. (curriculum vitae) is attached to the report accompanying this proposition. I am ensured he will make a worthwhile contribution to the Committee of Management. I thank him for agreeing to put his name forward and I make the proposition.

**The Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? All those in favour in adopting the proposition kindly show. You have asked for the appel and the appel is called for now in relation to the proposition of the Chief Minister. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 37</b>	<b>CONTRE: 1</b>	<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur	Deputy M. Tadier (B)	
Senator T.J. Le Main		
Senator B.E. Shenton		
Senator J.L. Perchard		
Senator A. Breckon		
Senator S.C. Ferguson		
Senator A.J.D. Maclean		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Connétable of St. Ouen		
Connétable of Trinity		
Connétable of St. Brelade		
Connétable of St. John		
Connétable of St. Saviour		
Connétable of St. Clement		
Deputy R.C. Duhamel (S)		
Deputy of St. Martin		
Deputy R.G. Le Hérissier (S)		
Deputy J.B. Fox (H)		
Deputy J.A. Martin (H)		

Deputy of St. Ouen			
Deputy of Grouville			
Deputy of St. Peter			
Deputy J.A. Hilton (H)			
Deputy P.V.F. Le Claire (H)			
Deputy of Trinity			
Deputy S.S.P.A. Power (B)			
Deputy K.C. Lewis (S)			
Deputy I.J. Gorst (C)			
Deputy of St. John			
Deputy A.E. Jeune (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)			
Deputy J.M. Maçon (S)			

#### **4. States becoming inquorate during a meeting: revised procedures (P.82/2010)**

##### **The Bailiff:**

We come next to States Becoming Inquorate During a Meeting: revised procedures, P.82 lodged by Deputy Le Claire. I will ask the Greffier to read the proposition.

##### **The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion: (a) to agree that the current procedures in Standing Order 56 “States inquorate during meeting” should be amended, and that under the revised procedures, (i) if the States become inquorate during a meeting and the presiding officer, having directed that elected members be summoned and allowed sufficient time for them to return, believes that the States remain inquorate, he or she shall ask the Greffier to initiate an immediate roll call with members being required to indicate their presence using the electronic voting system; (ii) if the electronic roll call indicates that the States remain inquorate the presiding officer shall then ask the Greffier to call the roll orally; (iii) if at the conclusion of this second roll call the States remain inquorate, the procedures that currently apply in Standing Order 55(1) when the States are inquorate at the start of a meeting shall be applied, namely the presiding officer shall - (A) suspend the meeting to a specified time (which may be a time on a continuation day), or (B) close the meeting; (iv) if the meeting is suspended the Greffier shall, at the specified time, call the roll again and, if when the roll has been called again the States remain inquorate, the presiding officer shall close the meeting; (b) to request the Privileges and Procedures Committee to bring forward for approval the necessary amendments to Standing Orders to give effect to the decision.

##### **4.1 Deputy P.V.F. Le Claire:**

This is one of those things that comes along very seldom and hopefully in response to our newest Member it is one of those things that hopefully will not take for ever. We have got a situation at the moment whereby the system differs in relation to the roll call in the afternoon than the options that we have for the morning. There have been a number of occasions recently where States Members have not been in the Chamber at the beginning of the roll call in the afternoon when it was necessary and I have noticed that there has been some level of unfairness in relation to the way procedures are that many of the Senators who do appear just after the roll has begun to be called are marked absent when many of the other people down the list have come in many minutes later. So I have tried to introduce something that would give us a fairer system and in relation to that, and I am

very grateful for it and I am going to thank personally the Chairman of Privileges and Procedures Committee who I am ... we are going to very happy chappies together in this proposition for this 5 minutes anyway and I would like to thank her and her committee for bringing an amendment and accepting the spirit of what I am trying to do. So that is my speech. I would ask for it to be seconded and we will go from there.

**The Bailiff:**

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

**4.2 States becoming inquorate during a meeting: revised procedures (P.82/2010) - amendment (P.82/201 amd.)**

**The Bailiff:**

Very well then, as the Deputy has said there is an amendment lodged by the Privileges and Procedures Committee and I will ask the Greffier to read that amendment.

**The Deputy Greffier of the States:**

On page 2 delete paragraph (a)(ii) and in paragraph (a)(iii) for the word “second” substitute the word “electronic”.

**4.2.1 The Connétable of St. Mary:**

I will try to be equally brief. As already noted the Privileges and Procedures Committee is supportive of Deputy Le Claire’s intentions in bringing this proposition but simply believes the process could be more simplified which is the sole purpose of this amendment. As has already been noted, the Deputy’s proposal highlights a discrepancy between the procedure should be the States be inquorate at the start of a meeting after the roll call, after prayers and the procedure that happens if the States are inquorate following a roll call later in the day and the proposal as amended would bring the 2 situations into line. P.P.C. trusts that Members will support that and, also furthermore as indicated in the report, in bringing forward the necessary amendments to Standing Orders should this ... and I hope it will be adopted, P.P.C. will take the opportunity to ensure that there is a mechanism put in place to correctly record in the minutes of the States those people who are absent for a legitimate reason through illness or perhaps being in a situation of having declared an interest, et cetera. I move the amendment.

**The Bailiff:**

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

**4.2.2 Deputy M. Tadier:**

Just a question because I remember we discussed this briefly while I was still on P.P.C. but I do not think I was there when it got finalised. I might wrong. How does one vote? How does one record whether one is here? Does one have to press pour or contre and if you press contre does that get recorded as you not being here? **[Laughter]**

**The Bailiff:**

Does any other Member wish to speak? Do you wish to reply, Chairman?

**4.2.3 The Connétable of St. Mary:**

I do not wish to, Sir, but I think I need to. Any button will register the fact that you are here. Pressing a button means there is someone in the seat to press it. **[Laughter]**

**The Bailiff:**

All those in favour of adopting the amendment kindly show. Those against? The amendment is adopted.

**4.3 States becoming inquorate during a meeting: revised procedures (P.82/2010) -as amended**

**The Bailiff:**

Does any Member now wish to speak on the proposition as amended?

**4.3.1 Deputy J.M. Maçon of St. Saviour:**

Very quickly, I did second this amendment and, of course, of all the Members I have the most to lose being the last on the roll call but I am happy to support this measure. I think it would be a good way forward.

**The Bailiff:**

Does any other Member wish to speak? Do you wish to reply, Deputy Le Claire?

**Deputy P.V.F. Le Claire:**

No, I just ask for the appel please.

**The Bailiff:**

The appel is asked for then in relation to the proposition of Deputy Le Claire as amended. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 39</b>	<b>CONTRE: 2</b>	<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur	Deputy of St. John	
Senator T.J. Le Main	Deputy T.M. Pitman (H)	
Senator B.E. Shenton		
Senator J.L. Perchard		
Senator A. Breckon		
Senator S.C. Ferguson		
Senator A.J.D. Maclean		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Connétable of St. Ouen		
Connétable of Trinity		
Connétable of St. Brelade		
Connétable of St. John		
Connétable of St. Saviour		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Mary		
Deputy R.C. Duhamel (S)		
Deputy of St. Martin		
Deputy R.G. Le Hérissier (S)		
Deputy J.B. Fox (H)		
Deputy J.A. Martin (H)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy of St. Peter		
Deputy J.A. Hilton (H)		
Deputy P.V.F. Le Claire (H)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		



Deputy I.J. Gorst (C)			
Deputy M. Tadier (B)			
Deputy A.E. Jeune (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)			
Deputy J.M. Maçon (S)			

**5. Jersey Financial Services Commission: appointment of Commissioner (P.86/2010) – as amended**

**The Bailiff:**

We come to P.86, Jersey Financial Services Commission: Appointment of Commissioner lodged by the Minister for Economic Development and I will ask the Greffier to read the proposition. Do you wish to take it as amended? It seems to be a minor matter, is that right, Minister?

**Senator A.J.H. Maclean:**

I would say yes if that is ...

**The Bailiff:**

So probably read the proposition as amended by the Minister's own amendment.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion - in pursuance of Article 3 of the Financial Services Commission (Jersey) Law 1998 to appoint Sir Nigel Wicks as a Commissioner of the Jersey Financial Services Commission with effect from 20th July 2010 to 16th June 2011.

**Senator B.E. Shenton:**

Historically, I declare an interest in as much as I am regulated by the J.F.S.C. (Jersey Financial Services Commission) in a personal capacity.

**The Bailiff:**

Thank you, Senator. This matter has to be in camera and I ask the public gallery be cleared.

**Deputy I.J. Gorst:**

I also declare an interest but do not withdraw.

[17:13]

**[Debate proceeded in camera]**

[17:17]

**The Bailiff:**

The vote has to be in public, therefore could you invite people back into the gallery please. We are back in open session in order to take the vote on P.86. All those in favour of adopting the proposition kindly show. Those against? The proposition is adopted.

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Bailiff:**

That then bring Public Business to a close and we move on then to the Arrangement of Public Business at Future Meetings and I invite the Chairman of P.P.C. to address the Assembly.

**6. The Connétable of St. Mary (Chairman, Privileges and Procedures Committee):**

Before I do that, Sir, can I just query, I may have missed this but have we had the official notification of lodging of P.96?

**The Bailiff:**

No, let us have that now; a very good idea. I can inform Members that Senator Perchard has lodged P.96 entitled Sites of Special Interest: removal from list and that should be on Members' desks.

**The Connétable of St. Mary:**

Public business will be as per the lavender sheet. We know that the Deputy of St. Martin has now moved P.84 from today to the next session on 19th July and Deputy Hilton has advised me that she wishes to withdraw P.10, the Island Plan 2002: H3 Site. Additional items for that day will be P.94 in the name of The Minister for Planning and Environment, the Draft Community Provisions (Mortality in Oysters) (Jersey) Regulations. These should be lodged until 28th September but I understand that the Minister seeks a reduced lodging period in view of the urgency. I understand the Assistant Minister may be able to speak on that.

**The Bailiff:**

I think that is a matter to be taken at the time I would have thought, Greffier, is it not, I think? Members need to have a chance to look at it.

**The Connétable of St. Mary:**

I am grateful to you for that. P.95 is added for that day, the Jersey Arts Trust: appointment of a chairman in the name of the Minister for Education, Sport and Culture and an amendment has been lodged to P.75. The next change will be on 13th September, the addition of P.96 which we have just noted the lodging of and, according to my information, those are all the changes to the schedule.

**The Bailiff:**

Can you assist Members on how long you think will be needed for the 19th July sitting?

**6.1 The Deputy of St. Martin:**

Can I speak, Sir? Just looking at the Minister for Home Affairs, I did not quite catch whether the P.30 and P.33 are going to be deferred to September. If they have not, I would propose that they are because the reason why we have not been able to do debate these particular propositions is because we have been awaiting a report which was commissioned by the Chief Minister. Not that I would like to remind the Chief Minister but I am going to, but Members will remember that on 23rd February we did debate my proposition P.9 and we did have the opportunity of a Committee of Inquiry which would have been up and running on 1st March and completed within 3 months. However, the States in their wisdom agreed to the Chief Minister who has commissioned a commissioner to carry out a review and the understanding was that we would not debate P.33 until we have had the results of the report [**Approbation**] so whatever happens, you know, there is just no way we are going to have the report even if we had it within 2 weeks. We do not know what the report is going to contain because there were 2 provisos: (1) that the Commissioner's report would make recommendations and make a decision and (2) was, of course, he may well have called for a Committee of Inquiry. That was a second option so until we know what that is on, I just see there is absolutely no way that we can debate P.30 or P.33. What I would ask, is that both these propositions are deferred until we have had the report from the Commissioner.

**6.2 Senator B.I. Le Marquand:**

I am grateful to the Deputy of St. Martin for reminding me of the position there. I am perfectly happy to put back P.33 to the September date.

**The Bailiff:**

P.30 and P.33, is that right?

**Senator B.I. Le Marquand:**

Well, P.30 is not within my control. I am sorry, the other way around - P.30 I put back.

**The Bailiff:**

So you put back P.30?

**Senator B.I. Le Marquand:**

Yes.

**The Deputy of St. Martin:**

P.30 is mine and it would make sense.

**The Bailiff:**

No, P.30 is the Minister for Home Affairs and P.33 is the Deputy's. You want to put them both back but the Greffier is reminding me that 13th September is the Business Plan so do you put it back to the 28th of September then, Minister? Very well, so that is moved. Subject to those changes then, do Members adopt the public business for the next meeting?

**6.3 Deputy D.J. De Sousa:**

On the last 2, can I just ask for some clarification on the withdrawal of the last 2 propositions? Are they both still going to be within the 6 months because one of them is very close to the bone when we debate it and it may have to be re-lodged if it is deferred? Can we have clarification on that?

**The Bailiff:**

The Minister for Home Affairs was lodged on 16th March 2010 so Minister you will, in fact, run out of time so you would have to ...

**Senator B.I. Le Marquand:**

Can you remind me, Sir, why it cannot then go to 13th September?

**The Bailiff:**

Well, simply that 13th September is down for debate on the Business Plan but I see there are other matters. Is that right, Greffier? Yes.

**Senator B.I. Le Marquand:**

There are a number of other matters.

**The Bailiff:**

It is a matter for Members. Minister, would not the simplest course be to re-lodge now an identical proposition and it can then be debated on the 28th?

**Senator B.I. Le Marquand:**

I will re-lodge it if necessary, yes.

**Deputy A.E. Jeune:**

Is this really good or fair management?

**The Bailiff:**

Deputy, it is a matter for the Minister as to when he wishes to propose it. Obviously these are matters you can take up with him but these are matters for him. So the Assembly agrees to take the programme as amended.

**The Connétable of St. Mary:**

If I might, I think I was asked for an estimate as to time. Bearing in mind we will be starting on the Monday afternoon with the organisational business and the questions et cetera, I would still recommend that this is the last session before the summer so we need to finish the business. I think Members need to set aside all the days that week in the hope that we will finish on the Thursday at the latest but I think we must be prepared to finish the business.

**The Bailiff:**

Very well so Members will keep that free. That then concludes the business and the Assembly will then reconvene on 19th July.

**ADJOURNMENT**

[17:26]