

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 17th JANUARY 2012

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS.....	10
1. Appointment of unelected members of the Public Accounts Committee.....	10
1.1 Deputy T.A. Vallois of St. Saviour:	10
QUESTIONS	10
2. Written Questions	10
2.1 DEPUTY R.J. RONDEL OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING WAITING TIMES FOR RESIDENTIAL PLANNING APPLICATIONS:.....	10
2.2 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR HOME AFFAIRS REGARDING THE REINTRODUCTION OF POLICE MOTORCYCLES:.....	17
2.3 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING ENFORCEMENT NOTICES:.....	18
2.4 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING OUTSTANDING PLANNING APPLICATIONS FROM 2005 TO 2010:.....	26
2.5 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE HUMAN RIGHTS COMPATIBILITY OF PLANNING LEGISLATION AND PROCEDURES:.....	35
2.6 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE DESIGNATION OF BUILDINGS OF LOCAL INTEREST:.....	35
2.7 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING PARKING PROVISIONS FOR ST. HELIER PLANNING APPLICATIONS:.....	36
2.8 DEPUTY T.M. PITMAN OF ST. HELIER OF THE CHAIRMAN OF THE PUBLIC ACCOUNTS COMMITTEE REGARDING A REVIEW OF ‘GOLDEN HANDSHAKES’:	37
2.9 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE COST OF DISCIPLINARY INVESTIGATIONS:.....	37

2.10	DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE BOARD OF GOVERNORS AT HAUT DE LA GARENNE:.....	38
2.11	DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING AN INVESTIGATION OF THE HANDLING OF THE CURTIS WARREN CASE:.....	39
2.12	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING PUBLIC SECTOR PAY NEGOTIATIONS:	39
2.13	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PROTECTION OF LOCAL BUSINESSES:	40
2.14	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING LICENCES ISSUED IN ACCORDANCE WITH THE REGULATION OF UNDERTAKINGS AND DEVELOPMENT (JERSEY) LAW 1973:	41
2.15	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING UNEMPLOYMENT:	43
2.16	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING RAISING THE SOCIAL SECURITY CONTRIBUTIONS CEILING:.....	44
2.17	DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING SPECIAL NEEDS AND MENTAL HEALTH CARE:	45
2.18	DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HOME AFFAIRS REGARDING DISCRIMINATION LEGISLATION:	46
2.19	DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING JERSEY MILK:.....	47
2.20	DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING A REVIEW OF MAISON DU LAC:	49
2.21	DEPUTY M. TADIER OF ST. BRELADE OF THE CHAIRMAN OF THE HEALTH, SOCIAL SECURITY AND HOUSING SCRUTINY PANEL REGARDING A REVIEW OF MAISON DU LAC:.....	50
3.	Oral Questions	50
3.1	Deputy S.G. Luce of St. Martin of the Chief Minister regarding the reduction of the time taken by the Privy Council to approve legislation:.....	50
	Senator P.F. Routier (Assistant Chief Minister - rapporteur).....	50
3.1.1	Deputy J.A. Martin:.....	51
3.1.2	Deputy S. Power of St. Brelade:	51
3.1.3	Deputy J.A. Hilton of St. Helier:	51
3.2	Deputy G.C.L. Baudains of St. Clement of the Minister for Treasury and Resources regarding compensation paid to Royal Mail in relation to the volume of outgoing mail from Jersey exceeding that of incoming:	51
	Deputy E.J. Noel (Assistant Minister for Treasury and Resources - rapporteur):	52
3.2.1	Deputy G.C.L. Baudains:	52

3.2.2 Deputy M. Tadier of St. Brelade:.....	52
3.2.3 Deputy M. Tadier:.....	52
3.2.4 Deputy G.C.L. Baudains:.....	53
3.3 Deputy S. Pitman of St. Helier of the Minister for Housing regarding Housing Trusts' responsibility for maintenance issues:	53
Deputy A.K.F. Green of St. Helier (The Minister for Housing):.....	53
3.3.1 Deputy S. Pitman:.....	53
3.3.2 Deputy G.P. Southern of St. Helier:.....	53
3.3.3 Deputy T.M. Pitman of St. Helier:.....	54
3.4 Deputy J.H. Young of St. Brelade of the Minister for Planning and Environment regarding the prevention of 'procedural irregularities' when determining Planning applications:.....	54
Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment):.....	54
3.4.1 Deputy J.H. Young:.....	54
3.4.2 Deputy J.H. Young:.....	54
3.4.3 Deputy M. Tadier:.....	55
3.4.4 Deputy J.A.N. Le Fondré of St. Lawrence:.....	55
3.4.5 Senator S.C. Ferguson:.....	55
3.4.6 Senator S.C. Ferguson:.....	56
3.4.7 Deputy S. Power:.....	56
3.4.8 Deputy J.H. Young:.....	56
3.5 Deputy R.J. Rondel of St. John of the Chairman of the Comité des Connétables regarding the imposition of fines for dog fouling offences over the past 3 years:.....	56
Connétable J.L.S. Gallichan of Trinity (Chairman, Comité des Connétables):.....	57
3.5.1 Deputy R.J. Rondel:.....	57
3.5.2 Deputy J.A. Martin:.....	57
3.5.3 Deputy T.M. Pitman:.....	57
3.5.4 Deputy M. Tadier:.....	58
3.5.5 Deputy J.A. Martin:.....	58
3.5.6 Deputy R.J. Rondel:.....	59
3.6 Deputy T.M. Pitman of the Chief Minister regarding the potential chairman of the Electoral Commission:	59
Senator I.J. Gorst (The Chief Minister):.....	59
3.6.1 Deputy T.M. Pitman:.....	59
3.6.2 Deputy G.P. Southern:.....	60
3.6.3 Deputy R.G. Le Hérissier of St. Saviour:.....	60
3.6.4 Deputy R.G. Le Hérissier:.....	61
3.6.5 Deputy J.A. Martin:.....	61
3.6.6 Deputy M. Tadier:.....	61

3.6.7 Deputy T.M. Pitman:.....	62
3.6.8 Deputy T.M. Pitman:.....	62
3.7 Deputy M. Tadier of the Minister for Education, Sport and Culture regarding plans to close down, reduce or replace the service provided by St. Brelade’s Youth Club:	62
Deputy P.J.D. Ryan of St. John (The Minister for Education, Sport and Culture):.....	62
3.7.1 Deputy M. Tadier:.....	62
3.7.2 Deputy T.M. Pitman:.....	63
3.7.3 Deputy G.P. Southern:.....	63
3.7.4 Deputy J.A. Martin:.....	63
3.7.5 Senator S.C. Ferguson:.....	64
3.7.6 Deputy T.M. Pitman:.....	64
3.8 Deputy S. Pitman of the Minister for Social Security regarding alleged administrative problems within his Department:	64
Senator F. du H. Le Gresley (The Minister for Social Security):	65
3.8.1 Deputy S. Pitman:	65
3.8.2 Deputy T.A. Vallois:	66
3.8.3 Deputy T.M. Pitman:.....	66
3.8.4 Deputy G.P. Southern:.....	66
3.8.5 Deputy R.G. Le Hérissier:	66
3.8.6 Deputy M.R. Higgins:	67
3.8.7 Deputy S. Pitman:	67
3.9 Deputy G.P. Southern of the Chief Minister regarding the objectives for the new Strategic Plan:	67
Senator I.J. Gorst (The Chief Minister):.....	67
3.10 Deputy G.C.L. Baudains of the Chairman of the Privileges and Procedures Committee regarding a ban on the use of all electronic devices in the Chamber:	68
Connétable A.S. Crowcroft of St. Helier (Chairman, Privileges and Procedures Committee):	68
3.10.1 Connétable J. Gallichan of St. Mary:.....	68
3.10.2 Connétable D.W. Mezbourian of St. Lawrence:	68
3.10.3 Deputy T.M. Pitman:	69
3.10.4 The Connétable of St. Mary:	69
3.10.5 Deputy G.C.L. Baudains:.....	70
3.11 Deputy R.J. Rondel of the Minister for Health and Social Services regarding the cost of replacement surgery for those with P.I.P. breast implants in Jersey:.....	70
Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):	70
3.11.1 Deputy R.J. Rondel:.....	71
3.11.2 Senator S.C. Ferguson:.....	71
3.11.3 Connétable P.J. Rondel of St. John:.....	71

3.12 Deputy G.P. Southern of the Minister for Social Security regarding the review of Income Support:	71
Senator F. du H. Le Gresley (The Minister for Social Security):	71
3.12.1 Deputy G.P. Southern:	71
3.13 Deputy J.H. Young of the Minister for Planning and Environment regarding amendments to Royal Court Rules:	72
Deputy R.C. Duhamel (The Minister for Planning and Environment):	72
3.13.1 Deputy J.H. Young:	72
3.13.2 Deputy J.H. Young:	72
3.14 Deputy T.M. Pitman of the Chairman of the Privileges and Procedures Committee regarding the decision to have the Electoral Commission chaired by a States member:	73
The Connétable of St. Helier (Chairman, Privileges and Procedures Committee):	73
3.14.1 Deputy T.M. Pitman:	73
3.14.2 Senator L.J. Farnham:	73
3.14.3 Deputy M.R. Higgins:	73
3.14.4 Deputy T.M. Pitman:	74
3.15 Deputy M. Tadier of the President of the Chairmen’s Committee regarding Scrutiny Panel meetings held either wholly or partly in secret:	74
Deputy T.A. Vallois (President, Chairmen’s Committee):	74
3.15.1 Deputy M. Tadier:	74
3.15.2 Senator I.J. Gorst:	75
3.15.3 Deputy G.P. Southern:	75
3.15.4 Deputy R.G. Le Hérisier:	75
3.15.5 Deputy T.M. Pitman:	76
3.15.6 Deputy T.M. Pitman:	76
3.15.7 The Connétable of St. John:	76
3.15.8 Deputy M. Tadier:	76
3.15.9 Deputy M. Tadier:	77
4. Questions to Ministers without notice - The Minister for Education, Sport and Culture	77
4.1 Deputy G.P. Southern:	77
The Deputy of St. John (The Minister for Education, Sport and Culture):	78
4.1.1 Deputy G.P. Southern:	78
4.2 Deputy S. Pitman:	78
4.2.1 Deputy S. Pitman:	78
4.3 Deputy M.R. Higgins:	79
4.3.1 Deputy M.R. Higgins:	79
4.4 Senator A. Breckon:	79
4.4.1 Senator A. Breckon:	80

4.5	The Connétable of St. Lawrence:.....	80
4.6	Senator L.J. Farnham:.....	80
4.6.1	Senator L.J. Farnham:.....	80

5. Questions to Ministers without notice - The Minister for Health and Social Services 81

5.1	The Connétable of St. Mary:.....	81
	The Deputy of Trinity (The Minister for Health and Social Services):	81
5.2	Deputy M.R. Higgins:	81
5.3	Senator S.C. Ferguson:	82
5.3.1	Senator S.C. Ferguson:	82
5.4	Deputy J.M. Maçon of St. Saviour:.....	82
5.5	Deputy M.R. Higgins:	82
5.6	Deputy K.L. Moore of St. Peter:.....	83
5.6.1	The Deputy of St. Peter:	83
5.7	Deputy T.A. Vallois:	83
5.8	Deputy R.G. Le Hérissier:	84
5.9	Deputy R.G. Le Hérissier:	84
5.10	Deputy J.G. Reed of St. Ouen:.....	84
5.10.1	The Deputy of St. Ouen:	84
5.10.2	The Deputy of St. Ouen:	85
5.11	Senator L.J. Farnham:.....	85

PUBLIC BUSINESS..... 85

6. Election campaign period: restrictions (P.174/2011) - proposal of the chairman of P.P.C. to defer debate for 3 months 85

6.1	The Connétable of St. Helier:	85
6.1.1	Deputy R.G. Le Hérissier:	87
6.1.2	Senator A. Breckon:	87

7. Machinery of Government: review (P.187/2011) - proposal of the chairman of P.P.C. to defer debate for 3 months 88

7.1	The Connétable of St. Helier:	89
7.1.1	Deputy G.C.L. Baudains:	89
7.1.2	Deputy M. Tadier:	89
7.1.3	Deputy T.M. Pitman:.....	89
7.1.4	Deputy J.A. Martin:.....	90
7.1.5	The Connétable of St. Mary:.....	90
7.1.6	Deputy J.A.N. Le Fondré:.....	90

7.1.7 Senator P.F.C. Ozouf:.....	91
7.1.8 The Connétable of St. Helier:	91
8. Open Ballot for Ministers and Chairman (P.188/2011) - proposal of the chairman of P.P.C. to defer debate for 3 months	92
8.1 The Connétable of St. Helier:	92
8.1.1 Deputy T.M. Pitman:.....	92
8.1.2 Deputy J.A. Martin:.....	92
8.1.3 Deputy M. Tadier:.....	93
8.1.4 The Connétable of St. Helier:	93
9. Price Control: investigation (P.165/2011)	94
9.1 Deputy G.P. Southern:.....	95
9.1.1 Senator A.J.H. Maclean:.....	96
9.1.2 Senator S.C. Ferguson:.....	98
LUNCHEON ADJOURNMENT PROPOSED	99
LUNCHEON ADJOURNMENT	99
9.1.3 Senator A. Breckon:	99
9.1.4 The Connétable of St. John:.....	100
9.1.5 Deputy J.P.G. Baker of St. Helier:	101
9.1.6 Deputy M. Tadier:	101
9.1.7 Deputy M.R. Higgins:	102
9.1.8 The Connétable of St. Lawrence:.....	103
9.1.9 Senator P.F.C. Ozouf:.....	103
9.1.10 Deputy G.P. Southern:	104
10. Draft Shipping (MARPOL) (Jersey) Regulations 201- (P.172/2011)	106
10.1 Senator A.J.H. Maclean (The Minister for Economic Development):.....	106
10.1.1 The Connétable of St. John:	108
10.1.2 The Connétable of St. Lawrence:	108
10.1.3 Deputy G.C.L. Baudains:.....	108
10.1.4 Deputy J.H. Young:	109
10.1.5 Deputy M. Tadier:.....	109
10.1.6 Senator A.J.H. Maclean:	110
10.2 Senator A.J.H. Maclean:.....	112
10.2.1 Deputy R.G. Le Hérisser:.....	113
10.2.2 Connétable G.F. Butcher of St. John:	113

10.2.3	Deputy J.H. Young:	113
10.2.4	Senator A.J.H. Maclean:	113
	Mr. T.J. Le Cocq Q.C., H.M. Attorney General:	114
10.3	Senator A.J.H. Maclean:	115
10.3.1	The Connétable of St. John:	115
10.3.2	Senator A.J.H. Maclean:	115
11.	Draft Criminal Justice (Miscellaneous Provisions) (No. 3) (Jersey) Law 201- (P.173/2011)	117
11.1	Senator P.M. Bailhache (Assistant Chief Minister - rapporteur):.....	117
11.1.1	Deputy R.G. Le Hérisier:.....	118
11.1.2	Deputy T.M. Pitman:	118
11.1.3	Senator P.M. Bailhache:.....	119
	Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):.....	119
11.2	Senator P.M. Bailhache:	119
11.2.1	Senator F. du H. Le Gresley:	119
11.2.2	Deputy M. Tadier:.....	119
11.2.3	Deputy J.M. Maçon:	120
11.2.4	Senator B.I. Le Marquand:.....	120
	The Attorney General:	120
11.2.5	Senator P.M. Bailhache:.....	121
11.3	Senator P.M. Bailhache:	122
11.3.1	Deputy J.A.N. Le Fondré:	122
12.	Draft Criminal Justice (International Co-operation) (Amendment No. 2) (Jersey) Law 201- (P.181/2011)	123
12.1	Senator B.I. Le Marquand (The Minister for Home Affairs):	123
12.1.1	Deputy M.R. Higgins:.....	124
12.1.2	Senator B.I. Le Marquand:.....	124
	Deputy J.M. Maçon (Chairman, Education and Home Affairs Scrutiny Panel):.....	124
12.2	Senator B.I. Le Marquand:	124
13.	Minimum Wage: revised hourly rate from 1st April 2012 (P.183/2011).....	126
13.1	Deputy G.P. Southern:.....	126
13.1.1	Senator F. du H. Le Gresley:	127
13.1.2	Deputy M. Tadier:.....	128
13.1.3	Deputy C.F. Labey of Grouville:	130
13.1.4	Senator P.M. Bailhache:.....	131
13.1.5	Deputy T.M. Pitman:	131

13.1.6	Deputy J.A. Martin:	131
13.1.7	Deputy M.R. Higgins:	132
13.1.8	Senator S.C. Ferguson:.....	133
13.1.9	Deputy S. Pinel of St. Clement:.....	133
13.1.10	Deputy G.P. Southern:	134

14. Draft Employment (Minimum Wage) (Amendment No. 8) (Jersey) Regulations (P.180/2011) 136

14.1	Senator F. du H. Le Gresley (The Minister for Social Security):	137
14.1.1	The Deputy of St. Ouen:	137
14.1.2	Deputy M. Tadier:.....	137
14.1.3	Deputy G.C.L. Baudains:	138
14.1.4	Deputy J.H. Young:	138
14.1.5	Senator F. du H. Le Gresley:	138

15. Health Insurance Fund: transfer to Health and Social Services Department for 2012 (P.185/2011) 140

15.1	Senator F. du H. Le Gresley (The Minister for Social Security):	141
15.1.1	The Deputy of Trinity:	142
15.1.2	Senator A. Breckon:.....	143
15.1.3	Deputy G.C.L. Baudains:	144
15.1.4	Senator S.C. Ferguson:.....	144

ADJOURNMENT..... 145

[9:30]

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

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

1. Appointment of unelected members of the Public Accounts Committee

The Deputy Bailiff:

Under F: the appointment of unelected members of the Public Accounts Committee. Senator Ferguson, I understand you have some nominations to make? I am misadvised. Deputy Vallois ... I am so sorry, Chairman. If I had said "Chairman" I would have got away with it. **[Laughter]**

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

In accordance with Standing Order 124(1) I would like to nominate the following unelected members to the Public Accounts Committee. Mr. Alexander Fearn, Mr. Stephen Haigh and Mr. Christopher Evans. Members will see on the Order Paper that was sent out to everybody, there is a short biography with regards to each member for election to the Public Accounts Committee, and I therefore nominate them forward.

The Deputy Bailiff:

Is the nomination seconded? **[Seconded]** There are no other nominations and therefore I declare those 3 persons elected.

QUESTIONS

2. Written Questions

2.1 DEPUTY R.J. RONDEL OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING WAITING TIMES FOR RESIDENTIAL PLANNING APPLICATIONS:

Question

Would the Minister make available a list of residential planning applications for three properties or more that are currently waiting to be determined together with the dates that the applications were submitted to the department?

Answer

	App. No.	Address	Description	Valid Date
1	P/2007/1427	La Fantaisie, Merton Hotel, Belvedere Hill, St Saviour	Refurbish existing building into 6 No. staff apartments.	14/06/2007

2	P/2009/2108	Plemont Bay Holiday Village, La Rue de Plemont, St Ouen	Demolish existing buildings. Construct 28 new and 2 replacement dwellings. Return two thirds of site to nature. Refurbish WWII Bunker with associated landscaping and footpaths. AMENDED DESCRIPTION: Revised site boundary removing approx 5,750 sq.m from the application site, primarily along the Northern edge of the site. Reduction in numbers of proposed dwellings from 30 to 28. Minor revisions to detailed design and layout. Footpath link from the site to the North coast cliff path. About to be withdrawn	16/11/2009
3	P/2009/2253	Tamaris, La Grande Route de la Cote, St Clement	Demolish existing dwelling. Construct 4 No. apartments. AMENDED PLANS RECEIVED.	09/12/2009
4	EIA/2009/2345	Field 91A,Belle Vue, La Route des Quennevais, St Brelade	Residential Development. AMENDED PLANS: Amended design and layout incorporating 20 houses and 35 apartments.	06/01/2010
5	P/2009/2419	Field 91A,Belle Vue, La Route des Quennevais, St Brelade	Residential Development. AMENDED PLANS: Amended design and layout incorporating 20 houses and 35 apartments.	06/01/2010
6	P/2010/0212	Les Charrieres Hotel, Le Mont des Charrieres, St Peter	Demolish existing hotel. Construct 10 No. dwellings. Model available.	22/02/2010
7	EIA/2010/1129	Les Ormes Golf & Leisure Village, Le Mont a la Brune, St Brelade	Masterplan for leisure village. (Application determined)	03/08/2010

8	RP/2010/1359	Beau Couperon Hotel, Le Mont de Rozel, St Martin	Demolish existing hotel and restaurant, retaining registered walls. Construct 10 No. apartments with basement parking. REVISED PLANS: Raise part of roof to Unit 1. AMENDED DESCRIPTION, REVISED PLANS: Raise part of roof to Unit 5.	09/09/2010
9	P/2010/1422	Former Cleveland Garage & Heather Lea, St Clements Road, St Helier	Demolish existing garage and dwelling. Construct 16 No. dwellings with basement parking. Re-locate JEC substation. (Model Available). AMENDED PLANS (REVISED DESIGN): Demolish existing garage and dwelling. Construct 15 No. dwellings with basement parking. Relocate JEC substation.	22/09/2010
10	P/2010/1717	Field 622, Le Clos de la Croute, St Ouen	Construct 19 No. sheltered accommodation units, communal building and new vehicular access. (Model Available).	23/11/2010
11	RP/2011/0408	Home Farm, La Rue de Grouville, Grouville	Convert existing dwelling and outbuildings into 5 No. dwellings with parking. Construct new shed. AMENDED PLANS RECEIVED. REVISED PLANS: Loft conversion to include rooflights to Unit 3. AMENDED PLANS RECEIVED.	23/03/2011
12	P/2011/0680	Hotel des Pierres, Le Mont de la Greve D'Lecq, St Ouen	Demolish existing hotel and construct 3 storey apartment building comprising 13 No. apartments with covered parking. AMENDED PLANS: Amended design. Number of units reduced to 10.	19/05/2011
13	P/2011/0685	Ann Street Brewery, Ann Street, St Helier	Demolition of brewery storage facility and removal of metal gantry bridging Ann Street. Construction of detached 4 / 5 storey building to include basement comprising 18 apartments. Model Available.	23/05/2011

14	P/2011/0618	Field 578, La Rue es Picots, Trinity	Construct 43 first time buyer homes on field 578. ADDITIONAL INFORMATION RECEIVED. Plans Amended.	02/06/2011
15	P/2011/0813	L'Industrie, La Rue des Samares, St Clement	Demolish existing sheds. Construct 9 No. dwellings. Model Available.	14/06/2011
16	P/2011/0850	Field 95, Six Rue Farm, Les Chenolles des Six Rues, St Lawrence	Demolish existing dwelling, commercial outbuilding and part of shed. Construct 1 No. dwelling. Convert existing outbuildings into 3 No. dwellings. Block 1 No. vehicular access. Alterations to 1 No. vehicular access. Various external alterations. Reinstate part of field to agricultural use. Model Available. AMENDED PLANS RECEIVED.	20/06/2011
17	P/2011/0855	La Retraite Farm, La Rue de la Retraite, St Saviour	Demolish existing commercial buildings. Remove existing parking and storage area. Construct 3 No. dwellings. Model Available.	21/06/2011
18	P/2011/0861	26-30 La Colomberie, St Helier	Demolish existing commercial buildings. Construct six storey building comprising of basement parking, storage, ground floor retail, 12 No. apartments and 4 No. dwellings. Model Available.	21/06/2011
19	RP/2011/0875	9 La Motte Street & 35 -37 Hilgrove Street, St Helier	Demolish existing building. Construct new building comprising basement parking, retail unit and 41 No. apartments. Retention and refurbishment of existing La Motte Street facade. REVISED PLANS: Construct an additional storey to create 2 No. apartments and convert 2 No. apartments into 2 No. maisonettes. Model Available.	24/06/2011

20	P/2011/0891	Big Deal Carpets, La Rue de L'Eglise, St Peter	Demolish existing building. Construct 12 No dwellings and 8 No. apartments to include basement parking. Create new vehicular access. AMENDED PLANS: Construct 12 No. dwellings and 3 No. apartments. Model Available.	29/06/2011
21	P/2011/0901	Ker du Pons, le Mont du Petit Port, St Brelade	Demolish existing dwelling. Construct 5 No. apartments and 2 No. dwellings. Model Available. AMENDED PLANS: Construct 4 No. apartments and 2 No. dwellings. FURTHER AMENDED PLANS: Relocation of vehicular access. Reduce terrace area on second floor.	01/07/2011
22	P/2011/0904	Cheval Roc Hotel, La Rue des Charrieres, St John	Convert existing hotel into 22 No. flats and construct parking area to the West of Condora. Various external alterations. AMENDED PLANS: Elevational changes to existing building. Parking layout alterations. Transport statement submitted. FURTHER AMENDMENTS: Demolish part of building to West. Reduce number of units to 19, and alter mix to 12 No. 1 beds, 5 No. 2 beds and 2 No. 3 beds. Alter parking layout.	01/07/2011
23	P/2011/0918	La Haule Farm/West Lodge/Part of Field 845,Le Mont au Roux/La Neuve Route/La Rue du Croquet, St Brelade	Demolish existing farm shop and associated structures to the South of Le Mont au Roux and create 13 No. dwellings. Construct new agricultural shed, farm shop, tea room, parking and access to the North of Le Mont au Roux. Demolish West Lodge, La Neuve Route and construct apartment block of 5 No. self catering apartments with underground parking. Create parking area in Field 845, La Rue de Croquet. Model Available.	04/07/2011

24	P/2011/0994	Victoria Cottage, La Rue des Boulees, Trinity	Demolish existing dwelling. Construct 3 No. dwellings. Model available. AMENDED PLANS RECEIVED: Elevational details and massing revised; House 1 and 2 ridge heights lowered; slight repositioning of dwellings; 1.8 metre wall to Western boundary; additional planting; various other minor alterations.	21/07/2011
25	P/2011/1221	Keppel Tower, Elizabeth Cottage & Maison du Roc, La Grande Route des Sablons, Grouville	Demolish existing dwellings. Remove existing extension and renovate existing tower. Construct 19 No. residential units of accommodation. Model Available.	09/09/2011
26	P/2011/1258	Fields 758, 757, 761 & 762, Rose Farm Camp Site, La Rue de Pigeonnerie, St Brelade	Discontinue camp site operation. Remove existing camp site buildings. Refurbish existing dwelling. Construct 4 No. dwellings. Various landscaping works. Model Available.	19/09/2011
27	RP/2011/1347	Field 148, Le Chemin de Maltieres, Grouville	Construct 20 No. life-long homes. REVISED PLANS: Construct 20 No. sun lounges to approved dwellings. AMENDED PLANS RECEIVED.	10/10/2011
28	RP/2011/1393	Le Puits de Leoville, La Route de Vinchelez, St Ouen	Redevelopment of various outbuildings including offices to consist of 5 dwellings. To include various external alterations and associated landscaping. REVISED PLANS: Convert and extend building No. 1 to create 1 dwelling and garaging.	19/10/2011
29	P/2011/1403	Jersey Pottery, Gorey Village, Grouville	Demolish existing buildings. Construct 53 No. houses and garages. Model Available.	24/10/2011
30	P/2011/1428	Linden House, Bagetelle Road, St Saviour	Construct 3 No. dwellings. Block up existing vehicular access. Create new vehicular access. Model Available.	01/11/2011

31	RP/2011/1515	Le Chalet Hotel Site, La Rue de la Corbiere, St Brelade	Construct 3 No. 4 bed dwellings and 1 No. 5 bed dwelling. AMENDED PLANS: Changes to layout and dwellings, including heights and positions. REVISED PLANS: Enclose existing swimming pools and internal layout alterations.	16/11/2011
32	P/2011/1519	Le Catelet Farm, La Route de St Jean, St John	Demolish existing commercial buildings. Construct 4 No. dwellings.	17/11/2011
33	P/2011/1549	Mont de la Rocque Hotel, Le Mont de la Rocque, St Brelade	Demolish hotel. Construct 9 No. apartments with associated landscaping and parking. Model available.	25/11/2011
34	P/2011/1561	Gros Puits, La Rue de la Fontaine, St Saviour	Demolish existing shed. Construct 5 No. dwellings. Model available.	29/11/2011
35	P/2011/1567	Cheraleen, La RueD'Olive, St Mary	Replace 11 No. staff accommodation units with 10 No. and associated parking.	29/11/2011
36	RP/2011/1636	Belle Plage, La Route de la Cote, St Clement	Demolish existing lodging house & construct 5 No. detached houses. REVISED PLANS: Extend footprint of House Type A by 2 metres to the South on 2 storeys.	15/12/2011
37	RP/2011/1649	Guardian Nursing Home, La Rigondaine, Grouville	Demolish nursing home. Construct 4 No. dwellings. REVISED PLANS: Alterations to size, position and materials of approved dwellings.	19/12/2011
38	P/2011/1661	SW Corner Field 189, Sandhurst, La Route de Vinchelez, St Ouen	Demolish existing woodchip store and construct 3 No. two bedroom and 2 No. three bedroom agricultural staff accommodation units. Model Available.	20/12/2011

39	P/2011/1673	Plemont Bay Holiday Village, La Route de Plemont, St Ouen	Demolish all existing buildings and remove hard-standings. Return 67% of total site area (16.19 vergées) to public accessible natural landscape. Replace existing Manager's bungalow/Staff cottage with 2 No. four bed houses and construct 26 No. houses comprising of 10 No. three bed houses, 11 No. four bed houses and 5 No. five bed houses all in three groups plus landscaping, footpaths and reed-bed rainwater recycling pond. Create passing place on C105 at Western edge of Field 48.	22/12/2011
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2.2 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR HOME AFFAIRS REGARDING THE REINTRODUCTION OF POLICE MOTORCYCLES:

Question

Given that in written answers on February 14th 2006 to a question by Deputy J.B. Fox of St. Helier it was stated that the vehicles used previously were high powered and inappropriate for untrained use and that not having a motorcycle unit had not resulted in any loss of service to the public, in fact the addition of a Proactive Unit actually gave a better service to the public with a decrease in reported crime and an increase in detected crime; would the Minister explain why police motorcycles have now been re-introduced, the cost of the new vehicles and state how many trained specialist riders the States of Jersey Police currently have?

Answer

The States of Jersey Police disbanded its motorcycle section in 2004 in order to create a Proactive Unit to fight a rising tide of break and entries. The Proactive Team was successful in this regard and within 2-3 months many of the offenders had been identified and arrested. Since the introduction of the Proactive Unit, the States of Jersey Police continued to move incrementally to a more proactive style of policing and as a result the Force has had significant success, reducing burglary by up to 31% since 2004.

Over the following years the Force continued to refine its proactive capability, firstly by combining the Proactive Unit and the Drugs Squad to focus on serious and organised crime and prolific offenders and latterly, under the leadership of Detective Superintendent Stewart Gull QPM, by developing a Priority Crime Team and an enhanced Criminal Investigation Department. The SoJP firmly believes that these changes have led, at least in part, to the significant successes it enjoyed last year in terms of crime reduction and continued high levels of public satisfaction.

However, in early 2011 the new Chief Officer made it clear that the levels of serious and fatal road traffic collisions (RTCs) in the Island were unacceptable and he tasked senior managers within the Force with the responsibility for reducing road traffic collisions. Subsequently the Force saw a 9% reduction in injury RTCs during 2011. Despite this success road safety remains one of the Force's main priorities and feedback from the public continues to show that road safety remains a priority for Islanders also. Naturally therefore, the Force has continued to look at ways to improve road safety and following a long period of research and consultation, the Force decided to purchase four motorcycles. The motorcycles are not being reintroduced as a stand-alone police motorcycle unit, rather the Force will train two officers from each of the existing five uniform shifts and the motorcycles will be used as patrol vehicles, not solely focused on road safety, but also on responding to reports of crime and disorder. By utilising existing resources in this way, the Force will be able to develop a motorcycle capability, without having to either increase resources, or make cuts in other areas, thus enabling the Force to maintain its current proactive capability.

The Force continues to look at ways of making efficiency savings, especially in light of CSR and a number of projects have already been undertaken in this regard. One of the Force's aims for 2012 is to increase police visibility and to this end, the Force has recently moved to a 'solo patrol' policy. Solo patrols have the advantage of increasing police visibility at no extra cost, and now with the purchase of the motorcycles, it has enabled the Force to look again at its fleet in order to seek further efficiency savings in terms of a reduction in police cars and police vans - which are more expensive to run than police motorcycles.

With regard to the power of the machines, the new motorcycles are less powerful than their predecessors - 688cc versus 1300cc and 1100cc previously. The Force currently has 13 officers who were previously authorised and trained to ride police motorcycles and in time, the intention is to train a further 10 officers from the uniform shifts. The States of Jersey Police has purchased four motorcycles at a total cost of £37,264.00.

2.3 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING ENFORCEMENT NOTICES:

Question

- (a) Will the Minister list in a tabular form for the years 2005 to date the following information –
 - (i) the name and nature of any enforcement notices issued by the Department during that period;
 - (ii) whether any of these notices have lead to a prosecution for breach of the notice;
 - (iii) the result of the prosecutions and the penalties, if any, which were applied;

- (b) Will the Minister explain the process and procedures adopted in issuing enforcement notices identifying who is involved in each stage from instigation to prosecution?

Answer

- (a) This question requires many hours of detailed research and I will provide the answer to Members within one month.

- (b) The process and procedures adopted by the enforcement team are set out in the Supplementary Planning Guidance practice note no. 4, adopted by the former Minister in December 2010. This is available on the States of Jersey website and in hard copy from the department. For convenience, it is copied below.

Enforcement Procedures

Introduction

1. The Minister for Planning and Environment is firmly of the view that the Development Control and Building Control services in the department can only be truly effective if there is a suitable procedure in place to enforce planning legislation (i.e. the Planning and Building (Jersey) Law 2002, and the relevant secondary legislation in the form of Ministerial Orders).
2. The principal activities of the department are directed at avoiding infringements of the Planning and Building laws. However, breaches of the law will occur from time to time, and the purpose of this policy is to ensure that they are resolved in a consistent, balanced, and transparent manner. We understand that enforcement investigations carried out by the department can be distressing for those involved. Accordingly, we will also strive to deal with all enquiries promptly.
3. This means that when carrying out its enforcement function the department will be open about its actions, demonstrate fairness and impartiality, take a consistent approach, be considerate to complainants, treat matters with proportionality and assist service users whenever possible.
4. All enforcement action is primarily based upon the assessment of harm to public health, the economic well being of the Island of Jersey or to its environment.
5. The Enforcement Section of the department is responsible for ensuring compliance with:
 - Planning and Building (Jersey) Law 2002
 - Building Bye-Laws (Jersey) 2007
 - Planning and Building (General Development) (Jersey) Order 2008
 - Planning and Building (Environmental Impact) (Jersey) Order 2006
 - Planning and Building (Display of Advertisements) (Jersey) Order 2006
 - Planning and Building (Island Plan) (Jersey) Order 2007

- Planning and Building (Moveable Structures) (Jersey) Order 2006
6. In so doing it will also ensure compliance with:
 - Police Procedures And Criminal Evidence (Jersey) Law 2002 (PPaCE)
 - Regulation of Investigatory Powers (Jersey) Law 2005
 - Human Rights (Jersey) Law 2000
 - Data Protection (Jersey) Law 2005
 7. The department will deploy staff in the most effective manner to provide an efficient and cost effective enforcement service.
 8. The department has various means at its disposal to ensure that the requirements are met. These include: -
 - giving oral or written advice
 - site visits
 - issuing warning letters
 - serving statutory notices
 - injunctions
 - prosecution through the criminal courts
 9. Prior to any formal enforcement action being taken, officers will provide an opportunity to the person committing the alleged breach to discuss the case and if possible resolve points of difference. This can include interviewing that person under caution. However, in some cases, immediate action is required, for example in the interests of health and safety, environmental protection or to prevent evidence from being destroyed.
 10. Where immediate action is considered necessary, an explanation will be given at the time and confirmed in writing. Where there is a right of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken.
 11. The department will strive to provide a high quality service which meets the needs of the local community, with performance management processes in place for continuous improvement.

Objectives of the Enforcement Process

12. The main objectives of the enforcement process are: -
- (a) To remedy undesirable effects of unauthorised development;
 - (b) To bring unauthorised activity under control; and
 - (c) to ensure that the credibility of the Planning and Building Law is not undermined.
13. The enforcement function is normally carried out in a reactive manner by responding to complaints from various sources. The identity of all complainants will remain confidential to the department, except where the complainant is agreeable to assist the department by giving evidence at any trial arising out of the enforcement case.
14. Trivial or technical breaches causing no harm might not attract any formal enforcement action. However, negotiations over remedial action should not delay formal enforcement procedure to be instigated where it is appropriate and necessary.

General Principles

15. The department:
- seeks to carry out its powers and duties under the Laws and Orders efficiently and effectively, and in a way which is open, clear and helpful to all persons and bodies with which it has contact;
 - recognises the complexities of legislation relating to planning and building control and endeavours to communicate the Law's requirements clearly and in plain English, and will distinguish between advice and legal requirements;
 - points out that people committing breaches of the laws cannot rely on ignorance of the law as a defence, and encourages them to obtain their own advice;
 - will endeavour to ensure that householders and businesses do not unnecessarily expose themselves to enforcement action through lack of information or understanding, and that any formal enforcement action is proportionate with the breach of control to which it relates;
 - affirms its commitment to achieving consistent, balanced and fair enforcement of the provisions of the relevant laws.
 - will ensure that all authorised officers are fully acquainted with the requirements of this policy, and are appropriately trained;
 - will endeavour to ensure that resources are targeted effectively for efficient investigation of alleged breaches of control within a framework of 'prioritised' enforcement problems; and
 - will endeavour to ensure that due regard is given to the regulatory powers available through other legislation before determining whether to pursue the matter further through planning powers. The Minister is committed to providing a co-ordinated approach to the regulatory controls available different departments of the States.

16. The department, before coming to any conclusion as to the appropriate form of action, will have regard to this policy document and in particular the following criteria: -

- The nature and impact of the breach of planning control on:
 - public amenity
 - health and safety
 - highway safety
 - protection of land and buildings in the public interest
 - environmental impact
- The acceptability of the breach of control in respect of recognised planning policies and the likelihood of retrospective planning permission being granted to regularise the breach.
- The likelihood of negotiations leading to an acceptable resolution of the breach of planning control.
- The robustness of the systems in place to ensure compliance.
- The likely effectiveness of the various enforcement powers for resolving the breach.
- The likelihood of other regulatory bodies being able to affect a more appropriate resolution of the problem.
- The consequences of non-compliance.

17. The department will endeavour to avoid taking formal action unless it is necessary. Such action will normally only be contemplated if it is satisfied that it has explored all available means of securing compliance, or where: -

- There is a loss of amenity to an interest of acknowledged importance.
- It is unlikely that planning permission would be granted for the breach.
- The breach is of such a nature that other forms of action are inappropriate.

Enforcement Process and Procedures

18. Effective enforcement should, through the harnessing and co-ordinating of corporate skills, result in a breach being remedied quickly, with little detriment to the community during the course of its investigations. Effective enforcement may involve co-operation with other local authority functions, notably: -

- Development Control Section
- Building Control Section

- Land Controls and Agricultural Development Section (Environment Division)
- Environmental Protection Team (Environment Division)
- Health Protection Unit of Health and Social Services
- Housing department
- Trading Standards department
- Transport and Technical Services department
- Parishes
- States of Jersey Police
- Law Officers department

19. The department acknowledges that there is a need for a corporate approach to enforcement and regulation as many cases frequently raise issues which cross over into other areas of Government.

What is a ‘breach of control’?

20. A “breach of development control” is defined in Article 39 the Planning and Building (Jersey) Law 2002 as “a breach of the planning controls or a breach of building controls”.

21. A breach usually means that a person has:

- carried out work (or a change of use) without the correct permission;
- carried out work (or a change of use) with the correct permission, but has failed to follow the approved plans; or
- failed to comply with a condition or other restriction on a permission.

22. Through appropriate investigation and research it is important that, without unreasonable delay, the department should establish whether there is a breach of planning and or building control and whether, and in what form, to take enforcement action.

23. Enforcement action cannot be taken if a breach of control took place more than eight years before it was detected. This is not the same as a grant of permission. Once it is immune from enforcement action it is recommended that a request is made for a letter from the department confirming that is the case.

Likely actions when a breach of control is found

24. Following the detection of an alleged breach of planning or building control there are likely to be a number of options available for the Enforcement Team. These are:
- To take no further action, where the breach is minor and harmless;
 - To advise on remedial work to overcome the breach;
 - To suggest the submission of a retrospective planning application to regularise the position, but only where it is considered, having discussed the matter with senior planning officers, that the breach does not cause harm and there is a prospect of permission being granted. In such cases the investigating officer should advise the perpetrator of the breach that this cannot be construed as a commitment that permission will be granted (Note: the fees for retrospective applications are charged at twice the normal rate)
 - Instigate the taking of formal enforcement action to stop the breach, usually by means of an Enforcement Notice or a Stop Notice.

What is an Enforcement Notice?

25. An Enforcement Notice is a formal and legally binding document which can be served on a person to require compliance with the Planning and Building Law. It can require that work is undertaken, that work is done in a particular manner, or that work is removed or a change of use should cease. It may require a wide range of steps to be taken to make a development comply with the terms of permission or it may require the removal of any harm to amenity caused by the unauthorised development. The notice shall: -
- (a) Specify the breach of planning control;
 - (b) Specify the measures to be taken to remedy the breach;
 - (c) Specify the date on which it is to take effect;
 - (d) Specify the period for compliance;
 - (e) Specify the reasons for requiring compliance with the notice;
 - (f) Identify the land on which the breach has occurred;
 - (g) Specify that the property may be at risk if the Notice is not responded to;
 - (h) Specify the options for appeal.
26. The wording of notices must clearly state the exact measures to be taken to remedy the breach of control to enable compliance to be effective.

What is a Stop Notice?

27. When the effects of unauthorised activity are considered to be seriously detrimental and require immediate attention, a Stop Notice can be used to ensure the activity does not continue.
28. The advantage of the use of a Stop Notice in relation to building operations or changes of use is that it has the effect of 'freezing' the development at that point for a period of 7 days, to avoid further harm. After the expiry of the 7 day period, the Minister is able to serve additional notices if that is still necessary.

Appeals

29. Article 117 of the Planning and Building (Jersey) Law 2002, as amended, carries the right of appeal to the Royal Court against certain notices served by the Minister. As far as enforcement notices are concerned, the right of appeal applies to:
 - (a) an enforcement notice served under Article 40(2);
 - (b) a stop notice served under Article 45(2);
 - (c) a condition notice served under Article 47(2);
 - (d) a site of special interest notice served under Article 54(7);
 - (e) a dangerous building notice served under Article 66(2); and
 - (f) a land condition notice served under Articles 84(1), 85(1), 86(1); 87(1); 88(1); 89(1); or 90(1) or 90(2).
30. There is a right of appeal against the serving of an Enforcement Notice on any of the following grounds: -
 - (a) In respect of any breach of planning control stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
 - (b) That those matters have not occurred;
 - (c) That those matters, if they occurred do not constitute a breach of planning control;
 - (d) That, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning or building control which may be constituted by those matters;
 - (e) That copies of the Enforcement Notice were not served as required by Article 40 of the Planning and Building (Jersey) Law 2002;
 - (f) That the steps required by the notice to be taken or the activities required by the notice to cease, exceed what is reasonably necessary to remedy any breach of planning and or building control that has occurred, or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
 - (g) That any period specified in the notice falls short of what should reasonably be allowed to perform the steps specified in the Notice.

31. If an appeal is lodged against an Enforcement Notice, then the effect of that notice is held in abeyance until the resolution of that appeal.

Injunctions

32. The department can also apply to the Royal Court for an injunction to restrain an anticipated, actual or alleged breach of planning control. Injunctions are a discretionary power of the Court and an assessment will be made of the likely outcome prior to commencing proceedings.

33. An injunction can be: -

- (a) Prohibitive - requiring the defendant to refrain from doing a specific act;
- (b) Mandatory - requiring the defendant to carry out a specific act;
- (c) Interlocutory – a provisional measure taken as a measure of urgency;
- (d) Substantive or final - granted by the Court following a full trial.

Prosecution

34. Failure to comply with the requirements of Notices issued by Planning and Building Services is an offence, carrying the risk of a significant fine. Prosecutions can be undertaken in addition to pursuing further action under the relevant legislation. For example, the failure to supply information would not preclude enforcement action being taken.

35. Failure to comply with Notices that have been served may result in prosecution of any person responsible for an offence under the relevant legislation.

36. Where it is considered that a prosecution is necessary, instructions will be given to the Crown Officers for consideration. Unless the Crown Officers consider that a prosecution is not in the public interest, proceedings will be instigated accordingly.

2.4 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING OUTSTANDING PLANNING APPLICATIONS FROM 2005 TO 2010:

Question

Will the Minister list in a tabular form the following information in relation to Planning applications which were initially applied for in the years 2005 to 2010 inclusive and which for one reason or another have not yet been determined or withdrawn –

- (a) the date of the initial application;

(b) the site and nature of the application;

(c) the reason(s) why each application has not been determined or resolved indicating –

(i) the date(s) and reason the Department sought new information or changed its requirements;

(ii) the date(s) and reasons the applicant has sought voluntarily (ie not at the behest of the Department) to alter their application;

(d) the date upon which these applications have been reviewed since initially applied for?

Answer

Years 2005 - 2010 inclusive

	App No	Address	Description	Valid Date	Why not determined? including date and reason Dept sought info/changes or date and reason applicant supplied new info/changes	Date last review
1	P/2006/0636	St Juste, Merton Hotel, Belvedere Hill, St Saviour	Demolish existing staff accommodation and construct indoor bowling hall with associated landscaping works. AMENDED PLANS: Minor material and design alterations. FURTHER AMENDED: Demolish modern extensions to 'St. Juste' and replace roof with thatch. Construct indoor bowling alley and associated landscaping. Erect tensile roof over existing tennis court for multi-purpose ball court. FURTHER AMENDED PLANS: Demolish structure to north/east of site & modern extensions to 'St. Juste'; removal of three external support walls to east elevation of 'St. Juste'; replace roof with thatch. Construct indoor bowling alley to north/east of 'St. Juste'; associated landscaping. Erect tensile roof over existing tennis court for multi-purpose	05/04/2006	Minister resolved to approve the application in November 2009. Since that time the conclusion has been awaiting the applicants completion of a Planning Obligation Agreement (see also P/2007/1427).	Weekly

			ball court.			
2	PP/2006/2444	80-92 Bath Street, The Former Odeon Cinema and 14-28 James Street, St Helier	Refurbishment & regeneration of the former Odeon cinema to form retail unit. Construct retail unit adjacent to cinema on basement & ground floor & multi storey carpark on first to fourth floor. Extensive hard landscaping and external works including enclosed service yard and plant compound. REVISED PLANS: Former Odeon Cinema removed from the scheme. Transport assessment and supplementary retail impact assessment submitted. Food store car park reduced in height.	09/11/2006	Application is missing some key information, with the conclusion linked to the North of Town Masterplan (approved by the States in June 2011). The applicant has requested the scheme is held while they consider their options. Last correspondence in October 2011.	Weekly
3	P/2006/2562	Thorp House, Broadcasting House & Summerland	Construct new 4 storey Police Headquarters & refurbish existing facilities within Summerland. Provide 3.6m High Perimeter fencing/screening and improve existing parking. Alter vehicular access.	24/11/2006	States of Jersey application – progression is linked to the conclusion of the wider Police HQ strategy.	Weekly
4	RP/2007/0471	Holme Grouve, Fauvic Nurseries, La Rue au Long, Grouville	Replace existing glasshouse over existing sales area. Increase sales area & form cafe area. Demolish glasshouse to provide parking. Alterations to vehicle access. REVISED PLANS: RETROSPECTIVE: Revised layout and reduction in the size of the approved cafe.	26/02/2007	Applicant has been asked to withdraw this application, as the works have been superseded by P/2009/0267 (approved 21/01/2011). Conclusion is pending outcome of P/2009/0647 (see below).	n/a
5	P/2007/1001	La Hougue Farm, La Grande Route de St Pierre, St Peter	Construct play barn and reconfiguration of previously approved office and shop entrance.	30/04/2007	Additional information from applicant requested September 2010	Monthly
6	P/2007/1427	La Fantaisie, Merton Hotel, Belvedere Hill, St Saviour	Refurbish existing building into 6 No. staff apartments.	14/06/2007	Minister resolved to approve the application in November 2009. Since that time the conclusion has been awaiting the applicant completing a Planning Obligation	Weekly

					Agreement (see also P/2006/0636)	
7	P/2007/2945	Le Port Carpark, La Grande Route des Mielles, St Peter	Permanent trading licence for a concession on the site. Construction of new man made dune over subterranean stores and toilet with indigenous landscape to top surface.	10/12/2007	Application superseded by renewal of existing temporary consent. Awaiting formal withdrawal.	Monthly
8	RC/2007/2971	Land at La Collette Reclamation Site, La Rue D'Auvergne, St Helier	Vary condition 5 of permit P/2002/2597 so that the temporary timber and green waste recycling facility can continue to operate until a new composting facility is fully operational.	11/02/2007	Awaiting information from TTS as applicant on operational issues (March 2011)	Weekly
9	P/2008/1681	Esplanade Quarter, Esplanade, St Helier	Excavation and enabling works to form basement car park, new underground road tunnel and other associated road works and general infrastructural works.	04/08/2008	(Below ground works). Determination is deferred pending conclusion of wider context of Esplanade Quarter project.	Monthly
10	P/2008/2666	Le Petit Menage, Belvedere Hill, St Saviour	Form hardstanding to create temporary staff car parking area to serve nursery	30/12/2008	Revised proposal following refusal of P/2007/1927. Scope for compromise being considered, further pre-application proposals submitted by applicant in November 2011. In current dialogue.	Weekly
11	P/2009/0647	Holme Growne, Fauvic Nurseries, La Rue au Long, Grouville	RETROSPECTIVE: Create garden centre.	24/03/2009	On next agenda for next Ministerial Meeting, was held pending conclusion of Royal Court appeal on parallel application P/2009/0267 (see also RP/2007/0471)	Weekly

12	P/2009/2073	Fields 733,734,735,737,738,739,740, 740a,744a & 744b, Radier Manor, Le Chemin de Radier, Grouville	AMENDED PLANS: Proposed Change of use of land and other landscape works to create Botanical Gardens and Parkland with sculpture displays, erection of marquees for weddings & functions, inclusive of car park, tearoom, shop, and toilet facilities. Re-align access from 'La Vier Mont' and alter position of 'Grouville' mileage stone. RETROSPECTIVE: Excavation & levelling of main lawn to south/west, of Manor. Field 739 - creation of car park, removal of shale for internal road access/repairs, & creation of new road access utilising existing track. Demolish existing garage to 'La Rochelle' to realign existing driveway, and general landscaping.	09/11/2009	Planning Panel meeting of December 2011 deferred their decision pending additional information from applicant, who suggested application was to be altered application was to be progressed in whole, or in part. Awaiting response from applicant.	Weekly
13	P/2009/2108	Plemont Bay Holiday Village, La Route de Plemont, St Ouen	Demolish existing buildings. Construct 28 new and 2 replacement dwellings. Return two thirds of site to nature. Refurbish WWII Bunker with associated landscaping and footpaths. AMENDED DESCRIPTION: Revised site boundary removing approx 5,750 sq.m from the application site, primarily along the Northern edge of the site. Reduction in numbers of proposed dwellings from 30 to 28. Minor revisions to detailed design and layout. Footpath link from the site to the North coast cliff path.	16/11/2009	Application put on hold pending resolution of ownership issue. Fresh planning application submitted in order to resolve the issue 22/12/2012.	Weekly
14	P/2009/2137	Jersey Mushroom Tunnels, La Route de L'Aleval, St Peter	Change of use of part of mushroom tunnels for storage of landscaping materials.	19/11/2009	Retrospective application. Applicant occupies part of the tunnel complex. Details of use do not appear acceptable and Department has become aware of other users within the complex. Department has been liaising with the applicant and owner to resolve a way forward.	Monthly

15	P/2009/2253	Tamaris, La Grande Route de St Clement, St Clement	Demolish existing dwelling. Construct 4 No. apartments. AMENDED PLANS RECEIVED.	09/12/2009	Considerable planning history, and significant design concerns to original proposals, confirmed by Planning Panel. Revised proposal on agenda of January 2012 Planning Panel meeting.	Weekly
16	P/2009/2419	Field 91A, Belle Vue, La Route des Quennevais, St Brelade	Residential Development. AMENDED PLANS: Amended design and layout incorporating 20 houses and 35 apartments.	06/01/2010	Original application was not considered acceptable and negotiations have continued since. New scheme submitted November 2011.	Weekly
17	RP/2010/0174	15-16 The Parade, St Helier	Demolish existing buildings and construct new 3 1/2 storey medical practice with ground floor retail dispense pharmacy. REVISED PLANS: Construct various extensions and external alterations.	15/02/2010	Minister resolved to approve the application in June 2010. Since that time the conclusion has been awaiting the applicant completing a Planning Obligation Agreement.	Monthly
18	P/2010/0212	Les Charrieres Hotel, Les Charrieres, St Peter	Demolish existing hotel. Construct 10 No. dwellings. Model available.	22/02/2010	Original scheme not considered acceptable and negotiations have continued since.	Monthly
19	RP/2010/0310	Fleurs de Rocaille, Longville Avenue, St Brelade	Demolish existing dwelling. Construct replacement 4 bedroom dwelling. REVISED PLANS: Demolish existing dwelling and construct 5 No. bedroom dwelling with revised floor plan. Minor fenestration alterations.	11/03/2010	Application considered unacceptable but Minister application held open for an alternative scheme. Discussions continuing.	Monthly
20	P/2010/0752	Crows Nest, Mont les Vaux, St Brelade	Excavation and engineering works to create new vehicular access.	24/05/2010	Application involves complex geotechnical issues. A geo technical report was requested on 4/8/2010 and one was not submitted until a year later on 5/8/2011. This report was forwarded to T&TS engineers for comment and the application is now likely to be taken to the next available PAP meeting.	Weekly

21	P/2010/0767	Municipal Services Depot, La Grande Route de St Jean, St Helier	Erect parish recycling centre and workshops. EIA Submitted.	26/05/2010	Supplier not able to deliver original building, applicant (Parish of St Helier) requested proposal be held whilst they confirmed their options (July 2010), revised plans received October 2011, and readvertised, live application.	Weekly
22	P/2010/0896	McQuaigs Quarry, Les Charrieres de Bonne Nuit, St John	RETROSPECTIVE: Use part of site for the storage and sorting of mixed skip loads before onward recycling.	16/06/2010	Additional information requested from applicant initially 17 January 2011.	Weekly
23	P/2010/0917	The Flat, Home Farm, La Rue de Grouville, Grouville	Demolish existing residential unit. Construct 1 No. dwelling. AMENDED PLANS RECEIVED.	18/06/2010	Detailed design issues as part of Listed group of wider redevelopment site, with extensive planning history. Ready to be concluded, delegated to officers, decision imminent.	Weekly
24	P/2010/1124	8-9 Esplanade, 10-12 Commercial Street, St Helier	Demolish existing buildings. Construct 5 storey office, with basement parking. Retain PSSI on Commercial Street and BLI facade of Howard House on The Esplanade. Model Available. AMENDED PLANS RECEIVED.	02/08/2010	Awaiting publication of Esplanade Design Guidance (Feb 2012) seeking a consistent and transparent framework of policy for several development proposals on the Esplanade.	Weekly
25	P/2010/1255	Century House, Le Canibut, St John	RETROSPECTIVE: Construct aviaries to the South-East of main dwelling.	23/08/2010	Held open for submission of Noise Reports following a deferral by the Planning Panel in March 2011. These were received in December 2011 and are currently being assessed before the application can be reported back to the planning Panel.	Weekly
26	RP/2010/1359	Beau Couperon Hotel, Le Mont de Rozel, St Martin	Demolish existing hotel and restaurant, retaining registered walls. Construct 10 No. apartments with basement parking. REVISED PLANS: Raise part of roof to Unit 1. AMENDED DESCRIPTION, REVISED PLANS: Raise part of roof to Unit 5.	09/09/2010	Alternative scheme discussed with the applicant. Confirmation of agreement awaited. Work has stopped on site for reasons not connected with this.	Monthly

27	P/2010/1422	Former Cleveland Garage & Heather Lea,	Demolish existing garage and dwelling. Construct 16 No. dwellings with basement parking. Re-locate JEC substation. (Model Available). AMENDED PLANS (REVISED DESIGN): Demolish existing garage and dwelling. Construct 15 No. dwellings with basement parking. Relocate JEC substation.	22/09/2010	Awaiting information from applicant in relation to policies from new Island Plan (chased 6 Jan 2012)	Weekly
28	RC/2010/1683	La Vignette Bungalow, La Rue de la Vignette, St Martin	Removal of corpus fundi condition from permit 5342/B.	16/11/2010	Applicant requested agricultural workers condition also be considered for which additional information was required. This has been submitted and decision will be issued shortly.	Weekly
29	P/2010/1717	Field 622, La Clos de la Croute, St Ouen	Construct 19 No. sheltered accommodation units, communal building and new vehicular access. (Model Available).	23/11/2010	Held open at the request of the applicant (Parish) who wish to seek an amendment to the Island Plan.	Monthly
30	P/2010/1729	States of Jersey Airport, St Peter	Demolish existing arrivals and baggage hall.	25/11/2010	Aspirations of CAA and the Minister to be weighed up before the demolition of a Listed Building can be considered fully. Ongoing work on site to remove recent additions to the building, have a separate approval.	Monthly
31	P/2010/1804	Le Marais Farm, La Rue Coentyn, St Ouen	Re-roof main house and outbuildings to a slightly raised height. Reform cement render verges and drippers.	08/12/2010	Information requested from applicant.	Monthly
32	P/2010/1861	Cell 30, La Collette Reclamation, La Collette, St Helier	Construction and operation of cell for disposal of asbestos waste. EIA Submitted.	17/12/2010	Awaiting information from TTS as applicant in relation to technical asbestos issues (June 2011)	Weekly
33	P/2010/1865	White Doves, Park Estate, St Brelade	Demolish existing dwelling. Construct 1 No. dwelling. AMENDED PLANS: Various alterations including new central tower.	21/12/2012	Following submission of amended plans scheme is due to be put to the PAP.	Weekly

34	P/2010/1869	Condor Logistics, La Route du Port, St Helier	Steel framed pitched roof enclosure over existing external unloading yard.	21/12/2010	Significant design concerns expressed since submission. Revised plans received from applicant on 20 December 2011.	Weekly
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2.5 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE HUMAN RIGHTS COMPATIBILITY OF PLANNING LEGISLATION AND PROCEDURES:

Question

With respect to the Planning and Building Services division, will the Minister publish the Human Rights audit of his Department's Laws, Regulations, Orders, Guidance notes and procedures that all Departments of the States had to complete before the Registration in the Royal Court of the Human Rights (Jersey) Law 2000, together with all subsequent revisions to these documents, and, if not, why not?

Would the Minister outline how the Department audits/monitors the decisions of its officers and their adherence to handling their cases in a manner compatible with the European Convention on Human Rights?

Answer

We are clarifying with the Law Offices our response to this question and will provide a full answer as soon as possible.

2.6 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE DESIGNATION OF BUILDINGS OF LOCAL INTEREST:

Question

Will the Minister publish in respect of Buildings of Local Interest the following information in a tabular form for the years 2005 to 2011 inclusive –

- (a) the number of Planning applications received each year;
- (b) the number of Planning applications approved/refused each year on the recommendation of the Historic Buildings Officer;
- (c) the sites and nature of the applications refused in each year and the grounds for rejecting the application;
- (d) the number and sites of applications that are outstanding for each year, calculated from the year of initial application, and the reasons why they have not yet been determined;
- (e) the dates upon which outstanding applications have been reviewed since initially applied for?

Answer

- (a) The number of planning applications received each year for Listed Buildings and Places (or potential Listed Buildings and Places) is as follows:

2005 - 439

2006 - 461

2007 - 502

2008 - 491

2009 - 384

2010 - 395

2011 - 338

Tot. 3,010

- (b) The Planning and Building Services Department stores records of planning applications both in physical files and on its information systems. Regrettably, the information which has been requested by this part of the Deputy's question can only be retrieved by a manual search of the physical files. For the period requested, this amounts to some 3,010 records and it is estimated that, even if each record took only 5 minutes to manually investigate, this task would take upwards of 250 hours of officer time.

It will clearly take some time for the department to gather this information and will necessitate taking officers off live application work. This will impact on the department's ability to deliver against the target of speedier planning decisions which I have announced this year. The department will produce this information as soon as it is able to do so.

- (c) Of the 3,010 applications noted for the period 2005 – 2011, I can advise Members that 399 were refused. It will take some time for the department to compile a report containing the reasons for refusal of all of those records. The department will issue this in due course.
- (d) The answer to this part of the question is contained within the information provided in my answer to question 6638.
- (e) The answer to this part of the question is contained within the information provided in my answer to question 6638.

2.7 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING PARKING PROVISIONS FOR ST. HELIER PLANNING APPLICATIONS:

Question

Will the Minister produce a table showing for each of the 4 districts of St. Helier for the years 2005 to 2010 inclusive –

- (a) the number of residential properties constructed –
- (i) without car parking spaces
 - (ii) with onsite car parking spaces (indicating the number of spaces);
- (b) the number of office or business units constructed –
- (i) without car parking spaces and;
 - (ii) with onsite car parking spaces (indicating the number of spaces)

Answer

The Planning and Building Services Department stores records of planning applications both in physical files and on its information systems. Regrettably, the information which has been

requested by this question can only be retrieved by a manual search of the physical files. For the period requested, this amounts to some 3,110 records for St. Helier alone and it is estimated that, even if each record took only 5 minutes to manually investigate, this task would take upwards of 250 hours of officer time.

It will clearly take some time for the department to gather this information and will necessitate taking officers off live application work. This will impact on the department's ability to deliver against the target of speedier planning decisions which I have announced this year. The department will produce this information as soon as it is able to do so.

2.8 DEPUTY T.M. PITMAN OF ST. HELIER OF THE CHAIRMAN OF THE PUBLIC ACCOUNTS COMMITTEE REGARDING A REVIEW OF 'GOLDEN HANDSHAKES':

Question

Will the Chairman advise whether the Public Accounts Committee intends to investigate and subsequently publish a report into the total amount of taxpayers' money used under the last Council of Ministers, under Senator T.A. Le Sueur, to provide 'golden handshakes' to senior Civil Servants leaving their posts early; further still, will the Committee be investigating the absence of detail on such payments within published States accounts?

Answer

The subject of 'golden handshakes' to senior Civil Servants leaving their posts early is recognised to be of significant public interest and indeed raises questions relating to value for money for the taxpayer.

The Deputy is fully aware that the Committee is yet to be fully constituted and it would be wrong of me to predetermine a work programme. The nominations for non-elected members will only be presented to the States today, 17th January 2012 and the Public Accounts Committee cannot sit until fully constituted in accordance with Standing Order 124. The first meeting is scheduled for 24th January 2012 and the work programme of the Committee for 2012 is on the agenda.

The Public Accounts Committee work programme will therefore be established at some stage after its first meeting. Publication will be made on the web site and a copy will be circulated to States Members for information.

2.9 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE COST OF DISCIPLINARY INVESTIGATIONS:

Question

Will the Minister provide details of how much money has been spent on external inquiries and reviews in respect of alleged disciplinary issues since November 2008 and how many police officers, if any, have been convicted of any criminal or disciplinary charges as a consequence?

Answer

The States of Jersey Police has engaged four UK Police Forces since November 2008 to conduct enquiries into alleged misconduct matters –

1. 2008 – Thames Valley Police

Investigation conducted at nil cost to the States of Jersey Police

Travel costs of £690 met.

No officer convicted of criminal or misconduct charges.

2. 2009/2010 – West Midlands Police

Internal Personnel matter

Investigation conducted at nil cost to the States of Jersey Police

Travel costs of approximately £1,800 met.

One officer given ‘Words of Advice’.

3. 2009 – Warwickshire Police

Organisational complaint

Investigation conducted at nil cost to the States of Jersey Police

Travel and accommodation costs of approximately £1,200 met.

Complaint Unsubstantiated.

4. 2011/2012 – Hampshire Constabulary

Operational Review; Criminal and Misconduct investigation

Cost of Investigation £17,084.

Case considered by Law Officers’ Department – now the subject of consideration of internal discipline.

Additionally, in November 2008 the Chief Minister’s Department engaged the Wiltshire Constabulary to investigate the management and supervision of the Historical Child Abuse Enquiry by the Chief Officer of Police. The cost of that investigation was £572,532.

In 2009, I commissioned a further investigation by the Wiltshire Constabulary (Operation Blast), which was completed at a cost of £301,088. 3 Police Officers and a civil servant were given ‘Words of Advice’.

2.10 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE BOARD OF GOVERNORS AT HAUT DE LA GARENNE:

Question

As a part of the Historic Abuse Inquiry did the investigators research and consequently obtain a full list of all individuals who were, at any time, on the Board of Governors of Haut De La Garenne

(whether in paid or purely voluntary roles) under each of the various authorities under which the facility operated during the period of investigation?

Were all those individuals still living subsequently interviewed and, if so, will the Minister provide Members with a full list of those interviewed or advise where such information can be viewed?

Answer

The Historic Abuse Inquiry was a comprehensive investigation with a focus on securing evidence from alleged victims and where possible, then seeking corroborative evidence from a range of sources – including all individuals who may have had some form of association with Haut De La Garenne and may have been able to provide evidential witness evidence.

Regrettably, due to the lack of records, it was neither possible or in fact was not an active line of investigation in identifying previous Boards of Governors. This was an intelligence led enquiry and where identified and considered to be of evidential value, all individuals associated with Haut De La Garenne were traced and interviewed.

The States of Jersey Police hold a full record of all individuals interviewed as part of this inquiry (either as suspects or witnesses) but the identification and interview of previous Boards of Governors was not an active investigative strategy *per se*.

2.11 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING AN INVESTIGATION OF THE HANDLING OF THE CURTIS WARREN CASE:

Question

What investigations, if any, have taken place in respect of the allegations that States of Jersey Police officers acted illegally during the investigation of the case of Curtis Warren and others; and if there has been an investigation, what was the total cost and the outcome?

Answer

An independent operational review followed by a criminal and misconduct investigation has been conducted by Hampshire Constabulary in respect of this matter.

The Cost of the Investigation is £17,084.

Case considered by Law Officers' Department – now the subject of consideration of internal discipline.

2.12 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING PUBLIC SECTOR PAY NEGOTIATIONS:

Question

Will the Chief Minister inform members what progress, if any, has been made on negotiations with public sector employee representatives listed below on their respective 2011 pay claims –

Civil servants

Manual workers

Nurses

Teachers

Police

Prison officers

Other uniformed services?

Will he also state what progress, if any, has been made in negotiating the £7million of savings from public sector terms and conditions contained in the Annual Business Plan for 2012?

Will he further outline for members the schedule of meetings he has confirmed to resolve these issues and state when he expects to be in a position to report their resolution to the Assembly?

Answer

Deputy Southern asked a similar Oral question on this issue on 6th December 2011 and the answer remains largely the same.

The States Employment Board has received pay claims from the majority of the groups mentioned, but not all - Nurses and Midwives and Prison Unit Managers remain outstanding. The SEB met on 10th January to consider the claims made and instructed officers to commence negotiations. Preliminary meetings with Civil Servants and Manual Workers have already been held.

The Human Resources, Employment Relations Team, in agreement with pay groups and departments, are setting up a series of meetings in the next few weeks to address the pay claims in more detail. Consultation and discussions will also take place on public sector terms and conditions of service in order to achieve the savings outlined in the 2012 Annual Business Plan agreed by the States.

Given the complex nature of negotiations it is not possible to determine when such negotiations will be completed, suffice to say that meetings with pay groups will start in January and the States Employment Board intends to make substantial progress in the coming months.

2.13 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PROTECTION OF LOCAL BUSINESSES:

Question

In the continued absence of any plan to generate revenue from non-locally owned, non-finance businesses subject to a zero tax rate, what consideration, if any, has the Minister given to protecting the Island's tax base by preventing the takeover of local companies by foreign businesses and if none, why?

Will the Minister outline the mechanisms that are in place, or would need to be introduced, to enable the prevention of such takeovers?

Answer

The Minister has considered but discounted such drastic action because preventing the takeover of a locally owned non-finance company by a non-locally owned company would not protect the tax base and could well work to undermine it. When a local person sells a company they receive the proceeds from that sale and would usually be expected to invest them in an income generating asset, the return from which would normally be taxable. Since the company sold would usually be a 0% company there would be no loss of corporate tax revenues from that company and personal tax revenues from the employees may be unaffected. However, preventing such takeovers could reduce the rewards to enterprise in the Island, potentially undermining economic growth and future tax revenues.

The new Control of Housing and Work Law to be introduced in 2012 will require the permission of the Chief Minister to any proposed change of ownership that would result in non locally qualified persons (including non resident persons) acquiring a shareholding in an undertaking of more than 40% from locally qualified persons. The factors to be considered by the Chief Minister in making this decision will include, but are not restricted to, supporting the economy, protecting Jersey's reputation, and maximising the Island's resources, which includes its tax receipts (in short, a balancing of the factors outlined in the preceding paragraph).

2.14 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING LICENCES ISSUED IN ACCORDANCE WITH THE REGULATION OF UNDERTAKINGS AND DEVELOPMENT (JERSEY) LAW 1973:

Question

Will the Minister inform members whether in 2009, 2010 and 2011 non-locally based companies were granted a licence under the Regulation of Undertakings and Development (Jersey) Law 1973, as amended (RUDL) for construction contracts of up to 12 months on the Island without a requirement to engage locally qualified persons and, if so, detail how many and specify the projects on which these licences were granted and state the number of jobs involved in each case and why no requirement for locally qualified persons was applied?

Will the Minister assure members that no such licences will be granted in 2012 and give details of how he proposes to encourage the use of locally qualified persons in the future?

Will he further agree to review the provision of RUDL licences in respect of secondments in the finance and other sectors for contracts of less than 2 years?

Answer

Will the Minister inform members whether in 2009, 2010 and 2011 non locally based companies were granted a licence under the Regulation of Undertakings and Development (Jersey) Law 1973, as amended (RUDL) for construction contracts of up to 12 months on the Island without a requirement to engage locally qualified persons?

In 2011, in total, 133 licences were issued for non-locally based construction contractors for up to 12 months. Of these, the vast majority (85%) were for short term contracts of less than three months, and almost half of these were for less than one month. Less than 5% were issued for over six months. Licences were granted without a requirement to engage locally qualified staff for the reasons outlined below.

The provision of this information has required manual extraction and examination of each licence application and accompanying information, and therefore the information for 2009 and 2010 cannot be provided within the time frame required by this answer.

It has been recognised that it is important to be able to extract a range of statistics in a more targeted, informative and timely manner than is currently possible. To this end, a new system is being developed to replace the current long-standing system for the introduction of the new Control of Housing and Work (Jersey) Law 201-.

If so, detail how many and specify the projects on which these licences were granted and state the number of jobs involved in each case:

As stated above, the provision of this information has required manual extraction and examination of each licence application and accompanying information. Work will be done to produce this analysis for 2011, but cannot be issued within the timeframe of this answer.

Will the Minister state why no requirement for locally qualified persons was applied?

These licences are all issued without a requirement to engage locally qualified staff, reflecting the temporary and often specialist nature of these contractors which limits the practical opportunities for local employment. Furthermore, the policy is to issue licences to visiting contractors on being satisfied that the work cannot be provided locally, or that local businesses have had opportunity to tender, ensuring opportunities for local businesses and choice for consumers and purchasers.

Will the Minister assure members that no such licences will be granted in 2012 and give details of how he proposes to encourage the use of locally qualified persons in the future?

I can confirm that in 2012, greater restrictions will be placed on non-locally based companies applying for construction contracts. Under the new Control of Housing and Work Law, to be introduced later in the year, conditions around local employment and fees may be attached to the licences of visiting contractors in accordance with new legal powers. This will generate fees and create a more level playing field. In addition, support with training will be enhanced in concert with the application of the Regulation of Undertakings and Development Law, as part of the "back to work" programme.

This will support local employment without preventing consumers from being able to accept best value quotes or significantly undermining competitive pressures.

Will he further agree to review the provision of RUDL licences in respect of secondments in the finance and other sectors for contracts of less than 2 years?

Such a proposal has the potential to have a damaging economic effect. The Island is home to a sizeable number of international organisations, in particular in the finance sector and it would be counter to the Island's economic attractiveness if these organisations could not second staff around

their international networks for short and limited periods. Having said this, between 2009 and 2011, only 72 Regulation of Undertakings licences for secondments were issued.

2.15 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING UNEMPLOYMENT:

Question

Will the Minister advise what additional, concrete measures he has in place to get more of the rising numbers of unemployed, especially those under 25, back into work or appropriate training in 2012?

In particular will he inform members what progress, if any, he has made in obtaining work placements for the unemployed in the public and private sectors?

Will he further state what contingency measures he has in place and what additional costs he anticipates will be placed on the Income Support scheme from the possible collapse of the fulfilment sector in the Island?

Answer

The Chief Minister has initiated a major “Back to Work” initiative, which is being co-ordinated through my department. As part of the ministerial task force, I am working very closely with the Chief Minister, and the Treasury and Resources, Economic Development and Education, Sport and Culture Ministers and I am grateful to them and their officers for their hard work which is already starting to produce some tangible results.

Members will be aware that we have recently announced a working partnership with JT. This has created a major opportunity for those already unemployed to apply for 100 new roles to be created by the Gigabit Jersey project. The jobs were advertised in the Jersey Evening Post on Thursday 12 January 2012 and we will be working with JT to match current job-seekers with the posts.

We will also be providing extensive support to unemployed candidates in preparing for interview and assessment to maximise their chances of securing one of these roles.

Building on our existing successful schemes for the unemployed, we have also extended the ‘Advance Plus’ scheme which provides support to the longer term unemployed aged over 20. The scheme will be doubled which will create up to an additional 200 work placements per year for this group.

Additionally we have invested further in the Work Zone to expand the number of Personal Advisers who provide job seeking support and access to training to improve employability.

We are also working with the States of Jersey as an employer to identify opportunities and the States are meeting with Union Representatives on the 18 January 2012 to engage with them and determine how the public sector may help to address the growing unemployment situation.

At this early stage, issues under discussion will include the potential utilisation of existing vacancies, development of training schemes and identification of short term work opportunities for the unemployed.

We are investigating the scope for work placements with Community partners on a number of projects.

This is all in addition to the investment in existing initiatives such as 'Advance to Work' and the additional 250 places at Highlands College funded from fiscal stimulus.

There is much more to do and we are advancing discussions with a number of partners/businesses in hospitality and retail.

Furthermore the Economic Development Department is continuing its work to attract new businesses and investment to the Island and consideration is being given to which capital projects can be brought forward to create jobs.

This work is being undertaken in close co-operation with the Population Office to ensure that the regulatory environment complements and enhances initiatives to support both employers and locally qualified people seeking work. For example, the Population Office has refused requests for 660 additional non-locally qualified staff over 2010 and 2011.

Back to Work is a long term programme and we need the engagement of employers and industry to provide the best employment prospects for all Islanders.

It has been estimated that the potential loss of each 100 jobs in the fulfilment industry would increase Income Support costs by £800,000 per annum. I am working very closely with the Minister for Treasury and Resources to ensure that funding is available to meet the extra benefit and administration costs in the event of a large number of redundancies in this area.

In addition to the personal and social impact of unemployment, this potential additional Income Support cost highlights the importance of the need to support the reduction of non-local licences through job substitution.

2.16 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING RAISING THE SOCIAL SECURITY CONTRIBUTIONS CEILING:

Question

In addition to the lifting of the ceiling on Social Security contributions and the introduction of a 2% employer rate on earnings up to £150,000, what consideration, if any, has the Minister given to further changes to both employer and employee rates and in what timescale?

Answer

The introduction of a 2% rate on earnings above £45,336 per annum and up to £150,000 per annum for employers and Class 2 individuals was agreed as part of the Fiscal Strategy Review. The additional contributions raised will be used to offset part of the cost of supplementation for lower earners and will result in a reduction in the value of the tax funded States Grant needed to meet the balance of the cost of supplementation. This increase has no impact on the future viability of the Social Security Fund.

In order to maintain the current value of the Social Security pension into the future, it will be essential to increase the contribution rate during the next few years. The actuarial review of the

Social Security fund for the years 2007, 2008 and 2009 will be published at the end of January. States members have been invited to a presentation of these results in the afternoon of 30 January. The new review will provide detailed guidance on the increasing demands on the Social Security fund as our population ages. Decisions on the future level of Social Security contributions above and below the standard earnings limit, and the types of income to be included in assessment of liability will need to be taken in the context of a broad debate on the level of support that will be provided for future pensioners.

In July 2011 the States agreed the framework of a new long-term care benefit law. The report published at that time indicated that the new benefit would be mainly funded through contributions from employees and higher income pensioners, at an initial rate of approximately 1.5%. Detailed work continues on this project and firm proposals will be published during 2012. These will set out the extent to which contributions will be charged on earnings and other forms of income as well as the exact level of the contribution rate above and below the standard earnings limit of £45,336. The current timetable is to introduce the new contribution liability during 2013. The contribution rate required to sustain the new benefit will need to increase steadily following its introduction.

The current major review of health provision in the Island has identified the need for additional funding in this area. Currently, 2% from a total of 12.5% of Social Security contributions is allocated to the Health Insurance Fund. Depending on the outcome of the review and the funding options identified, it may also be necessary to increase the contributions into the Health Insurance Fund.

2.17 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING SPECIAL NEEDS AND MENTAL HEALTH CARE:

Question

How many patients with special needs and mental health issues have been placed in the UK for treatment in the past 5 years; what were the yearly costings and the durations of the treatment in the UK?

Answer

Year	Total of patients in UK placements	Annual total cost of placements
2007	9	678,831
2008	9	875,275
2009	13	1,540,262
2010	16	2,219,851
2011	17	2,598,055

The duration of treatments varies considerably. Of the patients included above:

- four have been in UK placements throughout the whole 5 year period or longer;
- two have been in UK placements for 4 years of the 5 year period;
- five have been in UK placements for 3 years of the 5 year period;
- four have been in UK placements for 2 years of the 5 years period;
- 13 have been in UK placements for 1 year or less, to date

There placements are at a variety of different facilities depending on the needs of the particular clients. For example in 2011 the 17 different clients were in 15 different facilities.

2.18 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HOME AFFAIRS REGARDING DISCRIMINATION LEGISLATION:

Question

Will the Minister give an update on when the Discrimination Law is likely to be implemented and will he give an undertaking that it will not be implemented in a piecemeal fashion, but as a whole?

If it is necessary to implement in stages, as he has indicated in the past, will he ensure that the Sex Discrimination Act (implemented in the UK in 1975) should take precedence, as this has been highlighted as the most urgent by groups such as the Jersey Advisory and Conciliation Service?

Answer

As agreed in the States Assembly last year, the Minister for Social Security is now responsible for the development of discrimination legislation. The wording of the question suggests that I have made previous statements in respect of this project, whereas I believe that these statements may have been made by the Minister for Home Affairs, who was previously responsible for this project.

My department is taking on this additional responsibility on top of an already demanding work schedule for 2012. However, discrimination legislation is an important area of social policy in which Jersey lags behind many other jurisdictions and we are committed to making progress on this project as a high priority.

The amendment by the Council Of Ministers to P.118/2011, and approved by the States, laid down a timetable to lodge a draft discrimination law by the end of 2012 and to lodge regulations to cover disability, race, sex and age within two months of the Discrimination Law being registered. I hope to be able to maintain the commitment to lodge the law itself by the end of this year.

I can reassure members that I have no intention whatsoever of implementing the legislation in a "piecemeal fashion" but that it may be necessary to implement the detailed regulations in stages. Businesses will need time to prepare and adapt to the wide-ranging implications of the legislation, and a supporting framework will need to be developed including changes to organisations such as the Jersey Arbitration and Conciliation Service and the Employment Tribunal.

Legislation in respect of sex discrimination will be necessary to allow "family friendly" employment legislation to be fully developed. For similar reasons, age discrimination regulations will be necessary in the next few years to ensure that the protection of older workers is effective. Local campaigners have highlighted the need for race discrimination legislation. The exact order in which these regulations are introduced will be agreed during 2012.

2.19 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING JERSEY MILK:

Question

Will the Minister advise whether the ban on the importation and sale of milk other than Jersey Milk (with some exemptions) is, in the department's view, still necessary and ultimately sustainable?

Will the Minister outline the policy and detail what exemptions *are* in place (ie, for omega enriched milk, goat's milk etc)?

Would the Minister confirm whether the policy is in keeping generally with free market principles and explain how the department justifies its protectionist stance towards milk, but not towards other Jersey Produce, such as potatoes, honey etc.

Will the Minister also give a list of how many individuals or retailers, if any, have been prosecuted for the importation or sale of non-Jersey milk in the last 15 years?

Answer

a) Will the Minister advise whether the ban on the importation and sale of milk other than Jersey Milk (with some exemptions) is, in the department's view, still necessary and ultimately sustainable?

The maintenance of import controls is still necessary and ultimately sustainable. If the dairy industry were exposed to the full impact of competition at this present time, it would prove very difficult for the Jersey dairy industry to survive in its current form.

By way of background, following the loss of a key market in 1999-2001 due to de-regulation of the UK milk market, the industry in Jersey witnessed a fundamental restructuring with the exit of 13 dairy farms and over 1000 milking cows. A "Road Map to Recovery" was developed, which was subsequently endorsed by the Promar report and the Corporate Services Scrutiny Panel. Both the Rural Economy Strategy (RES) 2006-2010 and subsequent RES 2011-15 (formally agreed by the States on 18th January 2011) outlined the measures that continue to support ongoing dairy industry restructuring.

Much of the Road Map has been successfully implemented, such as the completion of the new dairy at Howard Davis Farm, the importation of international Jersey semen, legislation to allow the export of bovine embryos and the beginnings of new export markets for value added milk products. However, these developments need time to reach their full potential. For example, the full effect of the production efficiencies made available by the importation of international Jersey semen will take 10 years (up to 2018) to be fully realised. The development of new export markets will also need time in order to build effective trading relationships and develop products that reflect the needs of both local and export markets.

Therefore, the maintenance of the liquid milk import controls is vital in order to allow the dairy industry to complete its "Road Map to Recovery". This will ensure that the presence of the Jersey cow in its Island home can be sustained as a growing commercial venture, focusing on value-added products, rather than as a foot note in history.

b) Will the Minister outline the policy and detail what exemptions *are* in place (i.e., for omega enriched milk, goat's milk etc)?

The Customs and Excise (Import and Export Control) (Jersey) Order 2006 requires that '**cows milk in liquid form**, whether or not processed' shall **not** be imported except under the authority of a licence. Licences for milk based products are only issued by Jersey Customs and Immigration Service following consultation with the Economic Development Department (Rural Economy Section).

The Department only recommends the issue of import licenses on modified milk products where ingredients have been added to pure milk to provide a nutritional benefit and where an equivalent product is not available locally. Close liaison is maintained with Jersey Dairy prior to any licence being issued. Examples of fortified milk products include St Ivel Advance which contains Omega 3, or Flora Pro-Activ which contains plant sterols which are aimed at reducing cholesterol. Imports of goat's milk are unlicensed and do not compete with local supplies as there are currently no commercial dairy goats being farmed in Jersey.

c) Would the Minister confirm whether the policy is in keeping generally with free market principles and explain how the department justifies its protectionist stance towards milk, but not towards other Jersey Produce, such as potatoes, honey etc.

The current licensing system has been tested in the past against Jersey's free trade agreement with the EU under Protocol 3 of the UK's Act of Accession. A complaint was made to the European Commission (EC) in 2001 that alleged that Jersey's import controls on liquid cows milk were in breach of Community Law, as it applies to Jersey. Jersey defended the controls to the EC largely based on the argument that the controls were not in breach of Community Law because they can be justified, under exemptions provided by Community Law, on the grounds that it is necessary to protect the unique genetic importance of the Island's cattle population, which is of global significance. In the event the EC decided not to pursue the matter.

A very important perspective is that Jersey is in fact a net importer of milk and milk products with a *de minimus* annual production of only 12 million litres - approximately 0.1% of the total EU milk production, with Jersey's licensing arrangements having little effect on trade within the EU. The licensing system only impacts the import of liquid whole milk, as there are no licensing restrictions for the import of milk products and therefore Jersey Dairy is in full competition with the large volume of dairy products available in local food retail outlets and in its efforts to develop a value added export trade.

Milk import licensing restrictions have no parallel in terms of other Jersey produce. For example, as the vast majority of Jersey Royal early potatoes are exported to the UK with only a small volume consumed in Jersey on an annual basis. This compares to three quarters of the annual milk production required to supply the liquid milk needs of the Island, with the remainder being used to produce a range of milk products such as cream, butter, yogurt and ice cream to buffer the liquid milk requirements and to ensure a year round liquid milk supply.

It should also be noted that whilst not protectionist, the States of Jersey does support local agricultural businesses through a number different support measures. The RES 2006 -2010 currently provides all farmers and growers with the Single Area Payment (SAP) at £36 per vergee in line with the Single Farm Payment (SFP) paid to all European farmers to ensure Jersey farmers are not disadvantaged in their market place. Funds to pump prime business development projects are also available via the Rural Initiative Scheme (RIS).

d) Will the Minister also give a list of how many individuals or retailers, if any, have been prosecuted for the importation or sale of non-Jersey milk in the last 15 years?

None

2.20 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING A REVIEW OF MAISON DU LAC:

Question

Will the Minister advise which, if any, of the recommendations contained within the 'External review into the care and treatment of clients at Maison du Lac' (carried out by Linda Glasby OBE and dated 10th July 2010) have been implemented; which have not been implemented, and if none of the recommendations have been addressed, would she explain why?

Answer

Under the access to public information code the Maison du Lac review is exempt from publication under section 3.2.1 (a) (i) as it include personally sensitive information about individuals. I am however able to provide information about the status of the 10 recommendations included in the report.

Recommendation 1: Completed.

Recommendation 2: Completed.

Recommendation 3: Completed.

Recommendation 4: Completed.

Recommendation 5: Work commenced. This is an ongoing activity which relates to an ongoing programme of team building.

Recommendation 6: Completed.

Recommendation 7. To be progressed imminently (Delivery of this recommendation was linked to the restructuring of Community & Social Service Division. Within that restructuring the resource has now been identified to allow progression of this recommendation).

Recommendation 8: In progress (Delivery of this recommendation was linked to the restructuring of Community & Social Service Division. The new structure is now in place and will enable further progress in this area).

Recommendation 9: In progress (joint working developed with external agencies. Expected completion date January 2013).

Recommendation 10: Completed (Delivery of this recommendation was linked to the restructuring of Community & Social Service Division, which put in place resources required by this recommendation).

2.21 DEPUTY M. TADIER OF ST. BRELADE OF THE CHAIRMAN OF THE HEALTH, SOCIAL SECURITY AND HOUSING SCRUTINY PANEL REGARDING A REVIEW OF MAISON DU LAC:

Question

Will the Chairman outline what methodology, if any, the Panel will use to make sure that recommendations of (recent) reviews, such as the 'External review into the care and treatment of clients at Maison du Lac' carried out by Linda Glasby OBE, dated 10th July 2010, which was critical of some practices at the unit, are being implemented and that patient care is not jeopardised?

Answer

The review by Linda Glasby OBE was not instigated by the Panel. We would therefore advise that the question would be better directed to the Minister for Health and Social Services.

[9:45]

3. Oral Questions

Deputy E.J. Noel of St. Lawrence:

If I may test the mood of the House. Senator Routier, Deputy Green and myself are to attend a funeral this morning shortly after 10.30. We have 15 oral questions and 2 hours to do so, which is ample time. I want to test the mood of the House whether or not questions 8, 10 and 15 could be taken first, Sir?

The Deputy Bailiff:

That seems sensible. Do Members agree to take questions 8, 10 and 15 on the Order Paper first? Very well, that is what we will do.

3.1 Deputy S.G. Luce of St. Martin of the Chief Minister regarding the reduction of the time taken by the Privy Council to approve legislation:

Given the current economic situation, will the Chief Minister undertake to make the necessary representations to request the Draft Control of Housing and Work (Jersey) Law 201- is sanctioned quickly by the Privy Council and what action, if any, is he able to take to try and reduce the time taken by the Privy Council to approve, not only this law, but others in the future.

Senator I.J. Gorst:

If I could ask my Assistant Minister with responsibility for population matters to answer this question, thank you.

Senator P.F. Routier (Assistant Chief Minister - rapporteur)

I am pleased to have the opportunity to remind Members of the anticipated timescale for this much-needed new law. Action is being undertaken in the form of contact with the Ministry of Justice to ensure that the approval of the Privy Council of the new law as soon as possible and for it to coincide with the completion of our own work, for example, around I.T. (information technology) systems and the required support legislation. This should all be in place by July of this year. In the meantime we are vigorously applying the existing laws to secure our objectives around local employment and immigration, which aim to maximise jobs for locally qualified people. With regard to progressing other laws for their approval by the Privy Council, there has been established an officer group looking at ways of streamlining the whole process.

3.1.1 Deputy J.A. Martin:

On the bigger question - and me and the rapporteur might interpret the law differently - but I still understand it that this law will not stop anybody coming into Jersey who wants to come into Jersey. Is the Chief Minister in talks with the U.K. (United Kingdom) Government to the overall, whether they are changing their stance, given their situation in the U.K. with unemployment, especially youth unemployment? Are we having any talks in the higher ranks?

The Deputy Bailiff:

Sorry, Deputy, I regard this question about the length of time to get Privy Council assent, and I do not think that question follows on from the question.

3.1.2 Deputy S. Power of St. Brelade:

Could the Assistant Chief Minister confirm that he has an assurance from the U.K. Justice Department that they will expedite this law, on the control of work and housing, because is he aware that the Residential Tenancy Law, which was passed in 2009, took over 2 years to come back from the Privy Council?

Senator P.F. Routier:

Yes, I am aware that there was some difficulty with the Residential Tenancy Law, which has now been resolved. With regard to this law, there has been communication with the Ministry of Justice and they are aware of our need to have this in place as soon as we possibly can. But, as I say, there is also still work for ourselves to do to ensure that it all coincides together with the law coming back, being sanctioned, and also the internal work that we have to do within the department.

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

Can the Assistant Minister explain what measures the department is taking while we wait for the law to come back from the Privy Council to ensure that non-qualified licences being offered to companies... the issues around the numbers are being addressed, and how often do they come up for review?

Senator P.F. Routier:

As Members will be aware, the existing legislation only requires licences to be reviewed on a 3-yearly basis but when they do come up currently we are looking at them very closely and clawing-back on any unused non-locally qualified permissions, which exist. So we are looking at them very closely to ensure that we do tighten-up on the way non-locally qualified licences are currently in existence.

The Deputy Bailiff:

Deputy Martin is entirely right to send me a look. You should not have been allowed that question. The question is about ...

Deputy J.A. Martin:

Sorry, Sir, thank you very much for that.

3.2 Deputy G.C.L. Baudains of St. Clement of the Minister for Treasury and Resources regarding compensation paid to Royal Mail in relation to the volume of outgoing mail from Jersey exceeding that of incoming:

As the States shareholder representative for Jersey Post, would the Assistant Minister inform Members whether there is an imbalance caused by the volume of outgoing mail from Jersey

exceeding that of incoming and, if so, what sum, if any, is presently paid to Royal Mail to compensate for this?

Deputy E.J. Noel (Assistant Minister for Treasury and Resources - rapporteur):

The Royal Mail and Jersey Post agree contracts on a commercial basis like other postal administrations. The first formal agreement was signed in 1999. Jersey Post is responsible for paying Royal Mail for all items they deliver on behalf of Jersey Post customers, and likewise Royal Mail is responsible for paying Jersey Post to deliver its mail to Jersey addresses. Because of the current high volumes of outward mail generated by the fulfilment industry there are currently higher levels of outward mail than of inward mail. Royal Mail and Jersey Post settle the net account a monthly basis. Due to the high amounts of outward mail compared to inward mail this currently results in Jersey Post making net payments to Royal Mail. The sums paid are part of a commercial agreement and as a result must remain confidential.

3.2.1 Deputy G.C.L. Baudains:

Could the Assistant Minister advise whether the calculations which arrive at the compensation amount include reference to local postal rates and, if so, does it create an incentive to keep Jersey's internal postal rates higher than they might otherwise be?

Deputy E.J. Noel:

I can confirm that the commercial agreements do have reference to the tariffs charged by Royal Mail and by Jersey Post, however, I can also confirm that does not result in a higher rate for locals using the Jersey postal service.

3.2.2 Deputy M. Tadier of St. Brelade:

After that long answer I was waiting for those magic words of "commercial confidentiality", which the Deputy did not let me down with at the end. Can he confirm that this is not a matter of commercial confidentiality and by telling us and tantalising us with the fact that Jersey Post pay more to Royal Mail than the other way round, that in itself is also a piece of commercial information and if he is to be consistent he should not be giving that piece of information out without giving full figures or at least ballpark figures so that the Deputy can have a meaningful answer?

Deputy E.J. Noel:

I hate to disappoint Deputy Tadier, and obviously I have not. **[Laughter]** The confidentiality does apply in this case because Jersey Post are in competition with other mail providers in the fulfilment industry and their commercial arrangements with the Royal Mail are therefore quite valid that they are commercially sensitive. But obviously Jersey Post makes substantial sums out of the fulfilment industry, so the Deputy has nothing to fear in the terminology that he uses, that this is a costly Island. It certainly is not.

3.2.3 Deputy M. Tadier:

If I may have a supplementary. Can I ask the Deputy to remind myself and other Members who the shareholder is for Jersey Post and, as such, whether the shareholder should have entitlement to budgetary information about where the money goes from Jersey Post?

Deputy E.J. Noel:

As the good Deputy knows, the States, in fact the Minister for Treasury and Resources, is the shareholder, or it may be the Treasurer who is the executive shareholder. The information in Jersey Post's accounts are published annually and are now presented to this Assembly.

3.2.4 Deputy G.C.L. Baudains:

Could I just press the Assistant Minister to confirm, if he can, that in fact the payment is several million pounds per year?

Deputy E.J. Noel:

I do not have the exact figure to hand but I will see what is published in the accounts. But I can confirm it is a significant figure, but one must bear in mind that Jersey Post benefits greatly from that because obviously they do not pay over anywhere near the amount of revenue that they generate from this business.

3.3 Deputy S. Pitman of St. Helier of the Minister for Housing regarding Housing Trusts' responsibility for maintenance issues:

What action, if any, is the Minister taking to ensure that housing trusts take responsibility for maintenance issues?

Deputy A.K.F. Green of St. Helier (The Minister for Housing):

Before answering the question I believe it is right to pay tribute to the work of the housing trusts and thank those who voluntarily work as trustees, but Members will be aware that I have highlighted in the past that housing trusts have developed in what is a largely unregulated sector and the lack of regulation is something that has concerned me for some time and, as Members hopefully know, it is something that I am committed to addressing and I am committed to do this through the housing transformation programme. The proposals that will flow from this programme will significantly improve the manner in which social housing is delivered and regulated; a key proposal of the introduction of primary legislation, which will establish a regulatory framework. This new law will allow regulations to be developed, one of which will be focusing on housing standards and will require all social housing providers to put in place procedures that ensure all their homes are maintained in accordance with the English Decent Homes standard. I will set out how I propose to organise this regulatory framework in the White Paper, which I hope will be published by the end of March this year.

3.3.1 Deputy S. Pitman:

What action, if any, can the Housing Department take on trusts which are not currently living up to standards?

Deputy A.K.F. Green:

I am encouraging at the present time. Although there is a lack of regulation, I meet regularly with the trusts and I am encouraging them in developing longer term plans. I am not suggesting that we wait 30 years for the work, but I want the 30-year plan where there is proper planned investment both for new properties and in maintenance of properties. Of course, this needs to apply to all social housing, and that includes the accommodation that the Housing Department controls as well.

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

Will the regulations contain any reference to ensuring that any maintenance contracts are open to tender from other companies in an open way?

Deputy A.K.F. Green:

This is quite likely, certainly in my thinking at the present time, and obviously will be part of the consultation in the White Paper.

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

I am not sure if you will allow me to slip this in with maintenance but is the Minister aware of housing trusts who requested a resident to pay for the construction of a cage to put their mobility scooter in, when it really should have been done by them?

Deputy A.K.F. Green:

No, I am not aware.

3.4 Deputy J.H. Young of St. Brelade of the Minister for Planning and Environment regarding the prevention of ‘procedural irregularities’ when determining Planning applications:

Would the Minister confirm whether his predecessor’s decision to refuse Planning consent for the redevelopment of the former Zanzibar Restaurant in St. Brelade was recently quashed by a Royal Court of Appeal on the grounds of “procedural irregularities” and, if so, what actions will he be taking to prevent such “irregularities” in the future?

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

Members will be aware of the recent decision by the Royal Court on this planning appeal. I can confirm that the Court has quashed the decision on this case and referred the matter back to me as Minister to reconsider. Prior to this decision I had already signed a new Ministerial Planning Protocol and a new protocol has also been finalised with the Planning Applications Panel and officers. In addition I have also put in place a number of actions to deliver on the Planning Improvement Programme, including process changes, I.T. changes, changes to the delegation levels, changes to the fees order and changes to performance targets. I will also be consulting this year on a new planning merits-based appeal system and increases to the schedule of developments, which do not require planning permission.

[10:00]

3.4.1 Deputy J.H. Young:

Will the new protocol and improvements that the Minister outlined be following the terms of the judgment in future in ensuring that in making future planning decisions that issues of planning policy from the Island Plan take preference over personal design preference of whether for himself or his planning officers thereby ending the ‘Grand Designs’ regime, which has been prevalent under previous administrations?

Deputy R.C. Duhamel:

The Minister for Planning and Environment is only entitled to take into account those things which appear in the Planning Law and it would be wrong for any Minister for Planning and Environment to suggest... or suggest that he would depart from this course of action. The remit of the job is quite clear and I intend to follow that remit.

3.4.2 Deputy J.H. Young:

Could the Minister please clarify whether his new procedure will discourage the holding of individual meetings between either Ministers and Assistant Ministers with applicants without planning officers present to consider designs and give them encouragement on sites, without the presence of third parties?

Deputy R.C. Duhamel:

I am informed that there is a protocol for meeting with applicants. The procedure is outlined quite clearly that any such meetings must necessarily have officers present if they do take place. It is a process that will only be undertaken sparingly and properly recorded so that the full levels of transparency and openness can be followed. I intend to follow this course of action. The meetings that ostensibly did take place with the previous Minister, although being billed as private meetings did take place with officers present and were recorded.

3.4.3 Deputy M. Tadier:

It is widely believed that in this particular case the reason that the decision had to be reversed was because the former Minister gave too much credence to the fact that there simply were objections from local representatives and did not necessarily pay enough attention to what those objections were and whether they were valid. How will the Minister balance in future those 2 competing objectives, and will he make sure always that objections are based on their validity and not simply on who may be happening to make representations at the time?

Deputy R.C. Duhamel:

As I said earlier, the protocols under which the Minister for Planning and Environment operates in this regard are absolutely clear in my mind. There are certain things that can be taken into account and certain things that cannot. The question in any Minister for Planning and Environment's mind in any decision-making process is that he must only take into account those things which he is entitled to take into account. The Court judgment does suggest that the decision that they came to will form the basis on which a reconsideration can take place. I am happy to go along with the Court. I am happy to go along with the protocols and, indeed, if I fall foul of the rules that I have set up then I fully expect to be chastised for doing so and to perhaps go even further and lose one's position. But in all of these things, the Minister for Planning and Environment's job is one of balance and fairness and to do what it says on the side of the tin, which is to take into account those things which I am entitled to take into account.

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

The Minister referred to the so-called private meetings and that officers were present. Is it not the case that the Courts were critical and did identify that as one of the aspects of their criticism, procedure-wise, on this matter?

Deputy R.C. Duhamel:

It is not right for this House to be used as a further court case in order to go into the decisions of the Court or indeed to make further allegations as to the behaviour of the previous or former Members of this House on the basis that that person is not here to answer those queries. Whatever happened was at meetings that I was not at. However the Court arrived at its decision was down to those Members who formed the decision-making process. I am not really in a position to say what was in their minds what happened on those occasions or indeed whether things happened or did not happen. These things were a matter of judgment by the Court and I think the matter should rest there.

3.4.5 Senator S.C. Ferguson:

The judgment raised the questions of inconsistencies between officers' comments on the first and second applications regarding this site. Will the Minister also take steps to ensure consistency when officers are producing a report?

Deputy R.C. Duhamel:

Absolutely, as far as possible. But sometimes people do change their minds, perhaps on the presentation of further information or indeed after reconsideration of the information that was

presented to them in the first place. Planning, as everybody knows, is a matter of judgment and the decisions sometimes are arrived at by different information and different decisions can be taken on the presentation of that information, perhaps on as little as a difference in the order of the items on which the decision has been made. It is not a black and white science. It is a judgmental science and in those terms I will do my best to encourage best practice among the officers to ensure that they do act in a fashion that is open and consistent and one in which the public can have respect and confidence.

3.4.6 Senator S.C. Ferguson:

There is a problem perhaps in a situation with something like planning where you do perhaps sometimes get a Stockholm Syndrome creeping in. How will the Minister deal with that?

Deputy R.C. Duhamel:

If I knew what a Stockholm Syndrome was I probably would be able to deal with it.

3.4.7 Deputy S. Power:

How would the Minister define for Members the difference between normal political representation in an electoral district on a planning application and political interference in the planning process, as has been referred to in this case?

Deputy R.C. Duhamel:

The Court in its judgment did indicate that there were perhaps comments that had been made by the Parish and other Deputies or political Members, and perhaps those comments should not have been relied upon in making a decision. As I said, the key thing in the decision is the suggestion, which I take on board fully, that the Minister will take into account the outcome of this decision and indeed anything else of merit or note when I come to reconsider the application.

3.4.8 Deputy J.H. Young:

Could the Minister confirm that in the new procedures in taking this forward, will he ensure that the rights of Members of this House that represent their constituents on *bona fide* planning policy matters are protected and that where members of the public invite Members of the House to bring forward those matters, that that is facilitated and not regarded as interference and equally it would mean that those representations go to the panel and not delegated to officers?

Deputy R.C. Duhamel:

We have a new process that determines whether or not applications are taken by officers, whether they are taken by my Applications Panel or indeed whether they are material items in which the Minister can substitute his judgment. Those protocols have been agreed by the relevant parties and lay down clearer guidelines as to who can do what when. Notwithstanding that, there is a section within the protocols, which indicate what can be taken into account and what should not be taken into account. I will continue to allow on my watch the raising of any material planning considerations from any parties who have a right and a duty to put those forward, and the protocol has been designed to allow that to happen.

3.5 Deputy R.J. Rondel of St. John of the Chairman of the Comité des Connétables regarding the imposition of fines for dog fouling offences over the past 3 years:

Would the Chairman advise the Assembly whether there have been any fines imposed for dog fouling offences over the past 3 years under the Policing of Roads (Jersey) Regulations 1959, as amended, and, if so, what fines were levied and, if not, what action, if any, does the Comité propose

to take to address dog owners who fail to pick up their dog's mess, particularly around the town area?

Connétable J.L.S. Gallichan of Trinity (Chairman, Comité des Connétables):

Replies from the Parish to date indicate that no fines have been imposed on dog fouling offences over the past 3 years under the Policing of Roads (Jersey) Regulation 1959, amended. But it has been discussed on numerous occasions by the Committee. I think the question was asked in this House in March 2010 by the former Deputy of St. John - now the Connétable of St. John - asking the Minister for Transport and Technical Services regarding what action would be taken to deal with this. It is not an easy matter, as one can imagine. The Committee noted that the support of both members of the public to identify offenders and the members of the Honorary Police would be needed to bring a prosecution. Maybe I could read a note that was sent back by the Parish of St. Saviour: "While it is obvious to the eye that fouling is taking place it is impossible to prosecute a dog owner without actually witnessing the dog defecating and the person in charge blatantly failing to pick up the mess." I know the Deputy is in St. Helier, unfortunately it happens throughout the whole Island and one must do whatever we can to stop this. It is not a very pleasant thing to see to the eye and I think we are still fortunate in this Island, if one goes across to the Continent there it is even worse. It is quite undesirable to walk on some of their pavements at time and hopefully the general public will take notice of this question and try to keep their habits clean.

3.5.1 Deputy R.J. Rondel:

I do appreciate it is a difficult situation to try and prove a problem but would the Chairman accept that it is becoming an increasing problem and it must be dealt with?

The Connétable of Trinity:

I would not; I think dog owners are responsible people. There are various things that happen with dogs faeces, some people decide to pick it up and put it in a bag but then have the bad habit of just throwing it in the tree alongside the hedge or the road they are walking on, which is even worse than leaving it there for nature to decompose it. It is a tricky one. We would love to see it. I think most dog owners are responsible and I disagree with the Deputy. In fact, I was quite amazed that he mentioned it earlier. I walk St. Helier many times, obviously not the same roads as the Deputy has walked along, and I find the Parish is very clean.

3.5.2 Deputy J.A. Martin:

I think there is a hint in the question. This law is a Regulation 1959 and the Constable talks about prosecution. Is it not about time the Constables got together... on the spot files, photographs: that would be a deterrent. I am very sorry if the Constable thinks they are all responsible dog owners. I do agree that it is only the few but a few dogs' mess is quite a lot. It really just needs updating and people... we have the Honorary Police, we have parking officials, we have wardens in St. Helier. They probably have them in the country. There are lots of people. We need to update this law, it can be done through the Constables. If not, maybe it should be done through Home Affairs, but it should not be relying on a law that is about as old as me.

The Connétable of Trinity:

It was updated in 2010, the fine is £200 now. It was recently updated.

3.5.3 Deputy T.M. Pitman:

The Deputy is like a dog with a bone to this. I would like to ask the chairman, would he possibly consider reactivating the former Deputy Le Claire's idea of having increased dog toilet facilities? Would that help the problem?

The Connétable of Trinity:

Obviously it is down to each Parish. If you go into the countryside and up to certain areas where people do walk their dogs, there are bins for dog mess to be placed in. Now whether the Parish of St. Helier would decide that is one of those things they would wish to have, I would say it is down to the Connétable and the parishioners to push for that. The Committee is obviously 12 Connétables. Each Parish would deal with their own problems in a different way but I appreciate the question from the Deputy and I hope that if you remember the first question that Deputy Rondel asked, it was about what was the Treasurer doing about the lack of water in the reservoirs. After he asked that question it rained for the whole of December **[Laughter]** so hopefully this question will sort out the dog mess.

[10:15]

3.5.4 Deputy M. Tadier:

Does the Chairman acknowledge that essentially this is a policing matter and he has portrayed it as being something which is very difficult to police, which I am sure it is to a certain extent. Controversially, should it not be left to the police rather than to politicians who like to masquerade as police, and let them do their job? Does he also not agree that it cannot be that difficult to, if a policeman on the street sees somebody whose dog fouls it does not take rocket science for him to go up to that person and say: "Either pick that up or you are getting a fine."

The Connétable of Trinity:

The question was, how many fines have been administered in the last 3 years. Deputy Tadier may be correct but I must say I am pretty sure that if everyone ... maybe the Deputy should try walking behind all their parishioners then saying: "Well, I saw your dog, I would like to take you to court now", I am sure that maybe there might be a few voters at £200 a time. But I have tried to keep on a serious note on this. It is not an easy one for the Comité. I think it is down to everyone and every individual who is a dog owner to be responsible people, and I would leave it there.

3.5.5 Deputy J.A. Martin:

Again, it is sort of touching on what Deputy Tadier said because the Constable of Trinity said each Constable makes his own laws. If I am leaving my house, I am leaving from St. Saviour. I am walking along Havre des Pas in St. Helier and I cross the road and I am in St. Clement. If my dog does something in all those 3 different Parishes I should be under one law and I should know what is going on. I think the Constable is making too big a thing out of this. It should be an on the spot fine. I do not care if it is £200, £100 or £50, and it is something the Constables should get together and it should be uniform across each Parish.

The Deputy Bailiff:

Is there a question?

Deputy J.A. Martin:

The question is that will they look into this again. It is obviously not working. There has not been a fine in 3 years. There is somebody getting away with a lot of dog's mess.

The Deputy Bailiff:

Thank you, Deputy. Will you look into it again, Connétable?

The Connétable of Trinity:

Yes, we will look into it.

3.5.6 Deputy R.J. Rondel:

Thank you, Constable, but the volume of emails and comments I have had in support of the problem, he mentioned he did not think it was a massive problem, but it obviously is and what I am particularly concerned about is the streets, which he does not obviously walk, is around the schools, such Rouge Bouillon, going up to Le Pouquelaye, and what really is concerning me is the health problems that could occur with young children walking into schools. I believe that there has been some situations where children do walk in and go into school with dogs' mess on and it is a serious problem, and I think we have to address it. He mentions he walks the streets ...

The Deputy Bailiff:

Is there a question coming?

Deputy R.J. Rondel:

Will he agree to re-look at this and possibly impose on the spot fines?

The Connétable of Trinity:

I cannot impose on the spot fines. It has to be a decision made by this Assembly and for policing. But I am sure the Connétable of St. Helier sitting behind me, he has heard the Deputy's concerns and maybe he can address his problems in St. Helier.

3.6 Deputy T.M. Pitman of the Chief Minister regarding the potential chairman of the Electoral Commission:

What justification does the Chief Minister have for withdrawing his support for a fully independent Election Commission, and proposing instead that his Assistant Minister chair the Commission, especially given that this was a factor in garnering the support of several Members in his election for Chief Minister, and will he now be offering his resignation as a consequence of going back on this commitment?

Senator I.J. Gorst (The Chief Minister):

Given the inference of his question, I am sorry that Deputy Pitman feels as he does. I voted for the Electoral Commission in March 2011. I am now, as has been much publicised, in favour of the revision recently proposed by the Privileges and Procedures Committee that States Members be able to sit on the Commission. It will, however, be for this Assembly to decide if it agrees with P.P.C.'s (Privileges and Procedures Committee) revisions. I will continue to support the Electoral Commission whatever the outcome of that debate.

3.6.1 Deputy T.M. Pitman:

Yes, the P.P.C. move, which was initiated by the Chief Minister through his Assistant Minister, I would like to ask the Chief Minister, my vote was given on the basis of 3 promises: political inclusion - broken; finally revealing the appalling use of taxpayers' money on failed civil servants golden handshakes - broken; now we have this third promise going to be broken. Does the Chief Minister really think that is the way to garner confidence in other colleagues about working together?

Senator I.J. Gorst:

I am afraid that I do not think that Deputy Pitman and I are going to agree on a number of issues and I am not certain that the other 2 points raised in the question arise from this, however I can endeavour to address them. As I said, when I was putting forward nominations for the officers of Minister and also talking with Ministers about the appointment of Assistant Ministers, that

inevitably the current system only allows for a number of Members of this Assembly to be involved in the decision-making process. I do not believe that that is appropriate and I am supportive, as the Deputy knows because he attended P.P.C. when I was also attending on P.P.C., of a review of the machinery of government with one of the primary aims being to include hopefully every Member, much more actively in the decision-making process. As I made announcements over a month ago, I said that I would ask Ministers to set up working parties, which hopefully will include many more Members and, as the Deputy may also know, arising hopefully from the approval of the Strategic Plan in due course, will be the setting up of delivery bodies, which will enable not only executive but non-executive and independent members of our community to be involved in the governmental process. That is point one. With regard to the second point that the Deputy asked about; of course if an employer has entered into a confidentiality agreement it is not for the next person, who sits in that particular position to go back on such an agreement. However, I hope that I will, in due course, be able to give more comment in that regard and therefore, I cannot agree with the assertion that the Deputy makes.

The Deputy Bailiff:

The question is about the independent Election Commission to which was linked the suggestion of resignation. The supplementary question which Deputy Trevor Pitman put was arguably too wide. We are not going to go into questions about other matters which were raised. Are there any other supplementary questions?

3.6.2 Deputy G.P. Southern:

If I may, and I seek your advice as to whether this is sufficiently connected to the question. Nonetheless the Chief Minister has spoken about inclusion, and this relates to that. Does the Minister support his Assistant Minister's opinion as reported to me since my return to the Island yesterday that there should be a bar on any Member who has broken the current election law from sitting on the panel, which looks at the creation of a new election law and election systems? If he does, can he say why?

Senator I.J. Gorst:

This Assembly is made up of independent Members. We put our opinions and manifestos before the public and they elect us or not. It will not be that we agree on every matter at every point. I am aware that my Assistant Minister made comments at P.P.C. and that is absolutely right and proper that we all put forward our opinions and then we ask for a decision upon them. I am not aware that P.P.C. agreed in that particular instance and that is part of the political process.

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

Would the Chief Minister advise the House whether the thinking that underlay the March proposition, namely that any commission that involved the Members of this House would be beset by vested interests from all quarters of the House... there is no limit to these vested interests. It would be beset by these vested interests and therefore the only way to convince the public that a credible investigation could take place into the future of this House and its Members was by an independent commission. What has compelled him to change his mind in that regard?

Senator I.J. Gorst:

If the Member, and I am sure he has, has read P.P.C.'s proposition, to my mind there were a number of telling points raised there. Not least of which is that the 6 Clothier recommendations on the composition of this Assembly have never been implemented or acted upon. I said during the election process that I was concerned that we would end up with another Clothier situation. I am a great believer in Jersey and in her traditions, and I believe that unless we have a process that is cognisant of our history and of our traditions and wishes to respect those and come forward with a

proposal which respects those, we potentially will be in another Clothier situation and I do not believe that is in the best interests of any member of our community.

3.6.4 Deputy R.G. Le Hérissier:

Would the Chief Minister not acknowledge he is using the word “tradition” and conflating it with “vested interest”?

Senator I.J. Gorst:

No, I would not.

3.6.5 Deputy J.A. Martin:

That even gets more worrying because when the Chief Minister talks of tradition he is obviously talking about the proposal of the Assistant Minister whereby the new Electoral Commission independently will come up with 12 Constables and divide the rest up between 42 people. I myself am on P.P.C. and I am at the present moment writing a minority report because I feel so strongly; does the Chief Minister not think by going back on what he has said he is conflating the 2, inclusion in this Government but not inclusion on the Electoral Commission. That should be totally independent and, as the Minister said, we only discussed this 10 months ago, and here we go again already coming back talking about ourselves again. It is out there, we have the money to do it, it should be independent of this House. Does the Chief Minister not agree he really has gone wrong this time?

Senator I.J. Gorst:

I am under absolutely no illusion whatsoever, having sat through 6 years of this Assembly debating endless permeations about how we might constitute ourselves, that this is going to be a very difficult and sometimes emotive issue to resolve. Therefore, I am pleased that it should be a decision of this Assembly and not the sole decision of one individual, and that is absolutely right and proper and we will of course have a debate about the constitution of the Electoral Commission in due course, and that is how it should be.

The Deputy Bailiff:

We will indeed no doubt have a debate in due course. This is question time and not debating today, and the question was justification which the Chief Minister has for withdrawing his support for a fully independent Election Commission and the Chief Minister has answered that very fully. I cannot think there can be many more questions - questions as opposed to statements. We are going to turn to Deputy Tadier and then a final supplementary.

3.6.6 Deputy M. Tadier:

I am minded to ask that if the Chief Minister was so in favour of Senator Bailhache chairing the Commission, even though he said he was not at the time of his pitch for Chief Minister, why he did not vote for his opponent. But the actual question I would like to ask is we seem to be very good at commissioning reviews. We commissioned Clothier, at great cost to the taxpayer. We do not implement it. We have Carswell, to do with the separation of roles of the Bailiff and the Attorney General, which is still live, which will no doubt neatly be sidelined or put into this review and then conveniently forgotten. Should we not be implementing the reviews that are current before we start any more reviews at great cost or some cost to the taxpayer?

Senator I.J. Gorst:

The Deputy raises a very good point about politicians in general and Governments around the world are very good at implementing reviews, not quite so clever when it comes to implementing the recommendations of those reviews. Sometimes that is because we have requested reviews to be

undertaken by those who do not appreciate a particular context. I would just want to clarify one point: I am not aware that I have at any point, when standing for the office of Chief Minister, said that I was not supportive or supportive of my Assistant Minister chairing such an Electoral Commission.

3.6.7 Deputy T.M. Pitman:

I note that the Chief Minister very cleverly side-stepped and said “P.P.C.’s proposition” but would he like to confirm or deny that this is instigated through P.P.C. by him passing it on through his Assistant Minister, and if that is the case would we not be much better off doing what we did after the Second World War and going to the U.K. for a proper commission into this because it is going to be clearly driven by vested interests.

[10:30]

Senator I.J. Gorst:

I do not believe that it is in any way, shape or form driven by vested interests. Inevitably most members of our community will potentially have a preconceived idea about what their preferred option might be. We must rise above that. An Electoral Commission will allow us to garner evidence not only from other jurisdictions but also from right across our community and this Assembly will then have to decide upon the outcome from that Commission.

3.6.8 Deputy T.M. Pitman:

The Minister really did not answer the question, in all fairness. Is he acknowledging that that was put to P.P.C. by him via his Assistant Minister, because that is my understanding? It did not just spring from P.P.C.

Senator I.J. Gorst:

I was not at that particular P.P.C. meeting. The Deputy is right to say that I had approached P.P.C. so that I myself could represent my opinion to them. That was taken away from me because they themselves decided down this course of action prior to my meeting with P.P.C., as he is fully well aware, because he was sitting in the public gallery when I attended upon P.P.C.

3.7 Deputy M. Tadier of the Minister for Education, Sport and Culture regarding plans to close down, reduce or replace the service provided by St. Brelade’s Youth Club:

Will the Minister advise if there are any plans to close down, reduce or replace the service provided by St. Brelade’s Youth Club which operates out of Communicare?

Deputy P.J.D. Ryan of St. John (The Minister for Education, Sport and Culture):

There are no plans to close the youth project at Communicare. There is a proposal to restructure the service in St. Brelade so that staff can also do more Outreach work at different locations. This more flexible approach would be good news for the Parish, enabling youth workers to target more young people, some of whom have been reluctant to use the existing traditional service based in one building. Youth officers have had a number of positive meetings with the Parish and the St. Brelade Youth Project Committee to explore the options. The details are not yet finalised and discussions are still ongoing. I might add that my Assistant, Deputy Rod Bryans, will be leading discussions with all stakeholders and all partners in the provision of youth service and no final decision has been made on anything as yet.

3.7.1 Deputy M. Tadier:

I am reassured to know that no final decisions have been made. I put it to the Minister that this is being motivated not by what is best for the community or for the young people and the families themselves, it is being motivated by finance and by the C.S.R. (Comprehensive Spending Review) cuts which I think, and many of my constituents think, will be a false economy as well as coming at a big social cost. The Minister talks about restructuring towards Outreach work. Will he agree that the 2 are not mutually exclusive? My fear, and this is what I would like him to confirm, is that when he talks about moving to Outreach work, that will necessarily mean a corresponding reduction in the fixed community work that they do in Communicare where you can play football and all sorts of things, which need a fixed and a sizeable building.

Deputy P.J.D. Ryan:

Yes, I would agree with the Deputy that the 2 are not mutually exclusive and that the 2 can go on concurrently but we have to work within budgets and that is a reality that we all face. Nevertheless, I would repeat that this more flexible approach, I have already said it in my answer, would be good news for the Parish and it will enable youth workers to target more young people and I have referred to these young people in the past as the “unclubbables” and particularly in St. Brelade as well as in other areas of the Island, and I have said it before, there needs to be more work in this area. We have to work within our budgets. We all know that that is a consideration but it certainly is not the complete consideration or the final one and, I would repeat, no final decisions have been made. I will come to reach a final decision when my Assistant Minister has concluded his discussions with all stakeholders and all partners in this area.

3.7.2 Deputy T.M. Pitman:

Does the Minister or his Assistant Minister realise that these are both 2 very different skills, 2 very different approaches to working with young people? Following on from what Deputy Tadier has asked, does he not accept - because I can tell him it will happen - that if he channels money away from one area into another, all he will do is lose on the one hand but gain ... it will be like robbing Peter to pay Paul. It is not going to be a win/win situation. Does the Minister take that on board because that is what will happen?

Deputy P.J.D. Ryan:

Yes, I do not pretend to have the kind of experience in the Youth Service that Deputy Pitman has and I accept that he knows more about this particular subject, and there are other Deputies as well who have first-hand experience of the Youth Service. I would be very interested to hear their views and I do take it on board and I will be very careful in my final decision, but I would like him to accept that whatever final decision I do make will be very carefully considered and it will have as its prime objective the wellbeing of the youth of this Island.

3.7.3 Deputy G.P. Southern:

If I may take the subject on to a wider range of issues. What progress has the new Minister made in delivering his C.S.R. targets, which his predecessor failed to deliver, and when will he bring any measures to the House?

The Deputy Bailiff:

That does not arise out of the question.

3.7.4 Deputy J.A. Martin:

I do appreciate where the Minister is coming from. I would just like to ask and I know it is increasingly harder, especially in St. Helier and I think St. Brelade being quite an urban Parish nowadays in certain parts, but does the Minister for Education or even all the Parish Deputies actively go out to recruit volunteers for these services because good volunteers can do the base at

Communicare whereas the volunteers for Outreach will probably need to be more experienced. I just would like to ask is he actively going out there to get more volunteers in the Youth Service?

Deputy P.J.D. Ryan:

I would like to thank the Deputy for that question and it is an area that I have not considered and I will consider it, and I thank her again for mentioning it. It is not something that I have discussed with my officers as yet. As many people can probably understand, I am currently in the process of looking at so many parts of what is quite a wide portfolio of responsibilities. Yes, I will take that on board and discuss it with my officers and my Assistant Minister.

3.7.5 Senator S.C. Ferguson:

Is the Minister aware that part of the Outreach work done in St. Brelade is by a member of the public who is fully trained, supported and funded by the Methodist Circuit and is he aware that there is also a flourishing Youth Club in St. Aubin again organised by this lady who is part of the Methodist community in St. Brelade? Has anybody from his department been down to look at the work being done at Communicare by the Outreach and down in St. Aubin?

Deputy P.J.D. Ryan:

Again, I would thank the Senator for bringing this to my notice. I have not looked in detail at the Youth Service myself. I have delegated that to my Assistant Minister, Deputy Rod Bryans, but he is listening to the Senator's question and I have no doubt that he will want to look at what goes on, both at Communicare and in St. Aubin, and I would like to officially thank that particular volunteer for the work she does.

3.7.6 Deputy T.M. Pitman:

First of all, I thank the Minister for his answers. I would ask him to take on board the strong feeling, which I think has come out in this Assembly, and there will be much more and equally strong feelings in St. Brelade because we know as a community the value that both the fixed and the outreach work provides. What I would like to ask the Minister is for an invitation to the next meeting because, as far as I know, certainly none of the Deputies - I am not sure about the Constable - has been invited into talks and we cannot rely simply on our youth workers because as well as being youth workers, they are also employees and they also feel under pressure from both sides. So will the Minister give an invitation to the representatives in the Parish to come along when the next meetings are held so that we can give our input and make sure that we steer this in a direction which is beneficial for the Parish and the Island?

Deputy P.J.D. Ryan:

Yes, I certainly would through my Assistant Minister. I am sure he will invite all politicians and other stakeholders as well and Parish officials into discussions with regard to the future of the Youth Service in St. Brelade. May I just say that any time that change is proposed, one of the most difficult things for anybody to do is to manage a change for the better but I would ask the Deputy to accept that whatever changes are being looked at are being done with the best possible motives. Although C.S.R. is an issue, they are not being done purely from a C.S.R. perspective. They are also looking at what is best for the future of the Youth Service. To repeat, he will be invited to discussions.

3.8 Deputy S. Pitman of the Minister for Social Security regarding alleged administrative problems within his Department:

Will the Minister advise whether there have been longstanding problems in his department concerning the loss of documents, data being mislaid and conflicting information given out to the public from different members of staff and, if so, what measures will he be implementing to resolve the situation?

Senator F. du H. Le Gresley (The Minister for Social Security):

I have been the Minister for just under 2 months and during that time, have spent many hours in the department, including a full day observing the reception, income support and work zone areas to understand how clients are dealt with. I have seen no evidence at all of the issues that the Deputy refers to in her question. My department deals with an enormous number of customers and individual claims. An average of 900 customers visit the department each day with a further 400 contacts by telephone. Tens of thousands of claims are processed each year. In any operation of this size, it is inevitable that individual documents will occasionally be misplaced despite having rigorous procedures in place. I can also reassure Members that the great majority of benefits administered by my department are subject to independent appeals to a formally constituted tribunal. If the problems suggested by the Deputy did exist, disgruntled claimants would be challenging the department through the independent process. In reality, in 2011, a total of 11 cases were considered by an independent tribunal panel with only one of those being decided against the department.

3.8.1 Deputy S. Pitman:

Does the Minister not agree or can he not understand that many people receiving benefits will not complain to the department for fear that they may lose some of their benefit? With regard to loss of records, *et cetera*, which was something I brought several times to the previous Minister who did absolutely nothing about it, he asked for evidence and I provided him with 3 cases and I have also experienced it myself, and I can provide that information to him. Recently, as he is aware, I brought a case to him in which the previous Minister went back on his word. The department was disputing phone records and the department said that they had only received one phone record and the client, who lost her teeth through epilepsy and cancer treatment, is still waiting for payment from the department of the initial treatment. That was back in January last year. She came up with 9 records from Jersey Telecom. Does that not concern the department that things are going wrong?

Senator F. du H. Le Gresley:

The Deputy asserted that people would be frightened to complain because they might lose their benefits. I think that is an incorrect statement to make and certainly while I am Minister for Social Security, if anybody has a complaint, I am quite prepared to look into complaints and to take it up with officers, so I do hope that the message goes out that people should not be frightened to complain if they have due cause and I will look into those complaints. With reference to the particular case that the Deputy refers to, it is impossible for me to go into details about an individual. However, I would say that this particular claim is still open, the Deputy is well aware of that, and that there are some minor matters really that need to be finalised before we can settle that particular claim. The matter of telephone calls, when we looked at the list provided, some of the calls were probably while the person was on hold waiting to be put through to an officer.

[10:45]

The Deputy Bailiff:

Can I say from the Chair that I have a rough and ready rule of questions that we have something like 7, 8, 9 minutes per question. We have spent 5 minutes on 2 questions so far so there are, I think, 5 Members wishing to ask questions. Can they please be succinct?

3.8.2 Deputy T.A. Vallois:

I have been advised by a member of staff at Social Security that they are regularly losing paperwork. Does the Minister not agree that an appropriate organisational system is not difficult to implement as he has worked in finance, as have I, in the past where dealing with paperwork is normal trend? Is this not, in fact, just poor customer service and poor management?

Senator F. du H. Le Gresley:

I am disappointed to hear that a member of staff has remarked to the Deputy that there is a problem. I certainly was aware when I took office that this was an issue that a number of States Members had brought to my attention and for the very reason that I sat in the areas that I described in my answer to the first question. If it becomes a persistent issue, I will do further research. I am used to running offices and I am aware of procedures that can streamline processes.

3.8.3 Deputy T.M. Pitman:

I appreciate that the Minister has only inherited his department recently but I too have been contacted by a member of staff who acknowledges this is a problem. Does he not concede that it is helping no one to keep up this denial? It is a real problem. I have sat in there myself, been told different information from different people. Now, there are some good staff down there and it is no disrespect to any of them but something is severely wrong in that department. Will the Minister promise that he will take it on board?

Senator F. du H. Le Gresley:

I cannot share the Deputy's view that there is something seriously wrong. I think the department is dealing with an enormous number of claims. It is one of the only departments of the States that handles massive amounts of paper and I think it is wrong to be over-critical, but I am aware that these are issues that Members are concerned about and I will look into it further.

3.8.4 Deputy G.P. Southern:

The Minister has just committed himself to a very busy time, I think, if he wants to look into complaints about Social Security. Is the Minister not aware that, in fact, any delay for many of the clients who are seeking benefit from the department means that these people are placed in severe financial distress often? When he talks about referring complaints to an independent tribunal, will he remind Members when that tribunal was fully staffed last and how long it took in the last couple of years to achieve a tribunal hearing because the answer, I believe, is months and that sort of delay is unacceptable on any claim.

Senator F. du H. Le Gresley:

The Deputy is straying into areas that I do not know about. I cannot talk about the tribunal because I have not had any experience of that but there is a process for redetermination of claims, which I am sure the Deputy is aware of, where another officer will look at a disputed claim and that is used frequently.

Deputy M. Tadier:

I will not ask my question. I think it has been covered sufficiently.

3.8.5 Deputy R.G. Le Hérissier:

Would the Minister not acknowledge, notwithstanding the enormous pressure that staff are under, that there is an issue with privacy in the office? Would he not also acknowledge that because of the need, it appears, for confidentiality to be respected with staff, cases are often dealt with by a series of different staff via phone calls. Is there any chance that a case officer system could be instituted in order to remove some of the inconsistency that inevitably arises?

Senator F. du H. Le Gresley:

I suspect today the States are trying to micromanage the Social Security Department but the issue of privacy is one that I have taken up since I have been Minister. We are looking at further soundproofing of the screens in the work zone and in the income support zone. We are also looking at providing further interview rooms on the ground floor, so certainly privacy. Some Members may have noticed that staff in some areas are now wearing name tags so that people know who they are dealing with, so I think there are a lot of things going on but I do not really want to spend today micromanaging my department.

3.8.6 Deputy M.R. Higgins:

As we are all aware, many of the people who are going to Social Security are the most vulnerable and many people are living hand to mouth waiting from one payment to the next and are really suffering. I have a concern, I have had concerns with lost paperwork and reports of that, it is an issue. Whether he thinks he is being told or not by his department, it is genuinely an issue but also an issue is the failure to send out cheques on time. People are waiting for the next cheque so they can go and get their food ...

The Deputy Bailiff:

Deputy, that does not arise out of the question.

3.8.7 Deputy S. Pitman:

I think the Minister has no idea of the reality. I think he needs a reality check when he says that members of the public will report loss of documents, records, *et cetera*, to the department and himself, and I hope he realises or will realise after this session that sitting at the desks and sitting in the department with members of staff, this is not going to happen. He is the Minister and I hope he will listen to States Members who have a vast experience and knowledge of the department and take on board what they have said in this Chamber because vulnerable people are losing out on entitlements. He said that he is going to look at this further and I am very happy to work with him on this. Will he consider retraining staff and also looking at disciplinary issues when he has looked into this issue and finds that it is a big issue for the department?

Senator F. du H. Le Gresley:

The inference that I should be involved in disciplinary procedures for staff, of course, is not my responsibility at all. That is the responsibility of the Chief Officer. I am quite prepared to talk and meet and I have already offered such a meeting with the Deputy, which unfortunately did not take place, to discuss the issues that she raises and other Deputies have raised today, but I would stress that I have confidence in the department. I think we are dealing with an enormous volume of claims at the moment and I hope people will respect that that is the issue.

3.9 Deputy G.P. Southern of the Chief Minister regarding the objectives for the new Strategic Plan:

Will the Chief Minister agree to prioritise the creation of a more equal society as one of the objectives of his new Strategic Plan and inform Members what specific measures, if any, he would choose to achieve this aim; and if not, why not?

Senator I.J. Gorst (The Chief Minister):

The Council of Ministers has just launched the public consultation process on the proposed vision and priorities for the next Strategic Plan. The priorities emphasise the need to create the right balance between social, economic and community issues with the intention of improving all

Islanders' lives. I hope that all Members will participate in the consultation process, which includes the proposal for an in committee debate, and I would therefore welcome Deputy Southern's participation, perhaps along the lines that he suggests in the next stages of the consultation process.

3.10 Deputy G.C.L. Baudains of the Chairman of the Privileges and Procedures Committee regarding a ban on the use of all electronic devices in the Chamber:

Would the chairman inform Members whether his committee has any plans to extend the ban on the use of mobile telephones in the Chamber to include all devices, such as BlackBerries and so on, and if not, why not?

Connétable A.S. Crowcroft of St. Helier (Chairman, Privileges and Procedures Committee):

The committee is in the process of establishing a sub-committee to review Standing Orders and the internal procedures of the States. As part of its work programme, the sub-committee will review the use of electronic devices in the States Chamber. All States Members have been invited to express an interest in joining the sub-committee and once that work has been done, the consultation process will take place where Members will be able to submit their views on this and other matters for consideration.

3.10.1 Connétable J. Gallichan of St. Mary:

I am sure the chairman is aware that the previous P.P.C. had lodged a proposition concerning the use of electronic devices in the Chamber. The work, I contend, has already been done and the consultation already undertaken. In this age of trying to limit the use of paper and improve efficiency, will the chairman undertake to re-lodge that proposition sooner rather than later so that we can all move forward into the 21st century?

The Connétable of St. Helier:

If the Members of the States are eager to get their hands on BlackBerries and even laptops, if the amendment lodged by the former Deputy de Sousa were to be re-lodged, then clearly the committee would want to move forward with that. The committee's current thinking is that all of these matters need to be looked at in the round rather than having a succession of debates on individual matters.

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

I note the terminology of the question which refers to a ban on the use of mobile telephones in the Chamber and I would like to ask the chairman to confirm whether or not there is indeed a ban on the use of these devices in the Chamber and if so, what has been done to enforce it as I am aware that many Members spend a great deal of time using these devices within the Chamber. It seems to me they are not paying attention to what is going on during the course of the sitting.

The Connétable of St. Helier:

Yes, there clearly are Standing Orders that relate to the use of these devices in the States and, as we all know, Members whose phones go off are subject to a fine. That is the situation at the present time. I suppose a blind eye has been turned to the use of such devices. I agree with the Constable. I think this matter does need to be sorted out and I agree with the questioner to the extent that I think we need to cover all such devices, not simply the ones that are currently being able to be used at the moment.

The Deputy Bailiff:

I just remind Members before questions go on for too much longer, the Standing Order says: “Before entering the Chamber, a Member of the States must switch off any mobile telephone and every other electronic device he or she has with him or her that would be likely to disturb the proceedings of the States.” In other words, there are 2 parts to the order. The ban does not prevent the use of mobile telephones and other electronic devices of themselves. What the ban does is say they must not disturb the proceedings of the States.

Deputy M. Tadier:

Can I ask a point of order in that case because it seems to me that because we have so many fines, mobile phones are very likely to disturb the proceedings of the States and therefore nobody should be allowed to bring in mobile phones under that order.

The Deputy Bailiff:

Under that Standing Order, the way it is dealt with at the moment is that a fine is imposed if the machine goes off.

3.10.3 Deputy T.M. Pitman:

Following on from your intervention there, I suppose most people think it is the ringing of phones that annoys people but I find it very distracting to watch someone playing with their BlackBerry. So would the chairman consider revisiting my proposition that I brought about 2 years ago and consider that as a way forward?

The Connétable of St. Helier:

I am not quite sure what the proposition is that the Deputy is referring to but I am sure he has received an invitation to join this sub-committee and perhaps he will bring his experience and his initiatives to bear in that way.

Deputy T.M. Pitman:

I will; it will be great not to be excluded.

3.10.4 The Connétable of St. Mary:

As you yourself have reminded Members of the actual wording of the Standing Order, the point that we have to deal with is surely the fact that a ruling was made by the previous President of the Assembly when another Member flouted the direction of the Chair. Surely it is not just a reading of Standing Orders that is necessary. We have a particular instance where something needs to be investigated and I still contend that the work has already been done.

The Deputy Bailiff:

Is that a question?

The Connétable of St. Mary:

Yes, does the chairman not share this belief?

The Connétable of St. Helier:

I agree a lot of work has been done on it. It has been supplied to me by the committee clerk, for which I am grateful, and I commend the work done by the previous P.P.C. under its chairman in this regard. I think this matter can be dealt with quickly and certainly the work of the sub-committee is not intended to take very long.

[11:00]

Deputy T.M. Pitman:

I have to raise another point of order. Can I ask the Constable of St. Mary to name the person she is referring to who flouted that particular order because that ...

The Deputy Bailiff:

That is not a point of order.

Deputy T.M. Pitman:

Yes, because if it is directed at me, I would like to repudiate that because I certainly did not flout any direction of the Chair on that occasion.

The Deputy Bailiff:

The world did not know who it was referring to.

Deputy T.M. Pitman:

I would be happy to debate that with the Constable.

3.10.5 Deputy G.C.L. Baudains:

I am grateful to the chairman for his answers and if I may take a similar vein to the Constable of St. Lawrence. Does the chairman agree with me that Members should be paying full attention in this Assembly to the business at hand and not sending text messages or playing electronic games, which seems to be the habit now with the increased use of BlackBerries?

The Connétable of St. Helier:

I do not think any Member would support the playing of electronic games during a States session. However, I do think that Members are capable of doing more things than one. They are capable of listening to a debate at the same time as sending possibly an urgent message to their department or a constituent. So I personally do not agree with him, but it is a matter for the States and my views really are not that important.

3.11 Deputy R.J. Rondel of the Minister for Health and Social Services regarding the cost of replacement surgery for those with P.I.P. breast implants in Jersey:

Would the Minister advise the Assembly of the number of people affected with P.I.P. (Poly Implant Prosthesis) breast implants in Jersey, how many of these implants were carried out for cosmetic reasons as opposed to medical reasons and whether there will be any costs met by the taxpayer if replacement surgery is carried out by private practitioners?

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

I have spoken to a couple of women in Jersey who are understandably very concerned about this issue. I am pleased to report that as far as I am aware, no public patients have had Poly Implant Prosthesis implants in Jersey or in our referral centre in Winchester. I am, however, aware of 6 women who have had P.I.P. implants, which were undertaken here in Jersey as a private patient. I believe these procedures were carried out for cosmetic reasons. Where appropriate, my department is helping these women liaise with a visiting consultant surgeon to achieve the right result on a case by case basis. Until the details are finalised, I am not able to confirm what the cost to the taxpayer might be. We will continue to monitor the advice being issued by the Medicines and Healthcare products Regulatory Agency in the U.K. but as it stands at the moment, we have no plans to fund the scanning or removal of P.I.P. or any other implants used for private patients who have elected to have cosmetic surgery overseas.

3.11.1 Deputy R.J. Rondel:

I thank the Minister for her answer and would just ask if she would come back if there is taxpayers' money used at the hospital.

The Deputy of Trinity:

Yes.

3.11.2 Senator S.C. Ferguson:

Would the Minister not agree that, in fact, the private clinics relied on the C.E. (*Conformité Européenne*) approval mark, which was approved by the French authorities, and would she not agree that it is a matter to be taken up with the French authorities in that they approved something which was substandard and would it not be advisable to talk with the U.K. authorities about this particular action?

The Deputy of Trinity:

This is a very complex case and I am sure there are quite a lot of private clinics who will take up this issue, and I am sure there will be a lot of legal meetings as well. The advice that we have had is from the M.H.R.A. (Medicines and Healthcare Products Regulatory Agency) and we will stick with it but, as I have said, I am not aware of any public patients either here or in our referral centre who have had this type of implant.

3.11.3 Connétable P.J. Rondel of St. John:

Were any of the Island's hospital facilities used by the private patients' practitioners and surgeons in having these implants fitted and if so, is the Island liable in any way whatsoever?

The Deputy of Trinity:

As I said in my answer, I am aware that 6 women had breast implants which were undertaken here in Jersey as a private patient. We, in fact, here acted as the clinic so we do have a duty of care to look at those 6 women.

3.12 Deputy G.P. Southern of the Minister for Social Security regarding the review of Income Support:

Will the Minister inform Members when he expects to have his review of Income Support completed and, in particular, can he state whether he has yet decided on a format for the publication of a breakdown of the £90 million plus Income Support budget in order to bring a measure of transparency and accountability to this large expenditure?

Senator F. du H. Le Gresley (The Minister for Social Security):

One major element of the income support review has already been published. A report covering the interaction between Income Support and Employment was issued as R.87 of 2011 on 19th July. My department is currently working very closely with the Housing Department on the future of rental support within the income support system and an independent review of private sector rentals is being prepared. Other aspects of the income support review will be undertaken during 2012 and I would expect to complete this work by the end of the year. I can confirm that I intend in future to publish an annual analysis of income support expenditure following publication of the States Accounts.

3.12.1 Deputy G.P. Southern:

Does the Minister already have a formula to suggest to him what that publication will look like and if so, can he publish that format?

Senator F. du H. Le Gresley:

There is a lot of information held within the computer system. It has not yet been presented to me in a format that I could release to Members but I have already given an assurance that this will be done following publication of the States Accounts.

3.13 Deputy J.H. Young of the Minister for Planning and Environment regarding amendments to Royal Court Rules:

What action, if any, will the Minister be taking to request amendments to the Royal Court's rules to ensure the third party objectors to the development of neighbouring properties are not excluded from Royal Court appeals against refusals and thereby denied their rights to an appeal under Article 1.1.4 of the Planning and Building (Jersey) Law 2002?

Deputy R.C. Duhamel (The Minister for Planning and Environment):

I understand the problems in this area and also agree with the drift of the Deputy in seeking to resolve these issues. At present, it is not unusual for third parties to be involved at all in any first party appeals and there is, as stated, a potential for appeals to go unnoticed by third parties and perhaps also the potential for decisions to be made which then exclude third party appeal rights. The Court, in deciding upon appeals, however, do consider all correspondence made by third parties in arriving at their decision. However, I do consider that this issue needs to be resolved and I have instructed my officers to include within proposals on the new planning merits appeal proposals to overcome these issues when we review the system later this year. Following that and subject to the results of the public consultation, necessary changes to the legal framework will also need to be contemplated.

3.13.1 Deputy J.H. Young:

Thank you for that answer. I would like to clarify with the Minister, please, whether he agrees that the problem that he has outlined arises from the States decision to replace the independent planning appeals arrangement, which was included within the Planning Law approved by this House to replace that with the Royal Court procedure and introducing the Royal Court Rules.

Deputy R.C. Duhamel:

Item 68 of the judgment does refer to that and suggests that when the Planning Law was originally passed, the proposal was that the Royal Court would no longer hear appeals but instead a new Planning Appeals Commission was to be created. This is going back to 2005. However, that did not happen, although it was suggested that a new planning merits appeal system should have been introduced. As I said, I think the problem has been readily identified. There are potential complications with the way it is being interpreted at the moment - and loopholes - and it is my intention, as I indicated earlier, to bring to this House further legislative changes in order to remedy those potential situations.

3.13.2 Deputy J.H. Young:

Just to ask the Minister to confirm if he agrees that the solutions potentially lie in re-examining the independent field process but, in the meantime, will he request changes to the current Royal Court Rules to at least reduce the chance of third parties being excluded and also to restore to them protection from costs and the right to lay representation on the modified procedure which the Royal Court Rules provide within the case of first party appeals they may not enjoy?

Deputy R.C. Duhamel:

As far as possible, yes.

3.14 Deputy T.M. Pitman of the Chairman of the Privileges and Procedures Committee regarding the decision to have the Electoral Commission chaired by a States member:

Will the chairman advise whether the recent decision by the Privileges and Procedures Committee at its meeting of 4th January 2012 to seek the agreement of the States to reverse its majority decision to have a fully independent Electoral Commission and allow it instead to be chaired by a States Member was made unanimously and, if not, would he advise which committee members voted in favour of the proposition?

The Connétable of St. Helier (Chairman, Privileges and Procedures Committee):

The decision to draft the proposition to appoint States Members as well as independent members to the Electoral Commission was made by the majority of committee members. Deputy Martin, Deputy Tadier and I expressed the opinion that the Commission should be comprised entirely of independent members. In lodging the proposition, Electoral Commission: composition and terms of reference, P.5/2012, the committee has given the newly constituted States Assembly a chance to decide whether or not States Members should be able to serve on the Commission. If any States Member believes that the committee's proposition should be amended to appoint independent members only, for example, then the opportunity is open to them to bring an amendment.

3.14.1 Deputy T.M. Pitman:

I sat in on that meeting on 4th January. The Deputy of St. Peter and Deputy Tadier were not there. My recollection is there were 2 votes against, the Constable of St. Helier and Deputy Martin, Senator Ferguson and the Constable of St. Clement and the deciding vote was left to Senator Bailhache, who this is all being done for so that he can take over the chairing of the independent commission. Is that not correct and does the chairman think that is appropriate because when I was on P.P.C., if something affected a Member who was there, they did not vote, they abstained.

The Connétable of St. Helier:

I think the Deputy's memory of events has possibly been confused because, in fact, there have been 2 meetings where this has been discussed by the committee. The 14th December was the first occasion when the committee discussed the matter and at that meeting, all members were present so perhaps he has only attended, I think, the second meeting. I am not sure which ones he attended. Perhaps he attended both. But in any case, I do not agree with his interpretation of what took place. The matter was discussed and put to the vote and that is what happened. It was a perfectly democratic process.

3.14.2 Senator L.J. Farnham:

Just to clarify on the previous question, could the chairman of the Privileges and Procedures Committee confirm that it is the chairman that has the casting vote in any equal number of votes being cast?

The Connétable of St. Helier:

That may or may not be the case but we were not in a position of equality of votes. There was a clear majority both times when we voted on this matter.

3.14.3 Deputy M.R. Higgins:

Just for the avoidance of doubt, I was slightly confused by the 2 meetings and so on, could the chairman just tell us again who were the members of P.P.C. who voted in favour of this proposition that has come to the States?

The Connétable of St. Helier:

Yes, I can, and indeed these are open meetings so they are attended by the media and by the public. Senator Bailhache has supported the proposition as indeed did the Deputy of St. Peter, the Constable of St. Clement and Senator Ferguson.

3.14.4 Deputy T.M. Pitman:

I do not forget meetings that I sat in unless Deputy Tadier and the Deputy of St. Peter were invisible but were there. There were 5 members and I stand by what I said. The final vote was left to Senator Bailhache and I think that is totally inappropriate and the public should know because the *J.E.P. (Jersey Evening Post)* have reported that completely inaccurately and refused to correct it.

[11:15]

The Connétable of St. Helier:

If I could just respond to that. If indeed there were 5 members at the session attended by the Deputy and the vote was 3/2, then I do not see how he can infer from that that Senator Bailhache's was the final decision-making vote because there were clearly 3 voting one way and 2 voting the other.

3.15 Deputy M. Tadier of the President of the Chairmen's Committee regarding Scrutiny Panel meetings held either wholly or partly in secret:

How many of the recently constituted Scrutiny Panel meetings have been held either wholly or partly in secret?

Deputy T.A. Vallois (President, Chairmen's Committee):

There have been a total of 12 Scrutiny Panel meetings since the appointment of the panel members on 24th November 2011. All meetings have been held in accordance with Standing Orders and the Code of Practice for Scrutiny Panels and P.A.C. (Public Accounts Committee) with agendas and approved Minutes being made in public. Not one has been held in secret.

3.15.1 Deputy M. Tadier:

I asked this question on the back of a local journalist who has blogged and said that he finds it very strange that certain agendas, in fact - which seem to conflict with what I have been told by the president, I am not sure which answer is true - have been made in private in secret. I simply want an assurance from the president, irrespective of what Standing Orders say, that there should be a presumption in general that all Scrutiny meetings should be held in public unless there are very good reasons to hold them in private. I think it is important that if she would consider sending a strong message out to chairmen that unless there is a very good reason to hold meetings in private, then they should be open to the public because currently the Scrutiny website states that panel meetings where they discuss agendas, *et cetera*, are closed and not open to the public and that does not need to be the case. It certainly was not the case when I was on Scrutiny.

The Deputy Bailiff:

Is there a question?

Deputy M. Tadier:

There were several questions, I think, Sir, so I will allow first of all the respondent to choose which one she wants to answer, as they do anyway.

Deputy T.A. Vallois:

As the Deputy will be aware, the purpose for Scrutiny meetings is for panel members to consider their work programmes, ongoing and new matters which have arisen and working arrangements for reviews. In panel meetings, members also consider progress of reviews, submissions received, sometimes in confidence, and generally to consider work in progress, report drafting and production of final reports. It has been agreed, therefore, that all Scrutiny working meetings will be held in private in accordance with the relevant Standing Orders. All public hearings whereby we question Ministers or witnesses before Scrutiny Panels will be held in public. This was agreed with the Chairmen's Committee meeting by all chairmen on I think it was the December meeting last year.

3.15.2 Senator I.J. Gorst:

The president has more or less answered my question in that it is wholly appropriate that there are times when Scrutiny Panels should meet in private, particularly when they are considering the contents of their reports and when they are considering question strategies for Ministers and does she not agree? I believe she does.

Deputy T.A. Vallois:

Yes.

The Deputy Bailiff:

Can I ask Members to remember that this is question time. It is not a time for debate.

3.15.3 Deputy G.P. Southern:

Does the president not agree that this, in fact, constitutes a major change in the way in which Scrutiny is run and that it constitutes further a lessening of transparency of what is happening in Scrutiny and is she concerned about this?

Deputy T.A. Vallois:

No, I do not believe it does lessen the transparency and the reason why I say that is there is nothing statutory that determines that Scrutiny should sit in every single meeting in public. The meetings that will be held privately will be determined with minutes and agendas that will go public, live on the website, and administered to anyone who wishes to see that information and through the bookshop at the Greffe. Every public hearing whereby the questions are relevant to the review at hand will be held in public. At this present time, there is nothing statutory that determines Scrutiny should hold absolutely every meeting in public. That never has been the case and at the moment is not the case.

3.15.4 Deputy R.G. Le Hérissier:

On the question of openness and the public, the very vexed question continued for some time of whether there should be videoing or recording in a visual way of proceedings. Would the president outline to us, in the light of their policy on what is or is not public, whether they will be continuing with the videoing of public proceedings by all people who seek to promote journalistic occupation?

Deputy T.A. Vallois:

This particular topic was discussed at the last Chairmen's Committee meeting, which unfortunately I was not well for. It was determined that, going forward, only accredited media would be able to

video Scrutiny meetings for the first 5 minutes of each hearing and we are looking into web streaming coming forward. We have also asked P.P.C. with regards to this but we are looking into it ourselves with Scrutiny at present.

3.15.5 Deputy T.M. Pitman:

Sadly, Deputy Le Hérissier has stolen my thunder. I am one of 11 members I think who saw Scrutiny through from start to finish. This was a continuing issue. It was never dealt with. Does the president not concede that this really should be dealt with in a fair way, that we get something in place so that everyone can sign up to a proper code of conduct? If they break it, they can no longer ... this 5 minute thing, it is absolute nonsense. Does the president not agree?

Deputy T.A. Vallois:

In my own personal view, I think the best way forward for Scrutiny is web streaming and that is the absolute 100 per cent way that the Chairmen's Committee agree on. That will open up to everybody to be able to see straight via the internet and there will be no more questioning about this videoing from whether they are accredited or non-accredited. Everybody should be able to access and see the information with regards to public hearings for Scrutiny. It does concern me and it is worrying that it is going to take a while for it to come forward but at present, that is our standardised approach that the Chairmen's Committee have agreed and will be agreeing going forward and we will not be reviewing it at least for another 12 months.

3.15.6 Deputy T.M. Pitman:

Could I just ask a supplementary, whether the president can say is streaming even something that is feasible with the expense? Is that not a red herring?

Deputy T.A. Vallois:

No, that is something that we absolutely want. We are looking into it. We are looking into how much it is going to cost. We are looking into what needs to be done with regards to Property Holdings coming in and sorting out the rooms and once we have that information we will determine it. P.P.C. are again reviewing whether they want web streaming, *et cetera*, but Scrutiny want to look into this and get it in place as soon as possible.

3.15.7 The Connétable of St. John:

Would the president confirm or otherwise, of those Members who have asked questions of her this morning in relation to this subject, how many of them sit on Scrutiny currently and those who are not new Members, i.e., who have been in the House longer, is she concerned that they have not put their name forward for Scrutiny, given if they are aware of how Scrutiny runs and should not be putting these questions if they are not willing to serve on the panel?

Deputy T.A. Vallois:

Unfortunately, it is up to each individual Member. It is their prerogative as to whether they want to serve on Scrutiny or not. I wish that many of the Members that have asked me questions would serve on Scrutiny because they have extreme talent and knowledge that would help us with the process and the procedure. Unfortunately, I understand their concerns and I know how they felt over the last 3 years and unless we were willing as an Assembly to work together to make Scrutiny work, then I do not see those Members serving on Scrutiny unless we can show that it can and will work.

3.15.8 Deputy M. Tadier:

So much for transparency. It seems that only Scrutiny members should ask questions of Scrutiny. Perhaps Ministers should only be the ones allowed to question Ministers. Now, I have no problem

with agendas where question plans are being set being done in private. That is why we have 'Part A' and 'Part B' agendas. What concerns me here is we have had a recent decision, that the president has confirmed, in December that panel meetings should be held in private, not may but should. Previously the discretion, as I understood it, was that it was the decision of the panel to decide what goes on the 'Part A' agenda, what goes on the 'Part B' agenda, so that all meetings are open to the public at least initially. Will the president give a reassurance because I think there is a tacit agreement that Scrutiny should be held in public, indeed, all government should be where possible. Will she give an undertaking to review this again at the next Chairmen's Committee meeting and to make sure that nothing goes on a private agenda, whether that is 'Part B' or a closed panel meeting, unless it is absolutely necessary because we should not be closing the public from anything where they have got a vested interest to know what is going on.

Deputy T.A. Vallois:

The Deputy suggests that we are closing off the public by having our Scrutiny meetings and when I say meetings, it is referring to looking at our drafts, our questions, our reviews, what we are going to be doing, as if we are doing it in private and away from everybody else and do not want anybody to know what is going on. That is not the case. Everything that will be discussed at those meetings will be minuted and will be available to the public. We have already discussed this at the Chairmen's Committee and it has already been agreed that we will be holding these meetings in private and I am reluctant to look at this situation again at the next meeting. I am willing to see how this goes for the next 6 months and possibly look at looking at it then but unfortunately I am not going to continue re-looking at things just because one Member outside of the Chairmen's Committee is not happy with the way that we are proceeding. We have agreed on a standardised approach. We want to move this forward. We want to make Scrutiny work and that is the way that the Chairmen's Committee believe is the best way to do it. **[Approbation]**

3.15.9 Deputy M. Tadier:

If I can just respond to say that it is not simply one Member outside. The question is, to quote the words of the president, if everything that goes on in the meeting is minuted anyway and the public can access it, then why do we not simply allow the public to go into the meetings in the first place so that they do not have to have second-hand information?

Deputy T.A. Vallois:

I believe I have already answered the fact that the Chairmen's Committee wish to go forward with having their meetings held as per Standing Orders where the minutes and agendas will be put forward in public and all public hearings can be accessed by the public whereby they can come and see what is going on and the questions that are being asked of witnesses.

4. Questions to Ministers without notice - The Minister for Education, Sport and Culture

The Deputy Bailiff:

Very well. That brings that part of Oral Question time to an end. We now come to Questions to Ministers without notice. The first question period is for the Minister for Education, Sport and Culture and questions will start now.

4.1 Deputy G.P. Southern:

Will the new Minister now answer my previous question, what progress has he made in delivering C.S.R. savings that his predecessor failed to deliver and when will he be bringing any such measures to the House?

The Deputy of St. John (The Minister for Education, Sport and Culture):

There are no easy savings in E.S.C.'s (Education, Sport and Culture) budget and I have already said that I am not prepared to make any cuts that will affect the education of our children. The department has an annual budget of more than £100 million so I am undertaking a careful review of all expenditure but this does take a little time. However, to answer the last part of the Deputy's question, I have set myself a target for Easter for making preliminary decisions about funding and hope to advise the House in more detail by then.

4.1.1 Deputy G.P. Southern:

Does the Minister consider that spending £20,000 on a consultative body to examine the terms and conditions of Jersey teachers in comparison with the U.K. was a complete waste of time since they failed to understand basic fundamental differences between Jersey and the U.K. and, in fact, the Jersey teachers and their representatives had to rewrite a substantial amount of their report because it was simply wrong. Was that not a waste of £20,000 of taxpayers' money?

The Deputy of St. John:

Any questions about the States employees' pay and conditions must, I am afraid, be referred to the States Employment Board, which is chaired by the Chief Minister, because they are the employer. I cannot pre-empt or speak for the States Employment Board on any matters to do with teachers' pay and conditions.

[11:30]

4.2 Deputy S. Pitman:

Does the Minister not recognise that the Youth Service provides informal education and could he tell Members what services are to be cut with the C.S.R.?

The Deputy of St. John:

First of all to deal with C.S.R., an amount of money has already been cut and one F.T.E. (Full-Time Equivalent) person has been removed from the service. There is another approximately £80,000 to £100,000 worth of C.S.R. savings to be made in the Youth Service. This is a decision that I have inherited from my predecessor and indeed the States Assembly who approved those cuts in the Business Plan. There are proposals that have been put forward that have involved moving 7 or 8 members of staff between various youth projects in the Island but no final decision has been made. As I have already said in Oral Questions my Assistant, Deputy Rod Bryans, has taken responsibility for this area and he will be talking to all of the people involved before plans are finalised and I hope to get back to Members with my decisions in a report within a month.

4.2.1 Deputy S. Pitman:

A supplementary. The Minister mentioned that a full-time member of the service is to be cut. Could he tell us what impact that will have on the service, and also the £100,000; where is that cut coming from in the service?

The Deputy of St. John:

I have not finally decided where the cut will fall and how it will fall. That will form part of my deliberation over the next month. The member of staff and the one F.T.E. has already been cut during 2011, so that has already gone from the budget. I hope that answers the question.

Deputy S. Pitman:

The Minister did not answer my question with regards to the full-time employee cut, what impact has that had on the service?

The Deputy Bailiff:

That is the second part of the question.

The Deputy of St. John:

Yes, I am sorry. I am assured by my department that that particular member of staff was in the management area and other people have taken on the responsibilities of that particular manager. It is not a front line position that has been cut. It is a management position and others have been moved to cope with it, and I am assured that it will not have affected the front line service in any way.

4.3 Deputy M.R. Higgins:

Could the Minister bring the House up-to-date on the negotiations with the U.K. higher education bodies with regard to fees, and advise the House what impact it is going to have on his budget, with some figures hopefully, or an indication of, the cost of these higher fees and the effect it is going to have on his budget?

The Deputy of St. John:

Following negotiations we believe that most U.K. universities plan to treat Jersey students the same as English students from September, i.e. to charge them the same fees. We did publish a list in December on the States website that identified a number of universities that said that they would be setting either different or higher fees for Jersey students, but the changes in higher education funding in the U.K. are very far-reaching and quite profound. U.K. universities have moved from being Government controlled and funded to being commercial enterprises in the full sense of the word and they have significant discretion on charging different fees to different people and also different fees within their own institutions. They do not finalise their fees until March or April, so there is still some uncertainty and it is important... and I would stress that Jersey students and parents approach entry to university as if they would when they were purchasing any other type of goods or service. They will need to shop around and consider both price and quality and I would advise them to confirm with a university exactly what their fee will be. In short, it is still a fluid situation and it is unclear how it will affect our budgets. We do not think, however, that there will be any changes for the intake with various fees to students that are already halfway through courses or indeed we do not think that there will be any changes for the intake in September 2012. Certainly it is business as usual for students entering university in 2012 as far as my department is concerned.

4.3.1 Deputy M.R. Higgins:

A supplementary. Could the Minister give us an indication on a worst case scenario based on tuition fees of £9,000 per annum what sort of figures, judging the number of students who have been going to university from the Island, what the impact is going to be on the department's budget?

The Deputy of St. John:

With respect to the Deputy's question I have already said that it is still very fluid and I cannot say what a worst case scenario or a best case scenario at this point might be. We are still formulating. It is too early. We will be in a position halfway through this year as part of a review of further education to be able to provide the kind of information that the Deputy is looking for, but it is still unclear at the moment and I do not want to start hares running by making pure guesses. I am afraid that is not my style.

4.4 Senator A. Breckon:

Regarding the school population, can the Minister tell the House if there are more or less students now than was predicted in September 2011? If not, can he provide the information and say which schools have more or less students than were predicted then?

The Deputy of St. John:

The Senator is asking me questions about demographics. At the moment there is a small reduction in secondary numbers heading over the next 3 to 5 years but there is an increase in primary pupil numbers. There is a bulge in other words. This bulge goes through the education system on an annual basis. So, in 3 to 5 to 6 years' time the bulge that is currently in primary will work its way into secondary. That is as far as I can see ahead, approximately to just before 2020.

4.4.1 Senator A. Breckon:

That was a very interesting answer but it was not the question I asked. It was to do with the prediction in the school population for September 2011 and whether the current education population is more or less than was predicted in 2011.

The Deputy of St. John:

I think it is about the same. I do not think that there have been any changes between 2011 and what we now know. Is the Senator talking about in the primary sector or in the secondary sector? I am unclear.

The Deputy Bailiff:

You are the one who has got to answer the questions, Minister. Connétable of St. Lawrence.

4.5 The Connétable of St. Lawrence:

From a cultural perspective what plans, if any, does the Minister have to recognise or indeed to celebrate the Queen's Diamond Jubilee?

The Deputy of St. John:

I thank the Constable for that question. There are a number of initiatives being discussed by the Bailiff's Consultative Panel, of which I am a member, but it would be right for that particular panel to give out whatever information. I know we are getting to the point where that panel is going to release information and plans but although I have been involved in the discussions, it would be wrong for me to pre-empt that.

4.6 Senator L.J. Farnham:

Could the Minister just update the House as to the current state of play in relation to the funding proposals or any changes in funding proposals to the Island's States-funded private schools?

The Deputy of St. John:

The States made a decision last year to put all the questions of changes to grants to private schools, the fee paying sector, on hold and they also made the decision to put on hold the same kind of funding for the non-fee paying sector. That is where we are at the moment. Via another question from Deputy Southern I was asked about C.S.R. The 2 are linked and I have already said that I am not prepared to do anything that will affect the education of our children, and that includes very much the fee paying sector as well as the non-fee paying sector. The 2 are, in our system, inextricably linked and that is where we stand.

4.6.1 Senator L.J. Farnham:

Just a further clarification; he said that the States had agreed to maintain the *status quo*. Is he sure that is for all fee paying schools? Could he just clarify the position with the preparatory private schools, St. George's and St. Michael's?

The Deputy of St. John:

The States excluded deliberately St. Michael's and St. George's and there are some changes there. In the case of those schools, we are applying a graduated grant cut; in the case of St. Michael's over 5 years and in the case of St. George's a proposal was made to the Minister for Treasury and Resources for an invest to save one-off payment to St. George's School in lieu of reducing the grant over a period of time. This is specifically for St. George's to be able to purchase their buildings and land and by so doing we have in fact stabilised that school whose future was looking under threat due to increases in various costs because they did not own their property.

The Deputy Bailiff:

Minister, your time has now expired. We have talked it out and we now come on to the second ... [Aside] yes, not very many. Six Members placed questions and there were 2 supplementaries. So, I take the opportunity of reminding both those who ask questions and those who answer them that their questions and the answers are required under Standing Orders to be succinct.

5. Questions to Ministers without notice - The Minister for Health and Social Services

5.1 The Connétable of St. Mary:

Will the Minister advise whether her department has a policy on the upper age limit for employment and whether where all other factors such as qualifications, C.P.D. (Continuing Professional Development) and references, *et cetera*, are satisfied, age is an automatic barrier to employment?

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

Thank you, and I do try and be brief. I understand that a parishioner has contacted the Constable with this and in the case of recruitment of whatever age clinical quality and risk remains a priority and applies, as I said, to any case of recruitment. But also the Chief Minister in the discrimination pledge, which in most departments do make a pledge that in retention of recruitment and employment there will be no discrimination against age but it is on a case-by-case, and fitness to practice obviously is vital.

5.2 Deputy M.R. Higgins:

Can the Minister bring us up-to-date? Following the death of nurse Elizabeth Rourke a number of members of staff were suspended and have now returned to duty. Can she confirm that the consultant concerned is carrying out the full duties of a consultant and if not, why not?

The Deputy of Trinity:

It would be totally inappropriate of me to go down to actual cases. Suffice to say that there are 2 doctors who are on restricted practice and we are always trying to involve them and to get them to training and back to work as soon as possible, if that is possible, and all action is done through the H.R. (Human Resources) Department working with them.

Deputy M.R. Higgins:

A supplementary?

The Deputy Bailiff:

I had called for Senator Ferguson. Senator Ferguson.

5.3 Senator S.C. Ferguson:

Given that the original plan was for H. and S.S. (Health and Social Services) to take monies from the Health Insurance Fund in 2011 and 2012, will the Minister inform the Assembly as to the progress in moving the services listed as being primary care being undertaken by H. and S.S. to primary care providers?

The Deputy of Trinity:

Yes, some work is being done but, as you can expect, it is a huge piece of work and that is part of the strategic road map that we will have to look at and also will come out in the White Paper.

[11:45]

There are 8 outlined business cases which are being worked through at present and looking at the areas where there is a lot of service pressure and to bring some areas of that into what the Senator said about the primary care services is to work that in with the primary care, but it is down to resources and time, but it will have to be done.

5.3.1 Senator S.C. Ferguson:

Would the Minister not agree that there are some quick wins? The antenatal services: some of the G.P. (General Practitioner) practices have set up clinics. Smoking cessation: that is a very easy win to move to the primary care sector. Why are the easy wins not being taken?

The Deputy of Trinity:

She is quite right. There is, but they all have to be worked up to make sure that there is enough resources going forward and the most appropriate services are put in place for the right reason.

5.4 Deputy J.M. Maçon of St. Saviour:

Back to the P.I.P. implants; we have heard that these have non-medical grade silicone but there is no evidence to say that they are toxic. However, these implants can leak silicone, and does the Minister feel that there is enough information regarding the health implications of having silicone within the body and whether this type of information needs to be better communicated to Island residents?

The Deputy of Trinity:

I know that the Department of Health has commissioned an expert panel, or expert advice, whatever you call them, to look at all this area of implants. At the moment there is the information coming out from the Department of Health and from the M.H.R.A. to say that there is no evidence to recommend that implants should be routinely removed. If there are clear, clinical grounds for any removal of any implants then we will look at it on a case-by-case basis, and also we will continue to monitor what comes out of the expert panel.

5.5 Deputy M.R. Higgins:

If there is time I will come back to the supplementary I was going to ask before. However, I would like to ask a new question. Does the Minister think it is right that doctors should ration their time in terms of appointments and that if a patient comes in with a number of ailments, because we all know the cost of going to a doctor is very expensive in the Island, if they have got a number of ailments the doctor should say: "Oh, 10 minutes is up, you should have booked a double appointment, we will make another appointment", does she think that is acceptable when we are going to be moving to a primary care model based on doctors?

The Deputy of Trinity:

I am unsure if the Deputy is talking about time with G.P.s or time with consultants.

Deputy M.R. Higgins:

Time with G.P.s.

The Deputy of Trinity:

The time with G.P.s does not fall under my remit; it falls under the remit of Social Security. I would like to think that all doctors, whether they are in primary or in secondary health, will have time for the patient.

5.6 Deputy K.L. Moore of St. Peter:

On 9th December the Minister made a decision to increase various service charges for the Community Contraception Clinics. One of the changes was to increase the attendance fee from £10 to £15. This would also be applied to the Well Woman Clinic. Could the Minister explain the rationale behind the increase in fees and to whom it will be applied?

The Deputy of Trinity:

Yes, I made a ministerial decision and the report attached to it is on the website. As I understand it, there have been no increases in the cost of the services since 2005 and the cost of contraception has not increased since 2003. As you appreciate the cost of different types of tablets or contraception advice continues to increase as drugs increase well above the cost of inflation. The cost of that was that we changed more priority to the under-23s. This is an important service and it needs to continue but this service can also be provided by our primary care with G.P.s and our cost falls well below the cost of those provided in the private sector. Also, for the under-21s there is also Brook Service, which do a very vital and important service.

5.6.1 The Deputy of St. Peter:

Does the Minister believe that dealing with the Island's sexual health problems is a lesser priority than the cessation of smoking, for example?

The Deputy of Trinity:

No. They are both very important and they will continue to be important and sexual health is important, and that is why we do a contraception service, but we do not need to provide everything for everybody all of the time. As I said, the G.P.s continue to provide a very good service as does Brook, as does our Well Woman Clinic and that will continue.

5.7 Deputy T.A. Vallois:

With the recent departure of the Social Services Director, what training initiatives are in place to ensure staff can work their way up through the system to ensure that in future one of them will possibly become a director to serve for Health and Social Services in the States of Jersey?

The Deputy of Trinity:

I take this opportunity to thank the leaving Director of Community and Social Services. He is leaving for personal and family reasons and he has done an enormous amount of good work over the last 18 months and I would like personally to thank him for that. We are looking at internal re-arrangements to provide ... because that role is essential. It was a new role that he went into and internal management, but succession planning is important and it is high on the list of the Chief Executive Officer to make sure that the future planning of our directors especially hopefully will come within Island and also that training is important. They need to get the experience of having a wider U.K. perhaps Social Services Department or in the case of the Managing Director of the

hospital, whoever he or she will be in years to come, needs to have experience of an acute hospital setting.

5.8 Deputy R.G. Le Hérissier:

Building on Deputy Vallois' question, would the Minister comment on the oft made assertion that Social Services is the poor relation, and if indeed this is the case, what steps is she taking to strengthen its influence?

The Deputy of Trinity:

I think it is fair to say that over the last years - before my time I hasten to add - that Social Services might have been the poor relation, but I think the importance of having a Director of Community and Social Services has made a tremendous difference. I know I take a great interest in Community and Social Services by visiting the group homes - Sandybrook, The Limes - because it includes all those, and St. Saviour's too. There has been some investment as we know with St. Saviour's Hospital the £2.1 million in refurbishing, *et cetera*. It is going to be even more important as we go forward to cope with our ageing demographics. Yes, it has to be high on not only my agenda but the States of Jersey agenda.

5.9 Deputy R.G. Le Hérissier:

A supplementary. Has the Minister got evidence that in all the areas of cover - adult, mental health, children's services, *et cetera*, that it is now benchmarked to standards of which she is proud and that relevant resources are in place?

The Deputy of Trinity:

I think it would be very foolish to say: "Yes, everything is in place and everything is rosy." There is a tremendous amount of work to do in all areas, let alone Community and Social Services but also in the acute hospital settings and as the road map and the White Paper will say, as I have said, with the 8 outlined business cases those are just the tip of the iceberg where we have to redesign Health and Social Services for the future. One last point is that Health and Social Services are one department and I know that different health authorities in the U.K. are looking at bringing them together because the synergy is so important.

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

The Minister speaks about her concerns over sex and health matters and that it is treated as a similar priority to the cessation of smoking, yet I would like to ask the Minister, is it not the case that people who choose to stop smoking are not charged for the service and yet this new decision means that women with sexual health problems over the age of 23 will now be faced with a charge?

The Deputy of Trinity:

With the Well Woman Clinic there has always been a charge for this service. As I said it has increased from £10 to £15 and that has not been increased since 2005. The cost of actual contraception does, as I said, go up each year. It is important but then we have to be realistic that if we did not charge the money would have to come from somewhere.

5.10.1 The Deputy of St. Ouen:

Is it the Minister's intention, in a similar vein, that the cessation of smoking and the support that is now offered currently free of charge she will seek to introduce charges for that too?

The Deputy of Trinity:

I cannot comment on that seek to introduce charges but it is one of those things that perhaps needs to be looked at because smoking is a high priority too because it does a lot of damage, as we know, and can cause a lot of anguish and hardship as people get ill due to smoking.

5.10.2 The Deputy of St. Ouen:

Finally, as the proposed user pays charges are above the Treasury cost of living limit, has the Minister sought Treasury approval on the increase?

The Deputy of Trinity:

Yes.

5.11 Senator L.J. Farnham:

In the interests of protecting the health of the people of our Island and saving lives, would the Minister support a ban on the sale of cigarettes and tobacco by cigarette vending, and if so, when and, if so, would she be prepared to instigate such an important move?

The Deputy of Trinity:

That is a very interesting point because I had a discussion with the Health Improvement Officer last week about the vending machines, and pictorial warnings on cigarette packets comes into force at the end of this month and there is an issue with vending machines. My personal view is yes, I would like to see vending machines banned because I know that under-18s or under-16s do use vending machines regularly, but that is my own personal thought and I am sure the trade will make comment accordingly.

The Deputy Bailiff:

Very well, that brings the time for Questions without notice to the Minister for Health and Social Services to an end. There is nothing under J or K. We now come to Public Business.

PUBLIC BUSINESS

6. Election campaign period: restrictions (P.174/2011) - proposal of the chairman of P.P.C. to defer debate for 3 months

6.1 The Connétable of St. Helier:

Sir, before we start Public Business, could I put something before the Assembly in relation to the work set out under L for this week? There are 3 projets - P.174, P.187 and P.188 - to which the Privileges and Procedures Committee have essentially said that reviews are underway on these matters and they would recommend that these matters are not taken this week because it is not a good use of Members' time and we would be seeking their deferral, and if I could seek to defer those 3 items now it will save doing it on 3 occasions or on 2 further occasions during the week.

The Deputy Bailiff:

Very well, Chairman, those 3 projets are deferred.

Deputy R.G. Le Hérissier:

I was going to challenge it. Sorry, I did not realise a little debate was going to ensue.

The Deputy Bailiff:

It is open, I think, is it not? Are you withdrawing them or just deferring them?

The Connétable of St. Helier:

No, they are not ours. We put comments to them and I am seeking the States agreement that they should not be taken.

The Deputy Bailiff:

I beg your pardon. I was looking at the comments and not the fact you had not lodged them. P.174 first. Deputy Le Hérissier, do you oppose it being deferred?

Deputy R.G. Le Hérissier:

I have no major issue with what the Constable is saying, Sir. The only issue is when we corresponded on the matter I did tell him I thought what was important was the timeline for the study. As has been previously mentioned in Questions, the States of Jersey history is littered with reports which come too late, they disappear into the ether, they are ... *et cetera, et cetera*.

The Deputy Bailiff:

I am sorry, Deputy. It is just a question whether you agree it is deferred or not.

Deputy R.G. Le Hérissier:

I therefore wish to present it, Sir, and hear the Constable's answer to that extent but other than that I would be quite prepared thereafter.

The Deputy Bailiff:

So, I think eventually it could be deferred. P.187 - that is Deputy Baudains. Do you agree that it should be deferred?

Deputy G.C.L. Baudains:

Could you remind me, Sir, when exactly the chairman is proposing this should be debated?

The Deputy Bailiff:

He did not say when he is proposing it should be debated.

The Connétable of St. Helier:

Sir, I would seek a deferment of, in the first instance, the Election campaign period: restrictions P.174.

[12:00]

We formed a sub-committee. I have invited Deputy Le Hérissier to be on that sub-committee and I think we could get the work done within 4 or 5 months. I mean it should not take any longer than that. So I am basically seeking to have these items deferred. The Machinery of Government one, P.187, is clearly going to take a bit longer, but we would ... again we have invited Deputy Baudains to be on that sub-committee and we will endeavour to get the work done as quickly as we can.

The Deputy Bailiff:

Deputy Trevor Pitman, do you agree that your proposition should be deferred?

Deputy T.M. Pitman:

Absolutely not, sir.

The Deputy Bailiff:

Very well. I think ...

Deputy T.M. Pitman:

I would be happy to explain why as well.

The Deputy Bailiff:

We have got the position, chairman, where you have made the proposition these 3 projects to be deferred and do you wish to speak to any more detail?

The Connétable of St. Helier:

I have not had a chance to speak to P.188, but perhaps if we could have a decision on the other 2 first and go on to Deputy Pitman's.

The Deputy Bailiff:

Very well. That could be a vote taken separately. So you can propose them one by one if you wish.

The Connétable of St. Helier:

Thank you. I propose first of all that P.174 be deferred from this sitting, Election campaign period: restrictions.

The Deputy Bailiff:

Is that seconded? **[Seconded]** Do you wish to speak any further on it, Connétable?

The Connétable of St. Helier:

No, sir.

The Deputy Bailiff:

Deputy Le Hérissier, you do not mean to speak to present your proposition and then have it deferred afterwards, do you? That would not on the face of it seem very sensible.

6.1.1 Deputy R.G. Le Hérissier:

I was going to show an example of poor sense, I am afraid. The reason is I think 4 months is a bit excessive. If the Constable could be a bit tighter in his deadline, I would be more reassured. This follows on from the last election; it follows on from a lot of public dissatisfaction and a lot of Members' dissatisfaction, and that is why I would like a fairly rigorous and robust approach.

The Deputy Bailiff:

A fairly straightforward question, chairman. Can you improve on 4 months?

The Connétable of St. Helier:

How does 3 months sound? **[Laughter]**

The Deputy Bailiff:

There is an undertaking from the chairman of Privileges and Procedures to bring it back in 3 months' time. We cannot have a debate at length on this, Senator.

6.1.2 Senator A. Breckon:

Could I just ask a question of the chairman on this? This was lodged on 21st October in the Standing Order system. When would it fall, because I think it has to be debated within a period and it is the right of an individual Member to request that? It might well fall if this thing takes 3 months.

The Deputy Bailiff:

I am advised by the Greffier it would fall on 21st April. So 3 months is within that timetable, which is a good concession to make.

Senator A. Breckon:

The chairman of P.P.C. is saying it could be brought back before that time.

The Deputy Bailiff:

He does appear to be saying that.

The Connétable of St. Helier:

Certainly; and there may well be other propositions that arise out of the sub-committee's work and there may be a package of measures brought forward, hopefully with Deputy Le Hérissier's participation

The Deputy Bailiff:

It is a very straightforward matter. Do Members wish to debate it today? Can I ask those Members in favour of voting today ... sorry. The proposition is to defer it, and I ask those Members in favour of deferring it from today kindly show. The appel is called for. The vote is on whether to defer the taking of P.174, the Election campaign period: restrictions. I ask Members to return to their seats and I will ask the Greffier to open the voting.

POUR: 29		CONTRE: 10		ABSTAIN: 0
Senator P.F. Routier		Deputy J.A.N. Le Fondré (L)		
Senator P.F.C. Ozouf		Deputy of Trinity		
Senator A. Breckon		Deputy S.S.P.A. Power (B)		
Senator S.C. Ferguson		Deputy S. Pitman (H)		
Senator A.J.H. Maclean		Deputy K.C. Lewis (S)		
Senator B.I. Le Marquand		Deputy M. Tadier (B)		
Senator F. du H. Le Gresley		Deputy T.M. Pitman (H)		
Senator I.J. Gorst		Deputy E.J. Noel (L)		
Senator L.J. Farnham		Deputy T.A. Vallois (S)		
Senator P.M. Bailhache		Deputy M.R. Higgins (H)		
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérissier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				

7. Machinery of Government: review (P.187/2011) - proposal of the chairman of P.P.C. to defer debate for 3 months

The Deputy Bailiff:

We now come to the proposition to defer P.187 - Machinery of Government: review –of Deputy Baudains. Do you wish to speak any further to that?

7.1 The Connétable of St. Helier:

No. I think Members have been invited to join this and I would hope again that Deputy Baudains is part of it, and while we could not do it in 3 months we would certainly aim to do it as soon as possible.

The Deputy Bailiff:

Is the proposition seconded? [**Seconded**] Deputy Baudains.

7.1.1 Deputy G.C.L. Baudains:

I am not happy about that because in December of last year the chairman informed us he wanted delay so the committee could look at things in the round. Yesterday we received an invitation to join 2 sub-committees. I do not believe those sub-committees are going to achieve a great deal, because they are 2 sides of the same coin. I believe there is going to be duplication and confusion. Also I am sad to note that P.P.C. has put the Machinery of Government at the bottom of their agenda with Constitution as the first item in the agenda; whereas in actual fact Constitution flows sub-sequential to Machinery of Government. I believe we need to debate this proposition, because otherwise there is going to be delay and what I am really concerned about is when P.P.C. proposals do come back to this House in due course, they will probably be rejected for the reasons I have just outlined. We really do not need any delays. It is a simple matter. I am not asking Members to approve what I am saying. I am asking them to allow P.P.C. to come back with proposals which could then be approved or rejected at that time. I am quite sure that the chairman's views are well intentioned, but I do not believe it will be helpful to this Assembly.

7.1.2 Deputy M. Tadier:

Just to allay the fears I think of the Deputy of St. Clement. I hope he knows that I am one of those Members who will always fight for the rights of the Back-Bencher - indeed, any Member - to have their proposition heard. The reason this has been delayed is because we are looking at things in the round. I will give an example: I lodged a proposition which is largely similar - not exactly the same - which has yet to be discussed by the panel and it deals with the issues about Scrutiny members, about Ministerials, about the way they are elected, about whether Ministers should be able to vote for Scrutiny members, *et cetera*, whether Scrutiny members should be voted for entirely in public. It seems simply pragmatic that we discuss this first to know what the outcome is from P.P.C., and I think the Deputy has been invited to join in those discussions and I think simply for expediency there is no point in having similar or the same debate again, which is ... we know time is very valuable in this Assembly. So I hope that the Deputy would not take this badly, but simply come and join us on board; come and talk to either the committee or the subcommittee. I think a lot of the issues that the Deputy wants to be raised certainly will be raised and hopefully a lot of the remedies will certainly given serious thought; and hopefully many of the solutions will be common to what is suggested in this proposition.

The Deputy Bailiff:

I remind Members this is only a decision on whether to defer the debate. If no other Member wishes to speak, then Deputy Trevor Pitman.

7.1.3 Deputy T.M. Pitman:

I just want to completely support the Deputy of St. Clement. I think this is a slippery slope we are going on where we are going to see the erosion of Back-Benchers' ability to represent their constituents, and I am very disappointed to see the Constable of St. Helier going down this route. I wonder who is wearing the trousers now in that committee. But I mean this is wrong. P.P.C. alone cannot have the mandate to bring things on representing the people and I think the Deputy of St. Clement has got every right to hear this, and I do think it would be a very backward step. I certainly would like to propose the deferment of the hijacking of the independent Electoral Commission.

7.1.4 Deputy J.A. Martin:

As a member of P.P.C. I really feel the same as Deputy Le Hérisier's comments on his proposition. This proposition ... if we discuss this today we are totally duplicating. You are sending it back to P.P.C. The chairman who is now the chairman said we did not want to replicate work, and then we have been asked to bring back the Electoral Commission in 3 months. But today we could spend another day deciding which way; as you say, tying the hands of the people. We have asked for it to be inclusive. It asks what we are doing. It says to tell P.P.C. to look at the machinery of government. The only thing that the Deputy of St. Clement feels is that we have put it at the bottom of the list, and that is not true. We have a list. Somebody has to go at the top; somebody has to go at the bottom. But there is no timescale. We are trying to get them all done to get back to this House for the elections in 2014. So I do not say that Back-Benchers cannot bring it, if you want to have 2 debates or even 3, because when our proposition comes back everybody will get a chance to amend it, if there are little bits they like about it, little bits they do not like. I fully support the chairman of P.P.C.; otherwise we can have 3 debates on every situation, and tie our hands already.

The Deputy Bailiff:

Is there really anything that Members wish to add? It is a straightforward decision.

7.1.5 The Connétable of St. Mary:

I just want to know very simply: I have heard from Deputy Martin about tying P.P.C.'s hands and I fully understand that. For heaven's sake, for goodness sake, it happened so many times when I was chairman and I sympathise with the chairman. However, what the Deputy of St. Clement is saying is putting a timescale to this, because after the Constable of St. Helier was elected chairman he gave an interview which I saw, in which he spoke about Machinery of Government reform and he said he did not think that was one of the crucial things that had to be resolved at this moment in time. On that point I definitely beg to differ. We have heard the Chief Minister this morning saying how he is hoping to have more inclusivity by allowing people ... Sorry, sir. I do not think that is funny because I think he genuinely does want inclusivity; I honestly believe that. The system we have at present does not allow that. We heard the Chief Minister himself say that this morning. What Deputy Baudains is saying is that that is urgent to be resolved. We need to do that during 2012 while this Assembly is in place to enable the Chief Minister's wish of inclusivity to be embodied by this Assembly. Allowing it to go into the fullness of yet another review - we have had a Machinery of Government review in each of the last 2 P.P.C.s. I know because I saw them both through. What Deputy Baudains is saying is, it is time now to bring something forward from that and to do it during 2012. So this definitely should be debated. I really feel strongly about that.

7.1.6 Deputy J.A.N. Le Fondré:

Can I just add as well to reinforce the point: it seems pointless determining how many States Members we are going to have if we do not know what system we are going to operate under. So I think we should be debating this.

7.1.7 Senator P.F.C. Ozouf:

I hesitate to rise, but we had a similar debate on Machinery of Government reform last session, which ended in confusion with some Members wanting to support the proposals but ending up with difficulties in terms of whether we were moving to a Ministerial system or back to the committee system. We are going to waste our time because of this debate. I support the move for P.P.C. having a review and coming back and debating it in 3 months, and urge Members to support the line that P.P.C. is suggesting.

The Deputy Bailiff:

Chairman, do you wish to clarify?

7.1.8 The Connétable of St. Helier:

Yes, I just need to clarify a couple of things, thank you. I do not agree with Deputy Pitman that this is a slippery slope, except it is a slippery slope to saving time. Nor does it exclude Back-Benchers. Back-Benchers are invited to take part. I do take the Constable of St. Mary's point about the date, but the committee is intending to bring this back. So effectively we agree with Deputy Baudains that this matter needs to be reviewed, and it needs to be done within the current year, which is what he has asked for. If Members want to debate it they can; but basically the committee, while we do not accept some of the assumptions in Deputy Baudains proposition, we do agree that the matter needs to be reviewed. We need to have an informed debate which we are certainly not going to have this week and that is why we are asking for it to be deferred.

The Deputy Bailiff:

The proposal is to defer P.187. Those Members in favour of deferring ... the appel is called for. I invite Members to return to their seats. The vote is on whether or not to defer the debate on P.187, Machinery of Government: review by Privileges and Procedures Committee and I ask the Greffier to open the voting.

POUR: 29		CONTRE: 13		ABSTAIN: 0
Senator P.F.C. Ozouf		Senator A. Breckon		
Senator S.C. Ferguson		Connétable of St. Mary		
Senator A.J.H. Maclean		Connétable of St. Saviour		
Senator B.I. Le Marquand		Deputy R.C. Duhamel (S)		
Senator F. du H. Le Gresley		Deputy R.G. Le Hérisier (S)		
Senator I.J. Gorst		Deputy G.P. Southern (H)		
Senator L.J. Farnham		Deputy of Grouville		
Senator P.M. Bailhache		Deputy J.A.N. Le Fondré (L)		
Connétable of St. Helier		Deputy S. Pitman (H)		
Connétable of Trinity		Deputy T.M. Pitman (H)		
Connétable of Grouville		Deputy T.A. Vallois (S)		
Connétable of St. Clement		Deputy M.R. Higgins (H)		
Connétable of St. Peter		Deputy G.C.L. Baudains (C)		
Connétable of St. Lawrence				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				

Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

8. Open Ballot for Ministers and Chairman (P.188/2011) - proposal of the chairman of P.P.C. to defer debate for 3 months

The Deputy Bailiff:

We now come to the proposition to defer P.188.

8.1 The Connétable of St. Helier:

This is about the open ballot which probably has a lot of merit, but again we feel that there is a review being carried out about this matter, and rather than having an endless number of debates about different aspects of it, we should bring it all together in a package and bring it to the States for an informed debate as soon as the sub-committee can complete its work. So I propose it is deferred.

The Deputy Bailiff:

Seconded? [**Seconded**]

8.1.1 Deputy T.M. Pitman:

Absolutely. Is it not funny how the establishment party can move the goalposts? We are worried about time, apparently, yet we are going to have another debate on what we had agreed: an independent Electoral Commission, just to satisfy Senator Bailhache's desire to take over. Why is it that we can do some things and not others? This is very straightforward. It was hugely supported by the public. It is about transparency and openness, and I know there are people now on P.P.C. who want to take us back to the 18th century, but I am afraid that is not a good thing. The real reason, I am afraid, that they do not want to debate this is because they just could not agree around the table whether openness was a good thing.

[12:15]

That is what happened there. I have got to oppose this. I put myself forward for the sub-committees, so the Constable cannot say I am not offering that. I put myself forward for P.P.C.; as the Constable said just the other day, he wished he had me now; we might not be in this mess. [**Laughter**] But this is just about openness. I think I might have it on tape, so I had better be careful. We voted openly for the Chief Minister. The world did not stop. Did anyone cry because they knew who was voting for him? No; I do not think so. Both candidates for Chief Minister were man enough to take it on the chin. What logic can there be in putting off saying that we will now know who votes for Minister for Home Affairs, Minister for Treasury and Resources, Scrutiny chairman. It is absolute nonsense, and if we want to save time, I would say to the Constable - the chairman – withdraw this, let us get on with it, not try and defer my proposition. Because I am sorry, but we have just seen 4 months. What about 3 months? As they say on TV, he is making this up. When will it happen? When will it happen? It will never happen. So I am sticking to my guns and we will take it from there and I will bring something back next week if I lose.

8.1.2 Deputy J.A. Martin:

Yes, I will be brief. I do agree with Deputy Pitman. Round the table we did not make a decision on this one, and I think unless we do have a steer from this House we could be going round the

table again and again and again. Obviously it is up to Members, but I think if we could get a steer today it would either stop the hares from running and we could work on the meat. It does not stop once we have decided who is in, who is out, how we work this and that. Unfortunately if the Deputy loses today - or fortunately - he can bring this back again. But I as a member of P.P.C. would like this debated so we have got a clear steer of ... unfortunately I do not think the Deputy will win it. I think he does need to do a lot more research on it. But I think from this House when we are working on P.P.C., we could do with a clear steer from where we are going.

8.1.3 Deputy M. Tadier:

In a similar vein to Deputy Martin, it is partly just to say why on this occasion I will be breaking ranks with P.P.C. I think there is a difference between the previous debate we had on deferring the Deputy of St. Clement, Deputy Baudains' proposition in this one. First of all, it is true that we are debating things in the round. I spoke of my proposition which looks at pretty much many aspects of what we are doing, and there are other ongoing work patterns. But I have to remind Members that even when mine had been accepted, there was a further proposition that came from Deputy Pitman. I think it was before the new Members were elected, about whether or not to have an open ballot for Chief Minister. Now that has been approved. We do have an open ballot for Chief Minister. Whether that is right or wrong, and I know it is controversial and contentious, we do have that, and that happened while P.P.C. already had this other workload on their agenda. It leaves things hanging in the air. It is very difficult, I would suggest, and we have made these points around the table at P.P.C.: how on earth do we as Members know what other States Members think unless we have had a debate in the States. We know that the *status quo*, as I have said, is to have an open ballot for Chief Minister. It seems inconsistent to say the least that there is not an open ballot for other Ministers and chairmen of other positions. There also came up the argument in P.P.C. at the time that this was not urgent. It is not necessarily the case, is it? Because there could easily be a by-election for many reasons, and we could easily have a by-election for ... I am talking about for Ministers in this case. We have seen it in the past; how many Ministers for Housing, how many Ministers for Health and Social Services have we gone through in recent years? We need to resolve the process so that it is consistent, but we also have a steer from the House. So I would say that this debate does need to take place today simply for good procedure both for the States and for P.P.C.

The Deputy Bailiff:

Very well. Do you wish to reply?

8.1.4 The Connétable of St. Helier:

Just there is a slight danger that we are going to have the debate not twice but 3 times if we debate it now, later this week and then when we come back with the proposals for the Machinery of Government: review. But Members have given their views. I would just say that the problem about debating it this week before Members are fully informed is that they will, Deputy Martin says: "Provide a steer to the committee", but they will also be possibly tying the hands of the Committee. I think the Committee should be allowed to have a free and open run at the Machinery of Government including this item, which is one of the least contentious aspects of it; but it should have a free run at this and then bring forward its proposals as we have agreed in the course of the coming year. I maintain the proposition.

The Deputy Bailiff:

Is the appel called for? Very well. The vote is on whether to defer debate on P.188, Open Ballot for Ministers and Chairmen. I invite Members to return to their seats and ask the Greffier to open the voting.

POUR: 26

Senator P.F.C. Ozouf
 Senator S.C. Ferguson
 Senator A.J.H. Maclean
 Senator B.I. Le Marquand
 Senator I.J. Gorst
 Senator L.J. Farnham
 Senator P.M. Bailhache
 Connétable of St. Helier
 Connétable of Trinity
 Connétable of Grouville
 Connétable of St. Clement
 Connétable of St. Peter
 Connétable of St. Lawrence
 Connétable of St. John
 Connétable of St. Ouen
 Connétable of St. Martin
 Connétable of St. Saviour
 Deputy of St. Ouen
 Deputy of St. John
 Deputy J.P.G. Baker (H)
 Deputy S.J. Pinel (C)
 Deputy of St. Mary
 Deputy of St. Martin
 Deputy R.G. Bryans (H)
 Deputy of St. Peter
 Deputy R.J. Rondel (H)

CONTRE: 17

Senator A. Breckon
 Senator F. du H. Le Gresley
 Deputy R.C. Duhamel (S)
 Deputy R.G. Le Hérisssier (S)
 Deputy J.A. Martin (H)
 Deputy G.P. Southern (H)
 Deputy of Grouville
 Deputy J.A.N. Le Fondré (L)
 Deputy S. Pitman (H)
 Deputy K.C. Lewis (S)
 Deputy M. Tadier (B)
 Deputy T.M. Pitman (H)
 Deputy T.A. Vallois (S)
 Deputy M.R. Higgins (H)
 Deputy J.M. Maçon (S)
 Deputy G.C.L. Baudains (C)
 Deputy J.H. Young (B)

ABSTAIN: 0**Senator P.F.C. Ozouf:**

May I just correct something that was said in the previous debate? One of the speakers said that a proposition could be deferred for ever. It cannot be. Standing Orders require that propositions by Back-Benchers must be debated. I cannot remember how long it is, but he was wrong to say that there was no ... that things could be deferred for ever.

The Deputy Bailiff:

The position I am advised by the Greffier is that P.174 can be deferred until 17th April, P.187 until 29th May and P.188 until 29th May. After that they would be out of time.

Deputy T.M. Pitman:

Would it be possible to defer P.5?

The Deputy Bailiff:

Perhaps it would be a good time to do that when we get to it.

9. Price Control: investigation (P.165/2011)

Right. We now come to P.165 - Price Control: investigation - lodged by Deputy Southern and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to request the Minister for Economic Development (a) to investigate the potential for controlling, through regulation, either directly or

through the Jersey Competition Regulatory Authority or otherwise, the price of goods and services in the Island; and (b) to report the findings to the States no later than September 2012.

9.1 Deputy G.P. Southern:

Before I start I would just like to say that I think perhaps we are all a bit ring rusty, and that this might get us going today. I certainly was disappointed by the standard of answers in the question time and by those recent votes to defer Back-Benchers' propositions. So perhaps for once my hopes for this particular proposition are somewhat muted. Nonetheless, here we go. The request is to investigate the potential; not to establish price control, but to investigate the possibility of price control, either by the Minister directly or through the J.C.R.A. (Jersey Competition Regulatory Authority) or - it does not matter, it is open-ended - whether we can control the price of goods and services on the Island. The key there I think is implied but not stated: some goods and services. Nowhere in my proposition does it say all goods and services. As the J.C.R.A. points out, if we were to try and control all prices on the Island of course that would be a Herculean task and one to be avoided. But where we find that there is inexplicable and probably unwarranted prices which are substantially higher than perhaps they ought to be, then perhaps we should consider taking a position that says we should as a Government control those prices. Now, I brought this proposition obviously in the light of what I consider to be substantial price rises in a variety of goods, and on the back in particular of the J.C.R.A.'s investigation of the pricing of petrol. It is interesting to note that the J.C.R.A. has 2 elements: competition, controlling competition, and regulation; and in their comments they say: "Well, we obviously regulate utilities but we do not want to regulate and control anything anywhere else unless we can prove a market failure." Now, if Members turn to page 5 of my report they will see what powers the J.C.R.A. have, and it suggests there that in most of the economy its powers are very much limited by the Competition (Jersey) Law 2005, largely defined by Article 8 (prohibition on hindering competition) and Article 16 (abuse of a dominant market position). As it says, in this case there is no suggestion or evidence of any cartel arrangements hindering price competition, nor any abuse of market position. In their own words: "In fact, the market leader Motor Mall actually has prices lower than the majority in Jersey." What we are told time and time again by the Minister for Economic Development, and the Minister for Treasury and Resources, is that competition brings down prices, and the remarkable thing here is that we have more competition almost than certainly the U.K., half as many again petrol outlets in Jersey per head of population than in the U.K. Yet remarkably, despite that intensive competition we are told that we are paying, once taxes and impôts are taken away from the price... we are paying between 13 and 14 pence per litre more than the U.K. Members will look at that and say: "How can that be so? If we have the most intensive competition compared to the U.K. that is possible, how come those prices have not gone down?" The answer I believe is fairly inexplicable. Can we do anything about it? Well, the J.C.R.A., despite the evidence that it produced, had said: "Yes. Well, we can do something about it. We can advertise the prices better, so that people will know more instantly, straight away, what price they are paying and will go elsewhere." Now, I do not want to be in the position in 6 months' time or a year's time or 2 years' time or even almost 3 years' time of saying: "Well, we tried that and it did not work." Senator Breckon has brought the proposition that we should be able to advertise the price and that that will do the trick. I suspect it will not. I suspect in one year, 2 year, 3 years' time we will still be paying over the odds - and I believe it is over the odds - for our petrol; that that will not work. In that report it says effectively competition is not bringing down prices, and a substantial amount of money is being spent by Jersey consumers over and above what should be spent. The report says if the average price reduced by just one penny per litre, this would be equivalent to a direct almost £0.5 million spend saving for Jersey customers. £430,000 for one pence off the price of petrol. Every time you fill up, depending on the size of your car, you are paying between £5 and perhaps £10 more than you would be in the U.K. and more than is justified by comparisons with the U.K., taking the tax and

the impôts out, than you should be. That is the reality. Yet the J.C.R.A. has no powers and the Minister for Economic Development has no powers to intervene in that particular case. What I am saying is, why not? Let us have a look at what we might be able to do where we see such a glaring, blatant anomaly that, quite frankly, we cannot explain; and we have no mechanism by which we can change that state of affairs. To go back - and I repeat - to say: "Well, competition will bring it down"; competition has brought it down a little. Compared to *temps passé* we are not paying quite as much over the odds as we used to be. Nonetheless we are still paying almost £0.5 million a year by every penny over the odds that we are paying. If that applies to petrol, does it also apply to the price of alcoholic beverages on the Island? I believe it does. Might it also apply to certain others, particularly foodstuffs?

[12:30]

Is it possible that in some other way we can intervene in the market in Jersey where clearly there is no market failure - it says so - no market failure, no cartel establishing this, but nonetheless prices are up there where they should not be and are stuck there? We have no powers at all to intervene and to bring those prices down. The question I ask the House and Members: do we want to investigate a mechanism by which we might be able to achieve that? I think that we should be investigating at the very least the possibility in certain areas of bringing prices down. It is a simple way we can help out our population to enable them to cope with what is rapidly increasing prices, as we have seen over recent years, which I believe will continue. In particular we are likely to see another hike in oil prices coming along because of the international situation. The very least we can do is to try and get the market price down a little before yet again we see another hike in petrol prices. So, petrol prices; possibly alcohol; some certain foodstuffs. Not a blanket, not a massive task, but something, if we can do something about it, let us do it, and let us investigate and come back and say we can establish a fairer, better way of pricing goods in the Island. So there is a proposition.

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

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

9.1.1 Senator A.J.H. Maclean:

I hope that the Deputy will not be disappointed by my response to his proposition. To start on a positive note if I may, I do indeed, and I have said this publicly, fully endorse what I believe to be the sentiments behind Deputy Southern's proposition, and I doubt if any Member in here would not do so as well; and that is quite simply that good quality products and services should be sold within the Island at competitive prices. Islanders have a right to expect products and services to be available locally at fair prices. There are cases where that does not happen, which is why the Island has a competition authority, despite the comments made by the Deputy a moment ago, and why as well as a competition authority, we have organisations such as the Consumer Council which has for many years been very well run by Senator Breckon who is not in the Assembly at the moment. It is probably also the reason why in recent times - certainly in 2011 - that we have seen Jersey Post see a significant increase in the packets coming into the Island. Islanders have made choices, they have made decisions, and decisions they have made have been to exercise their rights to look on the internet at other opportunities that exist. I would say that the internet is probably the single largest competitor that the businesses in Jersey - the retail High Street - face at the moment. I think it is without doubt a natural. and causes a natural pressure on prices in a downward direction. The media also have a role to play in raising consumer awareness about such matters and it is a shame... and I just comment at this point, that the *Jersey Evening Post* does not seem to have their 'Fair Play' column operating any more. I think that was extremely effective in the past in doing exactly that. But turning specifically to this proposition, if it were approved it would require me, as

the Deputy has said, to investigate the possibility of either directly or through the J.C.R.A. of controlling, through regulation, prices of goods and services in Jersey; and part (b) of the proposition asks me to report back to the States by September of this year. Members will be pleased to know that I can do better than that. I have already investigated this matter and, more importantly, I have sought the views of the Jersey Competition and Regulatory Authority, the body most experienced in terms of regulation and price control. Members will find the conclusions from the J.C.R.A. laid out in the details in my comments paper which was circulated previously. The J.C.R.A.'s position is that the proposition is totally impractical and that if it was implemented, the costs of such regulation would ultimately represent a cost to consumers. Such regulation would also be a sure way to lose businesses and threaten jobs. Direct price control is a tool most used in utilities markets where there are few dominant providers or where changing provider is difficult for some reason. Regulation can be used to control the behaviour of a supplier of goods or services where consumers would find it hard to go elsewhere. This is not the situation in Jersey in terms of the general sale of goods. Food and basic household staples are more difficult and certainly more emotive but are still available from multiple suppliers. Indeed, the introduction of new food retailers has improved consumer choice and helped to lower and indeed constrain prices. I do accept that food and other prices in Jersey are often higher than we would like to see them, but that is why we promote a competitive economic landscape with competition key to driving prices down. Competition, the J.C.R.A. and the promotion of greater consumer awareness all help to control inflation and prices. Deputy Southern has put the J.C.R.A.'s road fuels market study to an unexpected use, considering that its conclusions were that the J.C.R.A. does not believe direct price regulation is needed nor, more importantly, would it be in consumers' interests in that particular market. The key issue of that report is the need to improve price transparency, a point that this Assembly recently helped support, with the requirement for garages to display their prices. I remember that a few years ago the 'Fair Play' campaign that I referred to was successful in raising consumer awareness and reducing prices in that particular market. In considering this proposition, we considered the range of goods that could potentially be affected by the proposal of price regulation. Even if simple categories could be established, such as bread budget and bread artisan, this would still require an enormous amount of work to determine the appropriate level of price for each good. While it may be true that not all goods would have to be price controlled, the amount of work necessary to simply determine if each item should or should not be price controlled would be huge. Price regulation relies to a significant extent on long-term planning and the ability to assess market trends in respect of relatively simple and well-defined products or services. That is why it is naturally suited to the utilities' market. Bread, for example, varies in wholesale cost according to the commodity prices of its ingredients, the efficiency and profitability of the wholesale supplier, the transport costs, staff costs throughout the process and many other related factors. Even if there were a way to assess and comprehend all the cost inputs to a single product, we have still not reached a final price because we would have to establish how much the retailer is allowed to profit from the sale. As I have already remarked, this is a sure route to see businesses close and jobs put at threat. The effective application of the competition law is the best tool to ensure markets are functioning effectively. This is what the J.C.R.A. exists to do; not to direct or regulate all prices. Jersey is of course unique and lessons from other jurisdictions must be applied locally with caution. That being said, it is telling that no major developed economy has chosen to go down the route of routine price controls on privately traded goods and services. I certainly would not like Jersey to be the first. I do not believe it is a compelling proposition for us to sell. In conclusion, I leave Members with a quote from the J.C.R.A. who would be responsible for implementing any price control as proposed and they said, and I quote: "The J.C.R.A. strongly cautions against this proposition. We would also suggest that the cost of even investigating this proposition fully is likely to be high, and in our view not a valuable use of what is undoubtedly a scarce resource within the States of Jersey." As I have said in my comments, I fully endorse the views expressed

by the J.C.R.A. who have looked at this proposal and rejected it. I therefore urge Members to reject the proposition as it has been presented today. But I would just on a final note add that there is always an instance where, as Minister, I will investigate a particular market where I feel there is likely uncompetitive behaviour or an abuse of a particular market being undertaken, and that was one of the reasons I supported with a 6(4) request the Road Fuel Market investigation be undertaken. There is a place to do such investigations when a case is proven. But to have a blanket or large sections of the market dealt with in a regulated manner, as is suggested, I feel, as indeed did the J.C.R.A., this is an impractical way forward. Thank you very much.

9.1.2 Senator S.C. Ferguson:

The proposition is somewhat of a contradiction in terms. The Deputy is calling for a report on price controls, but he is asking for the J.C.R.A. to do it. This has somewhat of a touch of the Monty Pythons. As the report in the proposition ...

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

Senator, would you sit down a minute while I just find out what the Deputy wants?

Deputy G.P. Southern:

The Senator has just said I am calling for the J.C.R.A. to do something. I am not. I am requesting the Minister for Economic Development to do something.

Senator S.C. Ferguson:

The Deputy is calling for the Minister to ask the J.C.R.A. to do something. Yes. I still think it is a touch of the Monty Pythons. As to the report in the proposition, I am a bit disappointed because his quotations have emphasised the negative comments and ignored the positive. The Minister has in fact quoted some of these, but I would point out the comment that the deviation from the U.K. price is on a reducing trend, and overall the trend of competition is moving in the right direction. It also ignores the fact that the market is declining. That can be seen very clearly from the impôts, if you look at a 10-year record and, by the nature of markets, competition will become fiercer because of the declining market. Obviously some people will fall out of the market because there is less market share for everybody. The Deputy has also summarised possible measures to improve competition. He has ruled out bulk buying, which is understandable. He has ignored considerations of improving competition and treats the concept of customer information with a degree of dismissal - of contempt even - because in fact advertising the price on the roadside is one of the most effective methods of informing customers. Senator Breckon's proposition will do more to foster competition than all the price controls that Government can bring in. The Deputy is unaware perhaps that there is another garage in the west of the Island which charges the same as that on the St. John's main road, and it is gaining considerable trade because it has its prices advertised on the side of the road. So, you know, it works. The proposition has also proposed, as I have said before, that the J.C.R.A. is the appropriate body to conduct such a review. I would suggest that a more appropriate body would be the F.P.P. (Fiscal Policy Panel) or Oxera, but that is not the basis of the proposition.

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

I am sorry, Senator, to interrupt you. There are 3 possibilities for the review: either the Minister himself or the J.C.R.A. or otherwise. So one of your suggestions is possible within the terms of the proposition.

Senator S.C. Ferguson:

Right; thank you. I apologise to the Deputy. I would perhaps have turned the proposition round and said: "Are price controls being used in Jersey, and are they either effective or appropriate?"

Because we do have some price controls in Jersey. We have the fair value being used by housing for rental purposes, we have the minimum wage.

[12:45]

The latter we shall be debating later today, but there is evidence that that particular price control is not working. The problem about Government imposing price controls is that history is littered with examples where they did not work. Government controls: now here is a history lesson for you - the price of grain caused the French Revolution. They caused the incredibly long waiting lists for commodities like televisions in Poland in the communist bloc, and they caused considerable distress in the early Puritan communities in the U.S. (United States) in 1630-1633. Now not a lot people know that. But we have seen it more latterly with the butter mountain in the E.U. (European Union) in the 1970s, and then we have the fixing of airline prices by the C.A.B. (Civil Aeronautics Board) in the U.S. because it was not until the rescindment of those controls that airline prices were reduced to a level that everybody could afford to fly somewhere. So think about that. Then, if the price control is not having the desired effect then the usual Government ploy is to give a subsidy to the relevant industry. When has Government, as the Minister has said, ever been able to make a correct estimate of the market price? Then, how long does it take to change it when it is not correct? All this presumes that the consumer is too ill-informed to make a judgment for themselves. It is effectively the nanny State versus the individual. Give the consumer the information - like the price at the side of the road - and they will make their own choice according to their own preferences, not what is dictated by Government. The proposition has concentrated on road fuel and says price is going to go up and so on. Despite the doom and gloom, there is no shortage in the immediate future because of the new discoveries and the new drilling techniques. Even Israel has significant gas and oil deposits and this rather puts an end to the old joke about Moses turning left instead of right. The recent exploration that has been announced in the Home Counties is not for gas; it is for oil. So there is no shortage. The long-term trend will be for prices to come down, with a few spikes in between. Be that as it may - and returning to the proposition you will be glad to hear - price controls are a real statist, nanny State approach. It will be a great deal more use to look at the economic effects where we are applying the controls. This is really not a productive proposition, and I ask Members to reject it.

LUNCHEON ADJOURNMENT PROPOSED

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

The adjournment is proposed. The States stand adjourned until 2.15 p.m.

[12:49]

LUNCHEON ADJOURNMENT

[14.16]

The Deputy Bailiff:

Right, we resume debate on P.165. The Connétable of St. John is not here. Does any Member wish to speak? Senator Breckon.

9.1.3 Senator A. Breckon:

Just a few points. I have a great deal of sympathy with what Deputy Southern is trying to do here but I think the practicality of it would be difficult, if not impossible, to do because it is about the potential for controlling. In Deputy Southern's report he has used the J.C.R.A. survey on petrol and that is probably not a good example because, although he is not here, Senator Ozouf and Senator

Maclean and I know that this is a difficult market and it is not exactly transparent in that there are discounts available for loyalty schemes and other things. Though having said that there is a significant price difference; if you strip out the duty, the V.A.T. (Value Added Tax), the G.S.T. (Goods and Services Tax) and whatever else, which is not properly explained. The reason why I have some problem with trying to control this is that it says that on the price of goods and services... well there are many, many goods and services and I am not sure how it could be done. If you take a simple item like a battery for a torch or a Minister's BlackBerry, if they have batteries in them; I am not sure if they do but then how would you control the price if, for example, somewhere like the Red Triangle Stores in the market sell them. I am not sure how you could do that and who would do it. It would be very labour intensive to do it and perhaps the cost of doing it would outweigh any benefit, and I would say I have got some years of experience of looking at prices in the local markets and what they are, and the Minister for Economic Development mentioned the power of publicity is fairly powerful. It is not the all-embracing tool but it can be fairly effective if people are informed of the way things are, and again that is not easy to do to get that information out there. But, as I say, I am sympathetic for the reasoning behind this but I have difficulty supporting it because of the practicalities I see in doing it. There are all sorts of things that others have mentioned and if you look at comparing things it is not always comparing like with like, although it might seem to be. There are commodities like meat that it is not easy to compare the price. It is not comparing the same and how the thing was reared; the water content, the fat, the bone and there is all sorts of problems there, so it is not just a case of controlling the price, it is what is the price and then what is fair and reasonable for that commodity, whatever it may be, to change as it goes through the chain from coming into the Island or being grown in the Island or being produced in the Island or whatever it is. It is not easy to do any of that and it is a major academic piece of work and, as I say, I can understand Deputy Southern's reasons. There are many complications, I can assure the House, that I have not touched on that do make this difficult, if not impossible to do. Thank you.

9.1.4 The Connétable of St. John:

I wonder if, when Deputy Southern drafted his proposition, he had spoken to the J.C.R.A. *per se* over this report because it is a bit wide-reaching. I was quite happy if the proposition had been, as per the report, working on fuel and one or 2 other items but it is a bit large; wanting to look at the bigger picture and umpteen things. I have a problem there because I am not sure which way I am going to vote on this at this moment because historically I have always had concerns about purchasing fuel, for instance, for the Island because the benchmark on fuel for the Island in fact is done by what the States of Jersey are prepared to pay, being the biggest client of the fuel companies. If the States of Jersey are prepared to pay, everything is benchmarked from that. I have to ask, are our negotiators sharpening their pencil sufficiently because I do not know who does our negotiations on behalf of the States of Jersey for buying the fuel into this Island, but I do have concerns over a conversation I had several years ago with a retiring member of a fuel company who said to me that if the Island were to sharpen their pencil or whoever we send to negotiate we possibly could save a penny or 2 a litre or more or point something of a penny, whatever it may be, on our fuel purchases? I wonder if we should not be looking there in the first instance. Yes, we must look also at doing something about the ... and I understand where the Deputy is coming from in relation to fuel, about the 13 or 14 per cent price differential between here and the United Kingdom and also in Europe because in France I know frequently when I leave here to go to France I do not bother to fill up my fuel tank here because it is cheaper to buy it over there; all the arguments because they can buy in quantities obviously will make a difference. But getting back to my original comment about the sharpening of pencils by our negotiators; I think we should have really been looking there in the first instance and unfortunately the Minister for Treasury and Resources is not here because I am sure he would ... but he should be listening to this, wherever he

may be and if he is in the building, because I think it is important that we should lead by example and if we are not why are we not? Not only in fuel but in a number of other areas, if the States of Jersey are prepared to pay. Everything else is benchmarked from there because we are the biggest client. I should think probably, that is if I recall correctly, after the States of Jersey being the biggest client I think the next biggest is probably the partly-owned company of ours being the J.E.C. (Jersey Electric Company) and the likes for the amount of fuel they would be taking. But I think this is where we should be coming from and I just wonder if this is the right way of going about it at this time. I am going to listen to the remainder of the debate and see what comes out of it before deciding which way I will vote. But really I think this is a bit too broad-brushed to deal with what the Deputy is trying to achieve. Thank you.

9.1.5 Deputy J.P.G. Baker of St. Helier:

I would like to support this proposition but I do not think that I can. I mean there is no doubt that Jersey has a very high cost of living and that does not help anybody; if anything we are pricing ourselves out of business. But I am not sure that this proposition would assist us because it does seem to me that by controlling prices it would mean that every single product would be essentially the same price across the Island. How that would be helpful I am not quite sure; presumably the Co-op would not be able to give you a 4 per cent dividend anymore and things like that. I think the implementation was a nightmare. The point I want to make is that I rather suspect that this proposition will be turned down today but if it is I would not like the message to go out from this Assembly that we are comfortable with the prices that exist in Jersey today. We are not, even if we do reject this proposition; I certainly am not. Thank you.

9.1.6 Deputy M. Tadier:

It looks I beat Deputy Higgins to it who was edging towards his light there. This is not the first time we have debated this problem, although the solution being offered is perhaps different. We did have a proposition from Deputy Higgins; I think it was last year, although it could have been one year before that, to try and tackle the issue of when V.A.T. was being charged in Jersey when it should not be or rather when a sum, which was the equivalent of the sum that should have been charged for V.A.T., was being added on in the shops. Again, we have the same kind of sympathetic tones coming from Ministers and other Members in the Assembly saying we are sympathetic to this problem but this is not the way to do it. I think that is perhaps partly how we all feel. When it comes to issues of dabbling in what one would call the free market of course that brings up a whole host of conundrums and issues for Members and the public alike. I must admit when I first saw this proposition I was quite happy because I saw a price controller and I incorrectly thought that he was going to be talking about rents for houses and for properties, and I think that there was, at one time, rent control in Jersey and that is something which we do need to look at, perhaps on another day. But, nonetheless, I do think that this is a piece of work that needs to be done and I do not think we should be dismissing this proposition out of hand. Let us remind ourselves what it does; it is not asking the Minister or the J.C.R.A. categorically now to impose price control on all or any products in Jersey. What it is simply doing is enabling the proposition to have a review to look at the viability of introducing price control in certain circumstances if it is deemed necessary. Now, of course, if it is not deemed necessary there will not be any suggestion of imposing price controls but we have already, even those who have reservations, and I look at the Constable of St. John, have highlighted many areas of which we have concern and one of them is petrol, which has shown to be without tax and imposed when they are taken out to be over and above inexplicably the cost that they are paying elsewhere in the U.K. or in Europe. There is an issue that needs to be addressed here. It is all very well for the Minister to say people will vote with their feet or vote with the click of a mouse button and it almost seems to be encouraging members of the public to shop online to the detriment of High Street retailers who are having to

compete not on a level playing field, because they do have high rents to pay in their shops, a vastly complex area. But is the Minister seriously suggesting that we are likely to be able to buy our petrol online? Can we click online and say: “This week I fancy filling up my car with some petrol from Egypt”? I have just come back from Egypt and petrol is about 12 pence a gallon there. It would be nice if we could just order that online, get a year’s supply of petrol and save perhaps 90 per cent of our fuel bills. That is not going to happen; you cannot click online and buy alcohol. Alcohol is a completely different ball game because we have the problem in Jersey with alcohol, which is too cheap in many instances. It is quite likely, hopefully, in this current Assembly, that we will see a proposition either from the Minister for Home Affairs or from the Minister for Health and Social Services to introduce price control on alcohol but not because it is too cheap, as I have said, because we want to regulate alcohol that is being promoted and we want to introduce a minimum unit of price for alcohol. There are already grounds for price control to be enacted. Again, I have some sympathy with the comments of Senator Ferguson. Jersey is a strange conundrum, certainly for an outsider and often for an insider because it is difficult to find out where the States of Jersey lies when it comes to being a nanny State, to being a centralised price-controlling type of Communism if you like, on the other hand promoting, it seems, free market fundamentalism. In another written question that I had answered today about Jersey milk we have seen that we have a protectionist attitude, rightly or wrongly, towards Jersey milk. You cannot buy other milk in Jersey unless it has been specifically modified with the products that cannot be reasonably produced in Jersey. You cannot bring any milk into Jersey from the U.K. or from Europe and if you do presumably you will be arrested, although no one has been arrested in the history since the law was enforced. We have this strange kind of paternalistic State-controlled attitude when it suits us.

[14:30]

I would say we have recognised there is a problem here. What I would anticipate from this law and this proposition being implemented today for simply this review, in itself that review taking place would act as a deterrent. It would cast the spotlight on to retailers, on to those who perhaps sell products charging V.A.T. Again, the question came up last time, it has never been answered; let us look at some of the High Street retailers who sell clothes, for want of a better example, why is it that the V.A.T. and the import charges they are claiming on that always seem to tally exactly with the amount of V.A.T. that is being charged? So, you buy a product and say: “Hang on a minute, this has got the U.K. price on it.” I say: “Oh, yes, but that is the price that it costs for importation, which happens to be exactly the same as V.A.T.” If today we are not going to accept this proposition, hopefully we will and hopefully people who are in 2 minds, like the Constable of St. John, will see reason in this and say: “Why do we not give this a go? Let us see if it works” because if not I would be looking for the Ministers to provide an answer to a very big problem in Jersey, which is to do with the cost of living and also how do we reasonably make sure that in areas where competition is not sufficient and it has not been demonstrated to keep prices down, what are the alternatives that Government can reasonably introduce in order to balance for areas in which the market is not producing the right results?

9.1.7 Deputy M.R. Higgins:

Deputy Tadier has mentioned a number of the points I would have mentioned but just looking again at the proposition I was minded not to support it, believe it or not. But looking at the thing again, let me just explain to Members, In terms of management of an economy, you can either use different economic policy measures; you can use monetary policy, control of interest rates, raising and lowering them; and we can use taxation, raising and lowering of taxes to try and regulate demand in the economy; or you can use direct controls, and Governments over time do use various measures of direct controls. If we look at regulations in our economy many of the regulations are regulating the supply for the demand of particular services. I am not sure about the wording of this;

I am going to have to think a little bit longer on it. But what I would say is we should not dismiss out of hand an investigation into remedies. Ministers go on that one of their objectives is to control inflation and yet really they have got next to no control over inflation in this Island. If the Bank of England is determining the level of the interest rates they are determining it for the U.K., not for us, but we are immediately affected because of our link with the U.K. If we look at our tax policy, well in the U.K. they could raise or lower income tax or the allowances on it; we do not use that as a mechanism. We could, for example, bring in other measures but because of Jersey's unique position in terms of tax and the fact that we do not want to change anything that would affect bringing business into the Island, tax measures are largely ruled out, with the exception of G.S.T., as we all know, which will, over the years, continue to go up and up and up but not necessary to control inflation; mainly to provide additional funding to fund whatever it is that the Government of the day decides that we need to fund. I would be interested to know from maybe even the Minister for Treasury and Resources, what direct controls, what other measures he has got other than tax changes, which I do not think he has got - interest rate ones? What measures has he got or do the Council of Ministers have to regulate the economy? Perhaps we should be looking at new policy instruments. For example, if you think that in the U.K. quantitative easing was introduced; who had ever heard of it? Nobody knew what it was, no one knew if it would work because they had found that the existing policy instruments to regulate the economy just simply did not work at that particular time. We should not dismiss the idea of a review of measures that could be used by Governments to help the Government achieve its aims, whether it be inflation or to stop the various abuses in the system. Although the wording I am not 100 per cent happy with it, I might support it. I would extend beyond the price of goods and services; I would be looking at measures generally. This would be a step in the right direction. I would like to listen to Deputy Southern's summing up before I decide but I would hope the Minister for Treasury and Resources or one of the other Ministers might at least tell us what measures they have got besides this form of regulation.

9.1.8 The Connétable of St. Lawrence:

I do not want to repeat what others have said but I was also concerned about the wording in this proposition and I would like the Deputy to explain to us in his summing up what his definition, in particular, is of services because I want to know whether he would intend that this review would look at G.P. fees, accountancy fees, lawyers' fees. What sort of services is he talking about because it seems to me that if we were to approve this, this is an extremely broad investigation that would need to be undertaken? It could be costly. I am pleased to see that the good Deputy has time-constrained it by asking for a report by September 2012 but frankly I do not believe that a review of, I think, the proportions that the Deputy is expecting could reasonably be expected to be completed by September. Just to repeat, I would like him to explain how broad he would expect this to be and what his definition is of services? Thank you.

9.1.9 Senator P.F.C. Ozouf:

Much of this debate appears to have focused on the issue of high petrol prices and so to that extent I should just say that I do have an interest in a garage forecourt that I rent out. I am not involved in the business to the extent to which profits end up getting capitalised in rents. I believe I should make that declaration. This proposition is well intentioned. The price of living in Jersey did rise to a much greater extent than that in the United Kingdom throughout the 1990s and, interestingly, up to the period of 2005. The cause of those high retail and other prices was a mixture of high economic growth, planning policies and our own, in my view, application of the Regulation of Undertakings and Development Law. Again, well intentioned but having the unintended consequences of ensuring that the marketplace in Jersey was not faced with competition because it is very difficult to set up; it was much more difficult to set up new business. The best way to control prices is, as other Members have said, consumer awareness; giving people as much

information as possible about prices, and I strongly support Senator Breckon's proposals for forecourt pricing so that it can be very clear to consumers before they drive into a forecourt exactly what the price is they are going to pay, but we need to see much more consumer awareness. I certainly would like to see the *Jersey Evening Post* restart their 'Price-watch' campaign, which was very useful in terms of making consumers aware of prices of a wide range of consumer goods and retail goods. The other issue that we can deal with high inflation, to respond to Deputy Higgins, is to give the J.C.R.A. all the possible support and the enforcement and their own powers under the Competition Law. The fact is that consumer prices slowed and have reduced since the implementation of the J.C.R.A. and the Competition Law. The greater the threat that businesses who do collude on prices will be investigated the more impact you will see on slowing retail prices and lower inflation. Deputy Southern and I, I do not think, are going to agree that the solution to high retail prices is regulation; it is not. The only place for regulation, when there is a monopoly in the marketplace or one single supplier such as in the case of Postal and indeed there has been a well-rehearsed argument for there to be a case, for example, of regulating areas such as electricity prices but the threat of regulation of the electricity company is the most effective tool for them. Regulation is appropriate when there are monopolies. Regulation is not appropriate when you have an open marketplace and the solution to keeping the pound in the Jersey man and woman's pockets going as far as possible is open markets and competition and not regulation.

The Deputy Bailiff:

Does any other Member wish to speak? If not then I call on Deputy Southern to reply.

9.1.10 Deputy G.P. Southern:

That would be a good idea if I turned my microphone on. I am rusty, ring-rusty I am afraid. In answer first of all to the Constable of St. Lawrence because what I tend to do is forget people's questions - I must deal with it first - she says: "What does services mean in the title of the proposition?" I believe she was absolutely right to point to G.P. services and lawyer services and the cost of dentists because I think that is somewhere where certainly the vast majority of the electorate have serious concerns about the prices that they are paying for those services. If there were some way to investigate and the power to act on those particular services then I think it would be widely welcomed by the populace, by the people at large. Certainly, yes, the cost of lawyers' fees, the cost of dentists, absolutely, yes, a service that should be examined and if we had the powers controlled because that is a major expense for many when it does occur. A number of speakers, and I will just refer to it generally, have said that this is too big, too broad but, as I pointed out at the beginning, it does not say the price of all goods and services in the Island; it does not equally say "some" but perhaps it should. But the intention is and it is certainly not the ... correctly pointed out by the Constable of St. Lawrence that in that short, short timescale I would not be looking at everything, but certain areas. Now, whether that includes services or not is for the Minister to make his mind up on. Deputy Tadier correctly pointed out that this is a piece of enabling legislation. It talks about price control, but it talks about investigating the scope for price control. It is not saying act now. It is not saying we have the answers but this is the answer; do it. It says take a proper look at it. In response to both the Minister for Economic Development and the Minister for Treasury and Resources we have got the same old mantra; competition, competition, competition but in a small jurisdiction that does not necessarily work. The Minister for Economic Development suggested that the introduction of another supermarket in Jersey has brought prices down. I believe the evidence of your own pockets and purses and wallets would suggest that that is far from the case. We have seen no prices coming down from the introduction of additional competition by the introduction of another supermarket, not one jot. The report on the situation on petrol gives the lie to it, absolutely. We are oversupplied with petrol outlets; twice as many per head of population as the U.K. and yet inexplicably if you take out the taxes and the impôts we are

paying 14p in many cases - at least 13p - over the odds. The answer cannot be more competition. We do not need some more petrol stations; competition, competition, competition. We do not need that at all and if we had one then perhaps the J.C.R.A. might be able to act. If we are just reduced to one, which possibly we could do, then the J.C.R.A. could regulate it under its present powers because it would then be a monopoly. But the reality is the J.C.R.A. had a look and there is no market failure. There is no cartel and there is no monopoly and yet the prices are unreasonable. What I am saying is everyone has agreed, oh, yes, with the sentiment of this proposition. Oh, yes, if only we could do something about prices in some sort of rational way. Competition, we can see in this particular instance, does not work. We will agree with the sentiment of Deputy Southern but taking action about it and giving perhaps the J.C.R.A., perhaps another body, the task of saying: "What can we do about this; we are not going to act?" It is the same old crocodile tears; every sympathy with the situation about prices being over the odds in Jersey, every sympathy but no action and that is the reality. Please, do not cry crocodile tears today and say: "Every sympathy."

[14:45]

Do not come up to me afterwards if this should not go through and say: "Well, yes, well done. Well done for bringing it." I love that when people come up to me and say: "Well done for bringing it." "Yes, did you vote for it?" "No." Do not talk to me. It has happened on a number of occasions I tell you, with the numbers almost bordering on the infinite. So, do not agree with the sentiment, actually act. No proof that the system works, that competition works. The Constable of St. John usefully saying: "I just have to go to our nearest neighbour" and he no longer tops up the tank before he goes. I used to, I remember that, and yet the trend is supposed to be downwards. Well, not by comparison with France it is not; the trend seems to be upwards because they are getting their petrol now at lower prices than we are and that is something I never thought I would see, certainly in Jersey. Deputy Higgins correctly says: "If the Minister for Treasury and Resources and the Minister for Economic Development do not like this version, what are they going to be doing?" What are they going to be doing to bring back some sort of measure of control? What can the Government do? At the moment the Government is saying: "We cannot do anything about that and we are not prepared to consider taking additional powers". That is the reality but we must, we must because we are suffering. I maintain the proposition and call for the appel, Sir.

The Deputy Bailiff:

The appel is called for and I invite Members to return to their seats. The vote is on P.165, the proposition of Deputy Southern and I ask the Greffier to open the voting.

POUR: 7		CONTRE: 43		ABSTAIN: 0
Connétable of St. Saviour		Senator P.F. Routier		
Deputy R.C. Duhamel (S)		Senator P.F.C. Ozouf		
Deputy G.P. Southern (H)		Senator A. Breckon		
Deputy S. Pitman (H)		Senator S.C. Ferguson		
Deputy M. Tadier (B)		Senator A.J.H. Maclean		
Deputy J.H. Young (B)		Senator B.I. Le Marquand		
Deputy R.G. Bryans (H)		Senator F. du H. Le Gresley		
		Senator I.J. Gorst		
		Senator P.M. Bailhache		
		Connétable of St. Helier		
		Connétable of Trinity		
		Connétable of Grouville		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		

		Connétable of St. John		
		Connétable of St. Ouen		
		Connétable of St. Brelade		
		Connétable of St. Martin		
		Deputy R.G. Le Hérisier (S)		
		Deputy J.A. Martin (H)		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy T.M. Pitman (H)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy M.R. Higgins (H)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		
		Deputy G.C.L. Baudains (C)		
		Deputy of St. John		
		Deputy J.P.G. Baker (H)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Mary		
		Deputy of St. Martin		
		Deputy of St. Peter		
		Deputy R.J. Rondel (H)		

10. Draft Shipping (MARPOL) (Jersey) Regulations 201- (P.172/2011)

The Deputy Bailiff:

We now come to P.172, the Draft Shipping (MARPOL) (Jersey) Regulations 201- lodged by the Minister for Economic Development and I ask the Greffier to read the citation of the draft.

The Deputy Greffier of the States:

Draft Shipping (MARPOL) (Jersey) Regulations. The States, in pursuance of Articles 90, 91 and 196 of the Shipping (Jersey) Law 2002, have made the following Regulations.

The Deputy Bailiff:

Minister, you wish to propose the principles.

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

These regulations provide the basic minimum framework for the States to ask the United Kingdom to extend ratification of this important Pollution Convention to the Island. If Members pass the regulations today they will not come into effect straightaway. Instead the formal request will go to the U.K. for onward transmission to the I.M.O. (International Maritime Organisation) so that the U.K. ratification can apply to the Island. The Convention is considered by the I.M.O. to be one of the 3 major maritime conventions. The others are S.O.L.A.S. (Safety of Life at Sea) and S.T.C.W. (Standards of Training, Certification and Watchkeeping). Jersey has had the S.O.L.A.S. Convention ratified and it is hoped that work can begin on the training and certification one in the next 2 years. One hundred and fifty countries have so far ratified the MARPOL Convention. The

United Kingdom has also ratified it on behalf of Bermuda, the Cayman Islands, Falklands, Gibraltar and the Isle of Man. The Convention has 6 separate Annexes covering potential pollution from (1) Oil, (2) Noxious Liquid Substances carried in bulk, (3) Harmful Substances in packaged form, (4) Sewage, (5) Ship's Rubbish and (6) Air Pollution. Only the first 2, relating to oil and noxious liquid substances, are mandatory for the Island to be party to the Convention. These regulations today deal with those Annexes alone; the others will be dealt with at a later date. This Assembly has already introduced the Water Pollution Law but this does not cover the very specific matters to do with ship design and construction. It also does not deal with the segregation and filtering of oil on board, maintenance of oil record books, pumping arrangements, survey and certification. All these matters are covered in depth in the MARPOL Convention. At the moment if a ship does not meet MARPOL requirements in Jersey waters we cannot take any enforcement action or prosecute those liable. One example of this is that the Island cannot enforce the ban on single-hull oil tankers, so we have to rely on the standards imposed by neighbouring States. Another example is the need for ships to hold oil pollution emergency plans and oil record books, both of which should be available for inspection. At present the Island has no legal authority to carry out such inspections. The Convention also makes it compulsory for foreign ships in Jersey waters to report any possible pollution or accident that could cause pollution. Under the MARPOL Convention experts in the field of ship design can investigate whether a ship had adequate damage stability or whether its construction meets the standards laid down in the International Bulk Chemical Code. Spillage by a non-Jersey ship that takes place outside of Island waters can also constitute an offence if pollution results inside our waters. This is an important additional protection for our environment. Even where no spill has occurred the Convention includes explicit powers to detain a ship in port. These include detention if there are clear grounds to believe that the Master or crew are not familiar with essential shipboard procedures designed to prevent pollution by oil. The legislation also provides for Jersey ships worldwide and so raises the standards beyond just Jersey shores. This will make it possible for the Jersey Shipping Register to take on larger ships as the registry expands in the future. I would like to make a few general comments about the regulations, Convention and Annexes; the regulations give effect to the Convention, its relevant protocols and Annexes I and II. The regulations do not attempt to reproduce each article of the Convention or each and every section of the Annexes. As was made clear in the projet, Members who would be interested in the technical ship design and equipment details are invited to contact the Maritime Compliance section at Economic Development. However, I would like to mention some key points and those are as follows: if an incident occurs Jersey will have a duty to investigate, to inform the ship's flag and, if sufficiently serious, to tell the I.M.O.; Masters and owners have a duty to report incidents to the nearest coastal State; offences are created and these are extended to cover officers and directors of corporate bodies, if they have been found to be negligent; owners of ships that are less than 400 tonnes get the option of keeping waste oil or oily water on board until they get back to port or to fit the boat with equipment that can discharge the oil at sea within a set and agreed limit of 15 parts per million; larger vessels cannot discharge any oil or oily water whatsoever into the sea around Jersey or anywhere in the English Channel or North Sea. With regard to enforcement and resources Jersey already carries out some limited boarding and inspection of ships to assess compliance with other maritime conventions. There is also an understanding with the French and U.K. surveyors that allows them to carry out inspections here, if necessary. The regulations authorise officers already designated under the Water Pollution (Jersey) Law. The introduction of MARPOL here in Jersey is not expected to lead to unreasonable increases in enforcement or importantly to be a regulatory burden on boat owners. I should add that no additional resources will be required as a result of passing these regulations, if the Assembly choose to do so today. In conclusion, discussions have taken place with officers at the Environment Department as well as Jersey Harbours and they are fully supportive of the proposed legislation. Boat owners, clubs and associations have now also been made fully aware of these regulations. In addition, because this

involves an international convention, the legislation has also being reviewed and approved by the U.K.'s Maritime and Coastguard Agency. It is important that Jersey can enforce all major international maritime conventions in Island waters. It is also important that the Island continues to build a maritime legal framework fit for purpose for Jersey ships worldwide. All of this is essentially important to maintain our international reputation, enhance protection of our local waters and to allow our shipping registry the ability to grow in the future. I propose the principles.

The Deputy Bailiff:

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

10.1.1 The Connétable of St. John:

I have to say this is double standards. Marine pollution is a problem around the world. Here in Jersey we dump thousands of tonnes of contaminated water into the sea around our Island on a daily basis. Yes, we must sign up to this law but we are not going far enough. We are being asked to cherry-pick and only take I and II of the Annexes to the MARPOL Convention. Why, because of the thousands of tonnes of contaminated water we dump into our seas through our sewage works, through the leeching from the old refuse tips around the Island, through heavy metals down at La Collette and other places, the nitrates, which we all know about, and obviously the P.F.O.S. (Perfluorooctane Sulfonate) from the fire-training ground at the airport that gets into our seas? All of this pollution goes into our waters around the Island and the majority is not even being monitored. We are telling people from outside who bring their ships into the waters, even our own ships, that we have to have certain standards and the Island themselves want to sign up to it. Will this mean that we will be sending off the Minister to sign a T.I.E.A. (tax information exchange agreement) on this one or on a jolly, call it what you will? But it does worry me that we are cherry-picking. As a former chairman of the Environment Scrutiny Panel, in our recent report on water quality around this Island I mentioned a number of things, that the Island has been contaminating our waters, our food chain. Yet, we are telling the seagoing vessels they have to abide by certain laws, where the Island themselves, on a daily basis, is contaminating the waters around this Island. It is double standards. It cannot be right that we can cherry-pick. We should be making sure and I would expect the ... yet again I was going to refer to the Minister for Treasury and Resources but he is out of the Chamber again, on both speeches I have made today **[Laughter]** because it does impact on funding coming from the Treasury. If we are going to put laws in place for other people, we are expecting them to adhere to, we should be making sure that our own backyard is kept clean also and we are not doing that. I will support this because it is a measure that needs to be taken but I was hoping, as I say, that that Minister for the Treasury would be listening, that money needs to be spent with the Environment Department, giving them the tools to do the job, having the inspectors, having the scientists to do the necessary sampling and the chemists. The money needs to be found so that we can clean up our own act if we are expecting other people to clean theirs up. Thank you.

[15:00]

10.1.2 The Connétable of St. Lawrence:

I picked up on the words of the Minister when he told us it is important to be able to enforce all maritime conventions. I know from my reading of the report that the Convention is considered to be one of 3 important major maritime conventions. If that is the case I wonder if the Minister can explain to us why it has taken almost 40 years for the Island to bring these regulations forward in order to be able to ratify the MARPOL Convention of 1973 and why it is going to take another 2 years for work to begin on the Standards of Training, Certification and Watchkeeping Convention. Thank you.

10.1.3 Deputy G.C.L. Baudains:

I am not sure whether I will be supporting this or not, Deputy; it will depend on your summing up. Reading through the financial and manpower implications does seem to me that this is intended to be a reactionary rather than a preventative measure and yet we are being sold it as a preventative measure. In that regard it does seem to be somewhat confusing to me. I am also interested in how we would enforce this law. Having listened to the Senator proposing it I am told if we have got a law which we cannot enforce then we really should not have it. How, for example, would we determine whether a ship is double-skinned or not; we simply do not have the expertise? It is quite obvious, I think; I cannot imagine anybody not wanting to reduce the risk of pollution to the absolute minimum but I am not sure that this will achieve a great deal more than we are doing at the present time. Notwithstanding that I am becoming slightly concerned, as I have been over a number of years, that the number of conventions that we gaily signed ourselves up to and then find later on that they come back to bite us. I wonder if this would be another example.

10.1.4 Deputy J.H. Young:

As chairman of the present Environmental Scrutiny Panel I am very supportive of this measure and obviously I do not think that we have a great deal of choice, both for environmental and economic reasons, as has been explained to us. But I do think it is a principle we should more than just automatically rubber-stamp pieces of legislation that come before us without just asking one or 2 basic questions, particularly where international conventions are concerned. No matter how well they are supported - there are 150 nations and so on - the purpose is obviously absolutely sound and I would think nobody would oppose that. But in terms of the effect on small boat owners, for example, I telephoned the Harbour Office yesterday to ask what was the minimum size of vessel that is affected and the answer I was told: "Well, there is not one"; effectively all small boats/small ships all come under this new rule. Of course we are also told that the regulations replace the present pollution provisions, which are Island legislation. It said: "We have that" and so therefore this is not new regulation, but I think what is different is that there are some really swinging fines mentioned here; there is talk here of £5,000 to £30,000. Also we do not have, as been mentioned, or are not provided with copies of the Annexes that set out what one is required to do for a small boat owner to fall within this when it is introduced. Of course clearly, when that is the case, those rules will change and they may change without our knowledge. My worry is, I suppose, enforcement. I would like to hear from the Minister that the Harbour Office will provide help and support to make sure that no small boat owners accidentally fall foul of these regulations without knowing about it and for that to provide help, guidance and so on to make sure that we do not have unintended consequences of this. But I am totally in support of the principles; I just would think, as a matter of principle, we should just provide more than just a brief rubber stamp on these international pieces of legislation that come on to our port.

10.1.5 Deputy M. Tadier:

First of all I think that generally this is a correct proposition to be bringing and hopefully - I think the Minister intimated it towards the end of his speech - we do need to be looking for diversification in the Island. I know this is not necessarily primarily the reason that we are passing this today but I would hope that we could see Jersey as the centre where people do come to register their boats and we perhaps reinvigorate even a fraction of what Jersey used to have as part of its maritime history and the economy surrounding that. I do think that certainly what the Constable of St. John has told us this morning is a salutary but disturbing reminder of where we are in the greater scheme of things; why is it that in an Island which we know relies very heavily, certainly for its tourism and for its leisure for locals, on the beautiful beaches and the cleanliness of the waters around the Island, and I certainly remember it is a long time ago now when Jersey was receiving awards for its clean beaches and the clean water that we are being told by the former chairman that we have massive problems with pollution of all various sorts in our waters. It does seem to me that

again we are introducing and rubber-stamping something which we have to do for the wrong reasons. We are not doing it because it is the right thing to do, we are doing it because we think it is good for the reputation of Jersey and/or because we do not have any choice. I do not have a problem with that; it is good to do this and no matter what the motivation for that is it needs to be done, but we are doing the minimum again here. We are only opting for these 2 parts which are absolutely fundamental to be implemented. So, the question I would ask of the Minister is, first of all, is there a plan to implement either any or the rest of the conditions which are optional, and if so how will that be done, and is there a timescale for that be done? But also I think it would be appropriate, if not now certainly in the future, to hear from perhaps the Minister for Planning and Environment because, as I have said, the Constable of St. John has reminded us of some very concerning issues for an Island which not simply relies on tourism for a great part of its revenue but also for the fishing industry because that is certainly a worrying reminder.

The Deputy Bailiff:

Does any other Member wish to speak? I call on the Minister to reply.

10.1.6 Senator A.J.H. Maclean:

I would like to thank Members who have spoken. I will address the questions. The Constable of St. John talked of double standards. What I would say to him is that this is progress. We are now moving, and he is absolutely right, there is a lot more to be done and more will be done but at least we are making the first steps, certainly in this particular area. This is one of 6 annexes; we are doing the first 2 as part of this move today. He did refer back to some of the issues. He mentioned, I think, P.F.O.S., which was a contamination issue at the airport but I prefer to concentrate on looking forward. That is, I would point out to Members, an issue of contamination that is monitored on a regular basis. The P.F.O.S contamination in the bay at St. Ouen is on land as opposed to on the sea but nevertheless he mentioned it. I would also say to the Constable of St. John that the issues that are covered with regard to pollution for vessels is in many respects covered already by the Water Pollution (Jersey) Law. This is just going a step further in order to give additional coverage, as I mentioned, in my opening remarks. The Constable of St. Lawrence asked about the timing. She quite rightly pointed out that the convention came about in 1973 and why is it today only that Jersey has got to the stage where it is introducing the first 2 of these annexes. I would first of all point out that the United Kingdom took until the 1980s before it adopted the convention and I accept that we are even slower than that. I would also point out that I have only been Minister, although this is my second term, for 3 years so perhaps I am making some quite swift progress in that respect and I think it is important that we keep the pace up; it is a matter of reputational risk and I think it is important that we meet international standards for that reason, but there are other benefits here and those are associated with diversification which is important, Deputy Tadier touched on it, and the ability to expand our ship registry in due course is an option that we could not do if we had not adopted this particular convention. The environmental impact area is also extremely important. So, there are lots of reasons why we need to move on and accelerate the pace but resources will always be a constraining factor, but having said that I think we will make a great deal of progress over the coming couple of years. Deputy Baudains raised a valuable point about enforcement: how are we going to enforce? We are already dealing with a number of matters in terms of enforcement and checking vessels under the other conventions that already exist, for example, S.O.L.A.S., where we board vessels and check the necessary paperwork to see if they meet the standards of those conventions. This would simply be a case of adding that on to the existing workload already. So, it is something that already can be possible to be added on to work that is already undertaken. I have covered the points on risk as well. I should point out that there are already for Members' interest in excess of 150 countries that have already signed-up to this convention. I thank Deputy Young for his support and indeed his comments. He raised

some important points about small boat owners. That was indeed one of the reasons I delayed this debate until now as opposed to just before Christmas. I was not satisfied that small boat owners had been consulted with appropriately and we did ensure that that happened in the early part of this month. It is important. He rightly points out potentially the fines are unlimited. He called on some of the examples that were given but nevertheless proportionality would be the judgment of the court should a particular prosecution be pursued. But proportionality is key and what I would say is that these conventions are not intended to catch small boat owners. What will happen, if the Assembly approves this today, it will take up to 12 months before it comes into force; a period when Jersey Harbours will be working with local boat owner community to ensure that they are completely aware of what is coming on board, what is required by them, and ensuring that when in fact the legislation does come into force that it is treated in a proportionate way. So, I do not think the Deputy should have concerns about heavy-handedness; it is frankly not in our interests to what I would describe as shoot ourselves in the foot by attacking small boat owners, the life blood of one area of economy; it simply does not make sense. Finally, Deputy Tadier asked about when we were going to deal with the rest, and I think I probably covered this; within the next 2 years we will be making significant progress in addressing the rest of this particular convention and I think that is the right thing to do but it is constrained by resources. I hope to be able to progress as soon as possible and certainly within the next few years. So, I hope I have covered all Members' queries. I maintain the principles.

The Connétable of St. John:

A point of clarification, if I may, the Minister said that the P.F.O.S. was in ground water, we are talking about saltwater and the P.F.O.S. has got into the salt water in St. Ouen's Bay and has not been monitored to date. We have requested it in our report.

The Deputy Bailiff:

Did you wish to deal with that, Minister?

Senator A.J.H. Maclean:

Yes, I will deal with that in a separate detail.

The Deputy Bailiff:

Very well. The vote is called for on the principles of the regulations; all Members in favour of adopting them kindly ... the appel is called for and I invite Members to return to their seats. The vote is on the principles of the Draft Shipping (MARPOL) (Jersey) Regulations and I ask the Greffier to open the voting.

POUR: 47		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Clement				
Connétable of St. Peter				

Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

The Deputy Bailiff:

May I ask the Chairman of the Economic Affairs Scrutiny Panel, does your panel wish to scrutinise these regulations? No, then Minister, how do you wish to proceed?

10.2 Senator A.J.H. Maclean:

I would propose taking the regulations *en bloc*; that is regulations 1 to 22 and I would be happy to answer any questions that Members might have at that particular point.

[15:15]

The Deputy Bailiff:

All right. You are not going to explain them?

Senator A.J.H. Maclean:

I was not going to go into detail. Quite simply we have to adopt either all of them or not at all. It is not a question of cherry-picking. If Members have a particular concern about any particular regulation, which I am sure they have studied then I am more than happy to deal with that. So, there is one other point I would mention and perhaps I can deal with that with regard to Regulation

10 and that is a small clerical error that I would like to deal with in the Third Reading but I would just like to bring it to your attention for your consideration. It is in connection with the heading. Under 10 it currently says: "Duty under Article 1 of Protocol 1 to Report Incidents." There has been a clerical error in that heading. It should read: "Duty to Report Incidents" and not refer specifically to Article 1 of Protocol 1 and I would ask if there could be a correction made of that when appropriate.

The Deputy Bailiff:

As we are about to vote on the adoption of these articles I will apply the slip rule and: "Under Article 1 of Protocol 1" will be removed from the heading of Regulation 10. Does any other Member wish to speak on the Regulations?

10.2.1 Deputy R.G. Le Hérissier:

In the opening comments the Minister spoke about British and French officials being about to act and I notice, for example, under Regulation 8 there is reference to an inspector and a surveyor of ships throughout that particular regulation. I wonder if the Minister could tell us when the word "inspector" or "surveyor of ships" is used, is there an assumption that that could be a British or a French official? If so, could he tell us where in the regulations the authority is given to these officials to act in such a fashion?

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

Would the Minister give us the definition of a ship in relation to a boat, and also, if a ship's boat discharges oil through its pump out system, who gets prosecuted, the ship's master, or the skipper of the ship's boat?

10.2.3 Deputy J.H. Young:

I wonder if it is possible to take Article 17 separately. I just wanted to raise a point on that one please. Do you want me to speak on it now?

The Deputy Bailiff:

You can ask a question because we are debating the whole of the regulation.

Deputy J.H. Young:

The question I would like to ask of the Minister: Article 17 refers to Regulation 36.9 of Annex 1 and yet nowhere in these documents does it tell you what that is, so I wonder if we could be given a summary of what is in there or where we might find the document that is a requirement of Article 17.

The Deputy Bailiff:

Does any other Member wish to speak? Then I call on the Minister to reply.

10.2.4 Senator A.J.H. Maclean:

I will deal with the easier one first. Deputy Young, Article 17, there are no Jersey oil tankers so this regulation merely ensures compliance with the convention if at a later date the Island were to register such ships. So, that totally deals with that point. Deputy Le Hérissier was asking questions about U.K. and French surveyors. The decision would be made as to whether it was appropriate to use either/or. There is not a particular reason why it would be one or the other, probably in relation to the flag of the particular boat or ship, as the case may be, and so that decision would be taken accordingly. As to where the authority is given within the regulations I think I would call upon the Attorney General to see if he could fish those out quickly. He is looking a bit horrified but if I may ask him to give assistance on that.

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

I think I can assist. The term “inspector and surveyor of ships” are defined in the Shipping (Jersey) Law and they are persons appointed to do that function by the Minister under Article 154 of that law.

Deputy R.G. Le Hérissier:

Are there any criteria by which this appointment is made, or can the Minister just appoint somebody who then calls themselves a surveyor of ships?

The Deputy Bailiff:

Attorney, are there any legal criteria?

The Attorney General:

No, Sir, not that I have been able to see within the Shipping (Jersey) Law. It merely says: “The Minister may appoint persons to be surveyors of ships for the purposes of the law and he may appoint someone to be an inspector for the purposes of the law” so it must obviously be for the Minister to satisfy himself that the individuals who he wishes to appoint are suitably qualified to take that appointment.

The Deputy Bailiff:

Minister, had you completed your ...

Senator A.J.H. Maclean:

No, not quite. The Deputy of St. John was asking about matters of prosecution. It could be either the master or the owner of the vessel who could be prosecuted. I am rather surprised with this question because I thought he was a sea-going gentleman and would know the definition between ship or boat and being so professional and astute in such matters I think it is really left to him to determine exactly what that definition should be.

The Connétable of St. John:

Can we have the reply, sir, please.

Senator A.J.H. Maclean:

Nevertheless, in terms of Jersey ships the definition of whether it is a ship or a boat, as far as this convention is concerned, is irrelevant because it applies to both; it is about substances being discharged and whether or not under the conventions one was going to act or not.

The Connétable of St. John:

On the ship’s boat, sir, who is responsible, the Skipper or the Master of the main vessel?

The Deputy Bailiff:

I do not think that was a question that you asked earlier, was it?

Senator A.J.H. Maclean:

If the Constable could repeat that, I did not quite get it. He was asking about prosecution which I answered. I did not catch the other part to the question.

The Connétable of St. John:

The question originally was, ships’ boats i.e. the launches, *et cetera*, when you have a coxswain/skipper, who is responsible for causing the pollution if he turns his bilge pumps on? Is it the ship’s master, or the coxswain of that particular vessel?

Senator A.J.H. Maclean:

My interpretation of that would be that it would be the ship's master but I think the Attorney General should clarify that point to make sure that I am not misleading the House in any way.

The Deputy Bailiff:

It will be for the Attorney to take a decision at the time, so yes.

The Attorney General:

I am not sure that I can be entirely definitive. As these matters are defined within the regulations and indeed with the Shipping (Jersey) Law people susceptible for charge for offences under the law are the master, the owner and the charterer. So, there is no specific provision for anyone other than that. It would be a matter of definition of law as to whether the coxswain of a particular vessel is in fact the master of that vessel when it is a dependent vessel from a large ship, for example, but I am afraid I do not know the answer to that.

The Deputy Bailiff:

The Connétable seems happy with the answer anyway. Regulations 1 to 22 and the schedule are proposed. All those Members in favour of adopting them kindly show. Those against? The regulations are adopted. Do you move the regulations in Third Reading, Minister?

10.3 Senator A.J.H. Maclean:

Yes, please, Sir. The point I raised about the clarification has been dealt with, has it?

The Deputy Bailiff:

Which point?

Senator A.J.H. Maclean:

In terms of Regulation 10, the introduction ...

The Deputy Bailiff:

That had been dealt with before we debated in the Second Reading. Are the regulations seconded in Third Reading? **[Seconded]** Does any Member wish to speak on the regulations in Third Reading?

10.3.1 The Connétable of St. John:

As the Minister had not thanked the boating fraternity in Jersey, because I did raise it with them, to review this when I saw it come across the radar. It is important that when things of this nature are brought to the House that they are discussed with the various groups and I sincerely hope in summing up that the Minister will thank the St. Helier Boat Owners and the various yacht clubs who advised his officers at Harbours and gave them their views as to this proposed law.

The Deputy Bailiff:

Does any other Member wish to speak in third reading? I call on the Minister to reply.

10.3.2 Senator A.J.H. Maclean:

I thank the Constable of St. John for his interjection not just today, which has been helpful. I am sure if he would like to invite me down to his vessel we can discuss boats and ships at some length. I will look forward to that invitation. In all seriousness I would like to thank him for raising in December some concerns that did exist about this and there had not perhaps been enough consultation with regard to small boat owners locally and as a result of that, as I have mentioned earlier, we did in fact defer this debate until today and that was a very helpful interjection that he

made. I would pick up his point about the boat owning community, the yacht clubs and so on. They have been very helpful in this regard and I would like to put on record my thanks and the thanks of the department for their assistance in relation to this and generally in maritime and boating matters; they are always very constructive when they come forward with proposals. I would also like to take the opportunity to thank my officers for the hard work they have put into bringing this forward. They have done a fine job and indeed the Law Officers, draftsmen, and I thank the Attorney General who has been very helpful today. I felt in very good company when, if I may put it this way, he was in a similar boat to myself over one of the questions. I will leave it at that and maintain the proposition.

The Deputy Bailiff:

The regulations are proposed in the Third Reading. All Members in favour of adopting them kindly show. The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the Draft Shipping (MARPOL) (Jersey) Regulations in Third Reading and I ask the Greffier to open the voting.

POUR: 46		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				

Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

11. Draft Criminal Justice (Miscellaneous Provisions) (No. 3) (Jersey) Law 201-(P.173/2011)

The Deputy Bailiff:

We now come to P.173 The Draft Criminal Justice (Miscellaneous Provisions) (No. 3) (Jersey) Law and I ask the Greffier to read the citation of the draft.

The Deputy Greffier of the States:

Draft Criminal Justice (Miscellaneous Provisions) (No.3) (Jersey) Law. A Law to amend the Loi (1895) modifiant le droit criminel, the protection of the Children (Jersey) Law 1994, the Criminal Justice (Evidence and Procedure) (Jersey) Law 1998, and the Police Procedures and Criminal Evidence (Jersey) Law 2003, and for other purposes. The States, subject to the sanction of Her Most Excellent Majesty in Counsel, have adopted the following law.

Senator I.J. Gorst (The Chief Minister):

I would like to ask my Assistant Minister to act as rapporteur for this please.

11.1 Senator P.M. Bailhache (Assistant Chief Minister - rapporteur):

This draft law or Bill seeks to achieve 4 changes to the criminal law. First it seeks to abolish the requirement for corroboration in certain cases. Secondly, it seeks to correct an error made in 1998 when a provision of the Protection of Children (Jersey) Law 1994 was inadvertently repealed. Thirdly, it seeks to make it clear that evidence by live television link can be given not only in the Royal Court but also in the Magistrates Court and Youth Court. Fourthly, it seeks to repeal an obsolete provision of the 1895 law on criminal offences. I shall take each of those changes in turn. First, in relation to corroboration, at customary law and at common law in most commonwealth jurisdictions certain evidence was traditionally regarded with suspicion. That evidence was the evidence of accomplices, the evidence of complainants in sexual cases and the evidence of children. The presumption was that such witnesses often lied. Criminals would lie to save their own skin and complainants in sexual cases could make allegations about what had happened often in private which were difficult to rebut.

[15:30]

The law therefore required - and indeed requires - that such evidence should be corroborated; that is confirmed by some independent evidence. A judge has a duty to warn a jury that it is dangerous to convict upon the evidence of an accomplice, a complainant in a sexual case, or a child, unless there is some independent evidence to confirm it. By way of example, if a woman makes an allegation of rape it is necessary to look for some independent evidence to confirm that allegation. Evidence, for example, that she protested loudly, or evidence that there has been physical injury, or evidence that she made a complaint immediately after the alleged assault. The rule about corroboration in

essence makes it more difficult to secure a conviction and sometimes that is not fair. If a woman is raped at knifepoint and is terrified there may very well be no sounds of protest about which evidence can be given. There may be no physical injury and no immediate complaint to someone about it. The jury might believe her but find it difficult to convict because of the absence of corroborative evidence. Certainly so far as complainants in sexual cases and children are concerned it is not generally thought any longer that such witnesses have a tendency to lie. The amendment would therefore remove the rigidity of the rule for corroboration and would bring Jersey law into line with the law of most other commonwealth countries by leaving it to a judge to decide whether or not a jury should be warned about the dangers of convicting without corroborative evidence. The second amendment concerns a provision which was inadvertently repealed. In 1994 the Assembly enacted the Protection of Children (Jersey) Law 1994 which contained a provision now seen in the proposed Article 2A of the Bill. This provision was unfortunately repealed in 1998. I am not clear why but there was clearly some mistake. The result is that there is now an ambiguity about the evidence upon which the court can rely to establish the age of a child whose indecent photograph has been taken or downloaded by a defendant. Suppose that a man downloads from the internet an indecent photograph of a child and stores it on his computer. It is an offence to have in your possession an indecent photograph of a child under the age of 16. At the moment the defence can say: "Who is the child in the photograph?" and no one knows the answer to that question. How then do you know that the child is under the age of 16? There is no direct evidence before the court as to the age of the child in question and there is a risk therefore that the defendant might be wrongly acquitted. The purpose of the provision in question at paragraph 2A of the draft Bill is to enable the court to take into account the evidence as a whole in deciding whether or not the child in question is under the age of 16. The third proposed amendment is to remove an ambiguity in the 1998 law on criminal procedure and evidence and to make it clear that evidence by live television link can be given not only in the Royal Court but in the Magistrates Court and the Youth Court as well. The fourth amendment concerns a minor change to the 1895 law on criminal cases governing the admissibility of the evidence of a child. This provision should have been repealed by the Criminal Justice Evidence of Children (Jersey) Law 2002 which introduced a slightly different test. The draft law would correct that oversight and would repeal the second paragraph of Article 2 of the 1895 law. I therefore move the principles of the Bill.

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

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

11.1.1 Deputy R.G. Le Hérissier:

I want to see if the rapporteur could tell the House whether the changes in other jurisdictions of the corroboration rule have indeed led to higher rates of conviction rape cases, given the notoriously low rates that appear to prevail.

11.1.2 Deputy T.M. Pitman:

I would just like the Assistant Minister to clarify, if he could, on the issue of whether a young person, or one who seems to be a young person perhaps in an indecent image or whatever... because I just want to be clear that there are still safeguards in place. I worked with a young woman some years ago who was 27 but she was regularly mistaken for someone of 15. Now, if that was the only evidence, that person, a picture on the screen, how would that person defend themselves? I just want to be quite clear that we are not putting someone more at risk when they may be completely innocent. There is no evidence other than that image, we do not know who the

person is, how can we know that that person is 16, 18, or as I say someone I worked with who was 27?

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

Does any other Member wish to speak on the principles? Very well. I will ask Senator Bailhache to reply.

11.1.3 Senator P.M. Bailhache:

I am not sure that I can give Deputy Le Hérisssier any specific information about the number of cases which have led to convictions in other jurisdictions as a result of the changes in the corroboration rules, but logic would suggest that the absence of the requirement for corroboration has made it easier to bring guilty men to justice and I cannot, I am afraid, say more than that. So far as the question of Deputy Pitman is concerned, the purpose of the amendment is to allow the court to take into account the totality of the evidence and if therefore there was only the evidence of the image itself and there appeared some doubt from the image as to the age of the child then the defendant would be able to submit that the prosecution had not proved the case beyond reasonable doubt. The provision does not, I think, put innocent people at risk but it does enable the court to take into account the totality of the evidence and to bring the guilty to justice.

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

We will come to vote now on the principles. The vote is for or against the principles of the Draft Criminal Justice (Miscellaneous Provisions) (No. 3) (Jersey) Law. Those Members in favour kindly show. Those against. The principles are adopted. Now, the chairman of the Corporate Services Scrutiny Panel, Senator Ferguson, does your panel wish to scrutinise?

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

No thank you, Madam.

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

Senator, how do you wish to proceed now?

11.2 Senator P.M. Bailhache:

With the leave of the Assembly I would like to take the articles of the Bill *en bloc* and answer any questions that any Members might have on the details. So, I therefore propose Articles 1 to 5 of the Bill *en bloc*.

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

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

11.2.1 Senator F. du H. Le Gresley:

It may not be something that the Senator can respond to, but it always concerns me when we are updating legislation when we seem to still have some very old legislation that we keep trying to bring into the modern age. We have an 1895 law here mentioned in Article 1 which is 117 years old and in Article 3 at the very bottom we have an 1864 law which is 148 years old and, given the rapporteur's wealth of knowledge of the laws, I just wondered if he had an opinion whether it was time a lot of these laws were brought into the 20th century.

11.2.2 Deputy M. Tadier:

I was going to ask, because I know this is an area which the last Education and Home Affairs panel was looking at and I know Corporate Affairs were given the opportunity just now to scrutinise this, but it is really just to ask whether the current Home Affairs Scrutiny Panel will consider looking at

these areas. I know that fortunately the chairman was also a member of the previous panel and there were concerns raised by family members of those who had been convicted of such offences. Now, of course there are 2 sides to every story and it is not appropriate to go into detail about what that person was saying, but it does seem to me that certainly it might be an area which I would like to hear from the chairman perhaps of the Scrutiny Panel. I know that a lot of these are perhaps uncontroversial but certainly, as the previous speakers have indicated, justice is about 2 areas: it is about making sure that the guilty get convicted and that they do not get off when there is a lack of proof but the likelihood is that they committed an offence. But similarly, if somebody has not committed an offence or there was no intent then that needs to be taken into account, and certainly an area which the previous Home Affairs panel was keen to look at was the whole conundrum of intent, and this person who came to speak to us, a family member... and I have to say of course we take everything with pinches of salt because when you get a family member sometimes they may be not willing to look at all the facts but that does not mean that they should not be listened to. The whole possibility of images, of email accounts being hacked, *et cetera*, about viruses and about things appearing on people's computers, which was the contention of this particular individual, I would like to know what safeguards there are in place, which I am sure hopefully there would be. This is presumably an area which the current panel might have something to say on and perhaps the rapporteur could also comment on those areas, but of course this is something which needs to be supported.

11.2.3 Deputy J.M. Maçon:

Just simply to respond to the question of Deputy Tadier; yes, this matter was brought to the attention of the previous Home Affairs Scrutiny Panel and I am quite happy because I believe matters were referred between the Law Officers and the Home Affairs Department. I believe they have fallen through the cracks and I am quite happy to give the commitment to the Member that I will once again look at this matter, and if a scrutiny review is deemed appropriate then I believe that is what the panel will do, but I am quite happy to chase departments and see what has happened with this particular issue.

11.2.4 Senator B.I. Le Marquand:

I rise to share what I can recall in relation to the point raised by Senator Le Gresley. I have it in mind that I am aware that there was a piece of work being done by somebody on something called the Sexual Offences Law, to be distinguished from the Sex Offenders Law, which of course was a Home Affairs matter, and I believe the purpose of that was to seek to bring up-to-date a number of offences in this area. What I cannot recall, however, is who was doing that work. I do not think it was Home Affairs. I have a feeling, and I am looking not accusatorially but inquisitorially at the learned Attorney because I think it may have been his department that was doing some work, but somebody was doing something.

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

Can you help, Mr. Attorney?

The Attorney General:

I am afraid I cannot help on that specific area of legislation. It is certainly a matter that we do from time to time look at but I am not aware of a specific piece of work designed to review the position, but to assist Senator Le Gresley what I can say is that the law of criminal procedure to which the 1885 law of course primarily concerns itself, is very much under review with a view to modernising the legislation and evolving a statement of the law of procedure which is up to date.

[15:45]

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

Thank you. Does any other Member wish to speak? Very well, I call on the Assistant Chief Minister to reply.

11.2.5 Senator P.M. Bailhache:

I think that the Attorney General and Deputy Maçon have answered all the questions that have been put but I might just add in relation to the old laws that complaints are generally made by Members about laws in French which do not have the ability to speak the second official language of our Island, and I do not know whether that applies to Senator Le Gresley or not. The 1864 law on criminal procedure is indeed something that has been under review by at least 5 Attorneys General. I remember that it was a piece of work started by Sir Peter Crill when he was Attorney General and I hope that the current Attorney will have a great deal more success than his predecessors in bringing it to fruition. So, I move the articles of the Bill.

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

The vote is on Articles 1 to 5 of the law. Those in favour kindly show. The appel is called for. I ask Members to return to their seats and I ask for the Greffier to open the voting.

POUR: 41	CONTRE: 0	ABSTAIN: 0
Senator P.F. Routier		
Senator P.F.C. Ozouf		
Senator A. Breckon		
Senator S.C. Ferguson		
Senator A.J.H. Maclean		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Connétable of Trinity		
Connétable of Grouville		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Connétable of St. Saviour		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisier (S)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy S. Pitman (H)		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy T.M. Pitman (H)		
Deputy T.A. Vallois (S)		
Deputy M.R. Higgins (H)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy G.C.L. Baudains (C)		
Deputy of St. John		
Deputy J.P.G. Baker (H)		

Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				

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

Do you propose it in Third Reading?

11.3 Senator P.M. Bailhache:

I propose the Bill in Third Reading.

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

Is the Bill seconded? **[Seconded]** Does any Member wish to speak on Third Reading?

11.3.1 Deputy J.A.N. Le Fondré:

Just briefly, as former chairman of the last Legislation Advisory Panel, which basically was responsible for putting this set of regulations together, it was really just to note thanks to the former panel members. The only one left here now, other than myself, is Senator Ferguson; there was the former Deputy of St. Peter, the former Constable of St. Ouen and the former Deputy Jeune. I wish the new members all the greatest success and happiness in their new roles, as it were. It is quite an interesting role and that is really all I have to say.

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

Does any other Member wish to speak? Very well, I will ask the Assistant Chief Minister to reply.

Senator P.M. Bailhache:

The matter to be put to the vote now.

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

Very well, all those in favour of the Third Reading? The appel is called for. I ask Members to return to their seats and I ask the Greffier to open the voting.

POUR: 44		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				

Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

12. Draft Criminal Justice (International Co-operation) (Amendment No. 2) (Jersey) Law 201- (P.181/2011)

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

We move now to the P.181, the Draft Criminal Justice (International Co-operation) (Amendment No. 2) (Jersey) Law and I ask the Greffier to read the citation.

The Assistant Greffier of the States:

Draft Criminal Justice (International Co-operation) (Amendment No. 2) (Jersey) Law 201-. A Law to amend further the Criminal Justice (International Co-operation) (Jersey) Law 2001.

The Deputy Bailiff:

Minister, you wish to propose the principles.

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

This is a small but technical amendment to a law. The law enables Jersey to co-operate with other countries in relation to criminal investigations and proceedings. At the moment only police officers can be authorised under the headline law to conduct searches of premises in Jersey for relevant evidence in order to assist an outside country with a criminal investigation or trial. What is proposed under this is that Customs Officers should be capable of being so authorised in relation to areas in which they currently have powers and currently operate such as drugs-related matters. There are a whole number of safeguards in relation to the search powers. First, a request must be received from an outside criminal court or prosecuting authority; secondly, the provisions only

apply to offences which are offences in Jersey and which in Jersey carry a maximum sentence of one year; thirdly, the Attorney General must make the application; fourthly the Bailiff must grant a warrant; and fifthly under the amendments, as I said, a Customs Officer can only be authorised in relation to a matter which he formally deals with; sixthly, the power of search is limited to the extent that is reasonably required for the purposes of discovering relevant evidence. There are good practical reasons for these amendments because sometimes the requests come through for matters which are initiated by Customs Officers in other jurisdictions and, in particular, there are very close working relationships and understandings between the Jersey Customs Immigration Service and the French Douane, the French Customs Service. So, we have had the situation sometimes where there has been liaison between Jersey Customs and the Douane that has led to investigations in relation to drugs picked up in France, possibly on the way to Jersey, and then of course the Jersey Customs cannot be authorised to assist because the law does not allow them to. Well, now this will put that right. So, I move the principles of this law.

The Deputy Bailiff:

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

12.1.1 Deputy M.R. Higgins:

Just a point of clarification on the Minister. On the face of it it seems fine. Would there be any circumstances in which in terms of co-operation Customs Officers would be empowered to search when a similar or equivalent offence does not exist in the Island? In other words, it may relate in the State that is requesting it but does not exist in Jersey.

The Deputy Bailiff:

Does any other Member wish to speak? I call on the Minister to reply.

12.1.2 Senator B.I. Le Marquand:

No, that could not occur because this only relates to serious offences and serious offences are defined as offences which exist in Jersey and for which there is at least a 12-month sentence. So, there is no danger of this being some request for some offence elsewhere which we did not recognise an equivalent offence here.

The Deputy Bailiff:

All Members in favour of adopting the principles kindly show. Against? The principles are adopted. Deputy Maçon, does your panel wish to scrutinise this legislation?

Deputy J.M. Maçon (Chairman, Education and Home Affairs Scrutiny Panel):

No, thank you, Sir.

The Deputy Bailiff:

Very well. Minister.

12.2 Senator B.I. Le Marquand:

Although I could embark upon a detailed exposition of different articles I suspect that would not be popular and so I am going to follow the precedent of previous speakers in terms of inviting questions on particular points so that I might explain the detail if Members so wish but I have explained the generality of what this is about.

The Deputy Bailiff:

Do you propose the articles *en bloc*?

Senator B.I. Le Marquand:

I do indeed, Sir, yes.

The Deputy Bailiff:

The articles are proposed *en bloc*. Are they seconded? **[Seconded]** Does any Member wish to speak? All those in favour of adopting the articles kindly show. Those against? The articles are adopted. Do you propose the Bill in Third Reading?

Senator B.I. Le Marquand:

I do indeed, Sir, yes. I have nothing further to add but I would answer any further questions should one arise.

The Deputy Bailiff:

I do not think any further questions can arise because nobody has spoken so far. **[Seconded]** Those Members for adopting the Bill in Third Reading kindly show. The appel is called for. I ask Members to return to their seats. The vote is on whether to adopt the Draft Criminal Justice (International Co-operation) (Amendment No. 2) (Jersey) Law in Third Reading. I ask the Greffier to open the voting.

POUR: 43		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

Deputy G.C.L. Baudains (C)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

13. Minimum Wage: revised hourly rate from 1st April 2012 (P.183/2011)

The Deputy Bailiff:

We now come to P.183, the Minimum Wage: revised hourly rate from 1st April 2012 lodged by Deputy Southern. I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to request the Minister for Social Security, having sought the views of the Employment Forum as required by Article 18(1) of the Employment (Jersey) Law 2003 to make an order fixing the minimum wage at £6.52 per hour ...

The Deputy Bailiff:

Greffier, I am sorry, would you read it again and can I ask Members to please be quiet while it is being read because I think very few people will have been able to hear the Greffier talking.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to request the Minister for Social Security, having sought the views of the Employment Forum as required by Article 18(1) of the Employment (Jersey) Law 2003 to make an order fixing the minimum wage at £6.52 per hour from 1st April 2012 and as this figure is different from the £6.48 rate recommended by the Forum, to report to the States as required by Article 18(4) of the Employment (Jersey) Law 2003.

13.1 Deputy G.P. Southern:

Over the Christmas period I have discovered that apparently people prefer me singing than speaking so I am very tempted to give you a little song and Members will be grateful I am not going to do it in drag this time. Very grateful. “7 and a half cents doesn’t mean a lot to me, 7 and a half cents it don’t mean a thing, but give it to me every hour, every day, every week, give it to me every year and I’ll live like a king.” The song was from The Pyjama Game on Broadway in the 1960s and 7 and a half cents, or 4p, does not sound like an awful lot. Does not sound like it means a thing, but it does. It means an extra £1.60 a week. It means an extra £183 every year for people on the minimum wage. Now, it is significant to those people on the minimum wage. But it is a modest proposal, a moderate proposal and it is deliberately moderate. The starting point is that I was considering Senator Breckon’s double-lock mechanism to protect pensions and I was thinking about the minimum wage at the same time and low earners on the Island and thinking: “We must protect the lowest earners on the Island as well” in a similar way as we might protect pensioners and that means that instead of setting the minimum wage by comparison with the average earnings index this year the average earnings index for once is much lower than the R.P.I. (Retail Price Index). So, I looked at the R.P.I. figures and I started with the June figure of 4.5 per cent and took out G.S.T. of 1.3 per cent, because we have been told we cannot compensate for G.S.T., which leaves me a figure of 3.2 per cent as an increase which is appropriate, might be appropriate, for raising the minimum wage. As it happens that particular figure puts the minimum wage as a

proportion of the mean wage at 40.15 per cent. Now, that is exactly the proportion it was last year. So, while it looks like it is generous, in fact as a proportion of the average wage it is exactly where it was last year. So, what it does, that extra 4p, it maintains the position of the minimum wage relative to the average wage. It means that those on the minimum wage do not fall behind the rest of the workforce. That is what it means. The fact is we have set a minimum wage some years ago. The reality is if we let that minimum wage be eroded at any time then protection that this Chamber has decided should be in place for those on the lowest earnings, the lowest wages... we are maintaining that protection. I think that is the appropriate role for Government and I think my figure maintains that protection. The figure that the Employment Forum came up with of a 2.5 per cent rise gives a figure of £6.48 as the new minimum wage and that is a slight erosion to 39.9 per cent of the average wage.

[16:00]

The issue here is not whether you like the minimum wage or not, and not whether you would support taking the minimum wage up, because we are committed over a long time period, between 5 and 15 years of raising the minimum wage to 45 per cent of the average wage. But this does not do that and does not apply that consideration. It simply says the minimum we can do in this time of recession is make sure that the lowest paid of our workers do not bear the brunt of this recession. It says maintain the minimum wage at the same proportion as it was last year, neither up nor down, but the same proportion. Maintain the protection, which I believe is correctly in there, that our lowest paid workers have a minimum wage and that is our starting point. That is what you need to survive in Jersey. It is not that argument. It is, do we maintain it at the same point as it was last year? £6.52: does that £6.48 accept... albeit a slight... but an erosion; it is chipping away at the minimum wage and that is the argument. That is simply the argument that we are having today. That more or less sums it up, I think. Protect our lowest paid workers. Maintain that protection at the same ratio as it was last year.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** It is open for debate. I call on the Minister for Social Security.

13.1.1 Senator F. du H. Le Gresley:

Members will be pleased that I am not going to respond with another song in response to The Pyjama Game song. I am going to tell it like it is I am afraid. When I first read Deputy Southern's proposition I thought that the extra 4 pence an hour he was seeking was fairly inconsequential and was minded to accept the amendment, however, after carrying out further research and attending a meeting of the Employment Forum I am convinced that to ignore the careful deliberations and advice of the Forum today would be completely wrong. In his report, and also in his speech, Deputy Southern has not recited the full wording of the proposition P.26/2010 that was approved by the States on 21st April 2010, as amended by the Minister for Economic Development. For the benefit of Members I will read out part (a) of that proposition as amended: "The States are asked to decide whether they are of the opinion that the minimum wage should be set at 45 per cent of average earnings to be achieved over a period of not less than 5 years and not greater than 15 years from April 2011 [and this is where the amended came in] subject to consideration of economic conditions and the impact on competitiveness and employment of the low paid in Jersey." Deputy Southern voted for this amendment and he commented about the Forum: "It would be remiss in its activities if it did not take into consideration all those factors: economic conditions, competitiveness and employment, and in fact it does. Anyone who has read any of their reports will see it is peppered throughout with those sorts of considerations from the employers' point of view, from the employees' point of view and from the overall economic point of view." When

summing up at the end of that debate the Deputy also said: “The Employment Forum at any stage, because of economic conditions or competitiveness, or employment of the low paid, conditions may choose to pause at any stage. This is not about tomorrow. This is not about ramping-up the minimum wage tomorrow, it is about over the next, up to, 15 years and in the light of conditions the Employment Forum can be trusted to do its best to do that.” In view of this unequivocal support of the Employment Forum from Deputy Southern Members should be asking themselves exactly why he has chosen to bring this proposition today against a background of record unemployment levels, and considerable pessimism for economic growth in recent business tendency surveys. So Members will be aware that the labour market is still very weak and, quite correctly, unemployment is the highest priority for the Council of Ministers. Increasing employment costs by raising the minimum wage by more than the average earnings index could undermine the competitiveness of businesses, many of which are exporters, and risk further job losses. Members will, I am sure, have read the letter in the *Jersey Evening Post* or perhaps have received a letter from the President of the Jersey Farmers Union who makes it quite clear that the rate of increase in the minimum wage proposed by Deputy Southern is inflationary and will increase the costs of exported produce from the Island, therefore, making Jersey less competitive. If Members are minded to support the proposition there is a real risk that the resulting impact to maintain pay differentials in a workforce might be unsustainable, thus also potentially leading to further job losses. The September 2011 business tendency survey shows that many firms are currently negative about growth in employment and Members will have received by email the December survey, which unfortunately is embargoed so I cannot mention it, but the signs are not good. Having personally met the members of the Employment Forum with my Assistant Minister I am satisfied that having balanced all of the relevant factors and evidence the forum reached its unanimous recommendation for a 2.5 per cent increase as an appropriate increase to have a minimal effect on redundancies and unemployment. This increase would be in line with the 2011 index of average earnings and is the same percentage increase that has been applied to contributory benefits - including old age pension - with effect from 1st October last year. It is also the same percentage increase that the U.K. and Guernsey have applied to their minimum wage. Jersey’s minimum wage is already higher than the main competitor jurisdictions; Guernsey, £6.15; Isle of Man, £6.20; and the U.K., £6.08. Increases in the minimum wage have kept track with increases in average earnings since it was introduced in 2005. A 24.3 per cent increase in minimum wage and a 24.2 per cent increase in average earnings over the same period. States Members receive notice of the forum’s minimum wage consultation each and are free to respond anonymously if they so wish. During that consultation period I believe that Deputy Southern did not make any response to the recent consultation or make any attempt to meet with the forum before lodging his proposition. The political decision to gradually increase the minimum wage relative to the average weekly wage is subject to consideration of economic circumstances. The forum has assured me that recent recommendations for cautious minimum wage increases are not the result of a policy change; and larger increases relative to average earnings will be considered in the future subject to improvement in the economy. I urge Members to reject this proposition and support the recommendations of the independent Employment Forum.

13.1.2 Deputy M. Tadier:

We may not be making a song and dance about it today but certainly this is a familiar tune that comes back to the Assembly I think once a year. It is a good debate; it is one of those debates which will divide States Members along those who favour those who are exploited, the least well off in our society, who want to see those looked after; and those whose interests lie elsewhere. Now, I am slightly disappointed with Deputy Southern here because this proposition clearly does not go far enough, it is basically maintaining the *status quo* in terms of parity. It stops the gap expanding but it is not doing what this Assembly wanted to do and has put down in policy. The

previous speaker, with whose speech I am disappointed because I am certain that if this debate were taking place under different circumstances - perhaps a year ago - the Senator would be supporting this fully because he knows the plight of those who are least well off in our society, and the fact that 4 pence an hour or £180 a year is much more appreciated in their pockets rather than in the pockets of those who are paying those wages. First of all I think it is incumbent for me to ask Members if anybody has a vested interest here; are there employers in the Assembly who pay the minimum wage? I am not sure if that is the case, it is up to the individuals in this Assembly to answer that question and I am sure they will do on their conscience. That aside, we made a commitment - I think it was 3 years ago but I may be wrong - and it was alluded to by the Minister, that from April 2011 we were going to increase the rate of the minimum wage from 40.5 per cent up to 45 per cent of the median, not the mean, but I could be wrong; but anyway it is 45 per cent of the average. Since April 2011 we have not taken any steps. Ostensibly the reason given for that is because we are in an economic crisis, we are in slow periods of economic growth and that is why we cannot increase the minimum wage in these periods. The clock is ticking, we have to do this in a period of between 5 and 15 years anyway, the States has made that decision already. At some point the minimum wage does have to go from 40 to 45 per cent of the average wage. My argument is - and I think it is supported by economists as well - the best time to raise the minimum wage is not when times are good, it is in times when the economy is expanding slowly or you see little or no growth because that is the time when those at the bottom of the scale, those in the lower quintiles, will most appreciate the increase in their pay packets; 4 pence in times which are good, when everybody else is doing fine, the economy is flourishing, is not going to make that much difference to those who are on the lowest wages. When you see limited economic growth this is exactly the time to do it, especially in the context that we have already decided to increase the minimum wage so this is exactly the time to do it; it is when it will have the least impact but the most impact on those who need the money. We also get the round robin emails and letters to do with the minimum wage; did Members get the letter from the Polish Labourers Union, did they get that letter? Or did they get the letter from the Romanian Restaurant Workers Guild? No, I do not think I got that one either and I certainly did not get one from the Hoteliers Workers Union or whatever the equivalent of that would be. That is because it does not exist. These are people that the sacrosanct decision of the States Employment Board... and that is not to undermine them, of course they do a good job based on the representations they receive; but who do they receive their representations from? It is from those who are organised, it is from those who have a vested interest. You do not get the workers in the hotels or in the restaurants that I go to, the farm workers making representations, because simply they are not organised, many of them do not necessarily have the wherewithal to make those kind of political representations. So of course you get a board which is listening to the same old kind of arguments: "You could not possibly increase the minimum wage because then we would have to sack all of them and then we will not be able to make any money and then the tax profits for the Government would go down" *et cetera, et cetera*. Now, this is not to undermine those who rely on low wages because clearly in the Island there is a conundrum; but the fundamental problem, for example, in agriculture is not to do with 4 pence, whether the minimum wage should be 4 pence higher or 4 pence lower. There are those in this Assembly and there are employers who would be quite happy to see no minimum wage at all; let the market do everything, let us have £1 labour costs from Philippino workers if they are willing to do it, it is all good for the economy.

[16:15]

Clearly we are not in that position, we have already established that there should be a minimum wage. But there is a more fundamental problem here which we need to address as an Island; the reason that it is so difficult to make a living in agriculture is because we are competing with other high net worth industries in the Island which are well known. Even tourism, but certainly the

finance industry which employs the vast majority, either directly or indirectly; and of course that is where the labour is, that is where it is easy to make the money. It is very difficult to make money from growing potatoes; although I still understand that is just about profitable; milk, *et cetera*. So if we want to support this I say it is 4 pence, which we are debating here, is going to be appreciated in the pockets of those who work there. There is this argument that goes around that we do not need to worry about the minimum wage because the only people in Jersey who are paid the minimum wage are foreigners, they are foreign labourers. Well, that may or may not be the case, certainly there are 2 ways to look at that; firstly I would say that we have to be completely blind when we are making decisions, the scales of justice are blind and it does not matter whether those workers come from Jersey or not, whether they are sending money home, whether they are spending it here, we have to be paying a reasonable wage. The idea that because Jersey's minimum wage is already higher than that of the U.K. that is an argument not to increase it; we cannot be making comparisons with the U.K. because the Jersey minimum wage is only 6.57 per cent higher than that in the U.K. But that does not mean that the cost of living in Jersey is 6.57 per cent higher in the U.K. Try buying a loaf of bread in Jersey for 30 pence, you will not be able to do it. We go to Pound World in Jersey to buy our bread; that is virtually unheard of anywhere, you do not go to Pound World to buy your essentials in the U.K. The point I am making here is that the rate of inflation for those in the lower quintiles is higher than those in the upper quintiles; we are seeing perhaps stagnation in the market, if you are a home owner or if you have got a mortgage you may well see that your mortgage is going down depending on what you have got. Cost of house values may go down as well; rents are going up. So it is much more complicated than that; we know that the basics, a can of beans, bread goes up, petrol is going up; if you are on a fixed minimum wage then certainly the cost of living and the inflation is going to be a lot higher for you. I can see some Members shaking their heads but these are the realities of what we are dealing with. So what I would say, I would encourage Members first of all remember the fact that we have made a commitment to increase the minimum wage over a period of 5 to 15 years; we have not done anything to go towards that goal yet. We need to start doing it now when we are seeing the market flat so that those will appreciate it the most, and if there are really problems in industries like agriculture we need to get a strategic plan for those industries together to make sure that neither the employers who are struggling - I know that - in agriculture but also that the labourers; neither of them are getting a rough deal.

13.1.3 Deputy C.F. Labey of Grouville:

I normally have a lot of respect for Deputy Southern and the propositions he brings forward. He is intelligent and his propositions are usually well researched and with facts, reasons and give a good balanced argument. However, the proposition before us today is disappointing as I feel it lacks those qualities and certainly lacks a balanced argument. We have commissioned an Employment Forum to advise and that I accept, they look at both sides and it is up to us to adjust the rate as we think fit. However, they are advising us based on evidence and submissions that they have heard from various parties before they calculate what they feel is right for the conditions and so on. All factors are taken into account and that includes the increase in the employer's contributions that have happened this year; it includes the R.P.I., the G.S.T. and whether the employer has got to provide accommodation and/or food; and it takes into account the knock-on effect from those things. In Deputy Southern's proposition I see no evidence of any form of knock-on effects that his proposition will have and, as Deputy Tadier has just said, we are in a recession and all factors have got to be taken into account. I would take issue with what Deputy Tadier said about the exploitation of workers. Many of the workers - especially in agriculture - choose to come here, they can go elsewhere to work if they so choose but they choose to come here to Jersey; they earn their monies and then they go back to their own countries where they have a far greater spend value, far greater than many local people that remain here. So I would take issue that many of these

people are exploited; I do not feel they are - they have a choice. What I feel with this proposition we have before us... I understand why the Deputy has brought it and who he is representing when he has put it before us here but I feel the actual knock-on effect will be to put people out of work or could jeopardise people in work at the moment so it could have a detrimental effect on the very people he is trying to represent.

13.1.4 Senator P.M. Bailhache:

I agree with I think almost everything that the Deputy of Grouville has said. This is a disappointing proposition. The Assembly has decided that there should be protection for the lower paid and that there should be a minimum wage; but the Assembly has also decided that there should be a process for establishing what that minimum wage should be. There is an Employment Forum made up of equal numbers of representatives of employers and of employees. The Employment Forum considers submissions that have been made; they look at all the relevant circumstances; they take into account the interests of employers and the interests of employees and they reach a conclusion. What is the point of having an Employment Forum if any Member can ignore the existence of the Forum and come to the Assembly and lodge a proposition for a different minimum wage? What is to stop somebody next week from lodging a proposition for a lower figure than the figure recommended by the Employment Forum? That would be equally wrong. There is a process and Deputy Southern is ignoring the process. Deputy Tadier is also wrong; this debate will not show a division between Members who have a social conscience and those who do not. I do not know any Member who does not have a social conscience. The division is between those who respect the processes that the Assembly has established in the interests of both employers and employees; and those who do not respect those processes. Deputy Tadier says that the employees are not sufficiently organised to make their representations to the Employment Forum. I am not sure that I accept that, the Unite Union seems to me to be extremely well organised and I am sure there are other organisations of employees as well. But even if Deputy Tadier is right what is to stop him or indeed Deputy Southern from taking up the cause of employees in general or specific groups of employees and making their representations to the Employment Forum? That is the proper way to get things done.

13.1.5 Deputy T.M. Pitman:

Yes, respecting what the States have already agreed; well is it not funny again, short memories, Senator Bailhache. It is a pity the Senator cannot respect what has been agreed with the independent Electoral Commission. But this is 4 pence and the crucial thing here - as I think Deputy Southern is trying to get across - is that 4 pence can make a huge difference to those people who might get it. I would just say to the Senator and a few others; just try living on the wage that we ask some people to do within Jersey. I am not going to say any more because Deputy Tadier made a very, very good speech and I will leave it at that. It is time we married things up here. It seems we only look at what applies in the U.K. in certain situation; this is not a huge sum and to argue perhaps it is going to put everyone out of business is, I am afraid, completely ridiculous. I have spoken to a number of small business owners and I think it is about time we had a bit more compassion and a bit of a reality check to what people in Jersey are facing today and support Deputy Southern on this. I am not one for ignoring the board normally but look at the situation we are in, in Jersey; I would urge the House to support the Deputy.

13.1.6 Deputy J.A. Martin:

Again, I am going to probably upset Deputy Southern because I would like to bring him back to how he got through P.26, although in his proposition he puts P.6 of 2010, he did not just vote for the amendment, he absolutely accepted the amendment by the Minister for Economic Development; which quite clearly said in times of economic downturn or unfavourable economic

climate that you would not necessarily try to achieve the 45 per cent and it only started last April 2011. We have got a 45 page document here, come on to earlier, from the Employment Forum which looks at the wages and I have read it. Deputy Tadier says there is no Romanian or Polish unions in here but all the people who get a lot of their money deducted for accommodation and food have been spoken to and many of these are foreign nationals and they work in these industries. As the Deputy of Grouville says, they also work in the agriculture industry. I do have a problem because I have just been back over Hansard and, as I say, we pushed this through, between 5 and 15 years. I did say at the time I did not support the amendment because I said we probably are supporting the *status quo*; I never saw the economic downturn really getting so bad. We were all at the presentation of Employment and Social Security the other day which showed a presentation with the Minister for Economic Development. We have 1,300, 1,400 people unemployed; 600 or 700 of them are kids between 18 and 21 who have never, ever had a job. Deputy Southern, as has been already mentioned, without much research he tells us £1.69 a week might not get any of these people - if they are paying it to already employed - a part-time job for an 18 year-old or a 19 year-old. I do not see the evidence here. Now, do I trust Deputy Southern to tell me that all the employers out there can take this extra - I know in the scheme of things it might not be a lot - or do I trust that the States income support, our benefit system, will be able to provide that 4 pence or 5 pence a week to the person on the minimum wage. With the evidence that I have I have got to say I would rather go on the evidence that has been provided to the States; no, the really, really low unemployed who earn minimum wage with benefits are already helped. I want to know that there will be something coming for the kids; there will be employers encouraged to employ them and it is really, really tough out there. I am a mother of one and her friends are also very, very much in the similar situation and they are depressed, they are fed up and they cannot see an answer. So I think to them a job - as I say it might be part-time, minimum wage - if an employer can do that, is much more important than somebody already working who is going to get a rise of 13 pence or 17 pence and I know we can provide that in the benefit. So I am sorry to disappoint Deputy Southern; he agreed to the amendment, he won the argument, I think it was 32 to 14 on the premise - and he emphasised it in his summing up speech - that if the economy was not up for it he would not expect it to be done at 45 per cent.

[16:30]

We are still around 40 per cent so to me we are maintaining the *status quo*; monetarily it is going up but evidence-wise a report that is half a page to me does not do it because I do know how bad it is out there. It is as worse as I have ever known it in 26 years and this could make it worse. Can the Deputy stand up in his summing up and absolutely assure me it will not? I doubt it because he has not done the research.

13.1.7 Deputy M.R. Higgins:

I am going to support the Deputy and the reason why is it is not just foreign seasonal workers who are affected by the minimum wage. In fact I almost find it offensive that it is all right to bring people into the Island and pay them low sums because they are going to leave the Island. The point is the minimum wage, where it is set, affects everybody in the Island whether they leave or not and those people are facing an exceptionally high cost of living. I was looking at some of the figures in the Jersey Farmers Union letter which came to us and they were saying, for example, that our minimum wage is 6 per cent higher than the U.K. but we all know our cost of living is far in excess of 6 per cent higher than the U.K. One thing that annoys me is that our minimum wage is inadequate bearing in mind, as I say, the cost of living; but it is also I think exploitive because it is keeping people on subsistence wages. Now we have a system whereby people are operating from hand to mouth. Now, I have had a number of social security cases where people are hanging on waiting for every single cheque, for every single payment to buy the food that they have got. There

are no luxuries, they are just about surviving and I think that the minimum wage is part of the problem. One of the things we are starting to see in the world - and it is something we are all going to have to take account of - and this is throughout the G20, we will be seeing the 1 per cent and the 99 per cent. The 1 per cent at the very, very top who have most of the money that is being generated in most countries; they are the ones who are earning the money and the other 99 per cent are very low down. So we have a similar situation developing here and as long as you have minimum wages that are kept so low then it will continue. We have major problems; if people are operating on subsistence how are we going to get social mobility? How are those people going to get out of the rut? If people, for example, are almost on income support how are they going to move on? I am sure the Chief Minister and others will say: "Yes, we want to see social mobility, we want to see people get on" but if you keep them at low down wages, keep them down, they will never ever achieve it and we will have problems in the future if we do not address these issues. I will support the Deputy, even though I am sure it is going to be defeated by this House.

13.1.8 Senator S.C. Ferguson:

Deputy Tadier implied that the bulk of employment was in the financial sector; well according to this very useful book that we have got there are 12,800 working in the finance sector and the total employment is something like 56,000.

Deputy M. Tadier:

Can I clarify that, if the Senator will give way, because I said quite clearly directly or indirectly; of course while the minority might be employed directly by finance all the industries that would not be able to exist if finance were not here, that is exactly what I meant and I think that the Senator would agree with that.

Senator S.C. Ferguson:

It is a bit like the red queen, is it not, a word means exactly what I say it means. Deputy Pitman had forgotten to mention income support. Deputy Higgins seems to forget that most jobs come from small businesses and I am concerned that pushing up minimum wage - following on from Deputy Martin... will an increase in minimum wage improve the employment prospects of young people? I think we need to readdress that. Do we need to have an apprentice on a young person's rate? We do not have the differentials because of the proposition in 2007 outlawing them. We now have a situation where we have a price control on labour. Yes, it provides a safety net but is it doing what we want it to? Because the result of this is that there are employers - and I have spoken to them - they are looking at their budgets for next year and they are saying with the increase in minimum wage, with the 2 per cent increase on social security on the employers side, are they going to be able to afford to employ apprentices? If they employ apprentices then they have to pay them the full minimum wage and in line with best economic theory with a price control set up, Government then needs to make a grant to those employing apprentices and young people. It is classic economic theory. I am sorry, we do need to revisit the whole position, particularly in relation to young people and I am glad to hear the Chief Minister and the Minister for Social Security say they are going to; but I do not think that pushing up minimum wage at this point is going to be beneficial to the economy as a whole.

13.1.9 Deputy S. Pinel of St. Clement:

My maiden speech and my birthday; I do not know which is more terrifying. [Approbation]

The Deputy Bailiff:

You are not asking all Members to sing now, are you? [Laughter]

Deputy S. Pinel:

Four pence or not 4 pence; that is the question. Like the Minister for Social Security, at first I thought that the proposition was reasonable and that a 4 pence increase would be unlikely to have a major impact. However, having discussed the minimum wage with the Employment Forum in December I am now convinced that their recommendations must be supported. The recommendation of 2.5 per cent in the current economic climate is certainly acceptable if not generous. Although the 2.5 per cent increase does not quite reach 40 per cent of the average wage it is only 0.1 per cent short. With the current static wages and possible salary cuts, 40 per cent of mean wage will be achieved without the proposed increase as average salary is likely to decline. The Forum explained to me - having taken all the evidence into consideration - it was agreed unanimously that a 2.5 per cent increase would be appropriate without any further reduction in employment. The only justification the Forum could find to increase the minimum wage to reach 40 per cent of mean average weekly earnings would have been for political reasons rather than the broader economic drivers. The States decision in April 2010 made it clear that minimum wage increases must be subject to consideration of economic conditions and the impact of competitiveness and employment of the low paid in Jersey. The forum must not ignore those business sectors, employers and employees, who are consulted. An additional 4 pence on the minimum wage would have a knock-on effect on all other salaries above the minimum wage. Industries have already set pay scales; in the case of hospitality and agriculture offsets would also have to be altered. Economic evidence presented to the Forum during its review suggested that the economy appeared not to have improved since 2010 and perhaps had worsened during the summer of 2011. The March 2011 business tendency survey reported that 58 per cent of employers anticipated no change in the basic earnings of employees in 2011 compared to 51 per cent in March 2010. That survey also suggested that firms continued to see lower employment quarter on quarter and non-finance firms expected further reductions in employment in 2011. States Members and the Employment Forum have the same aspirations about increasing the minimum wage relative to average earnings; subject to consideration of economic circumstances. I believe that the Forum is in the best position to determine and recommend to the Minister when this is appropriate. Therefore, I do not support Deputy Southern's proposition for an additional 4 pence. **[Approbation]**

The Deputy Bailiff:

Does any other Member wish to speak? I call on Deputy Southern to reply.

13.1.10 Deputy G.P. Southern:

Where to start? Let us start with Senator Bailhache. Senator Bailhache accused me of ignoring the mechanism we have set up. What he chose to ignore was that the Employment Forum makes a recommendation. As a lawyer he should know that form of words is highly important. A recommendation is just what it says; it is advice, it is not binding. There is a mixture of 2 elements, at least, going into the decision to raise or to have or to maintain a minimum wage. One is economic and the second is political. It matters not whether you abhor the minimum wage, as apparently Senator Ferguson does, or otherwise; the fact is we have decided that we will have that protection in place. If we are to allow that protection to be eroded then effectively what we are doing is we are saying it does not matter, that we ignore the political completely. Now, it is open to anybody here to bring a proposition saying let us scrap the minimum wage, it just gets in the way of the free market; and if that is what you want then do it but do not do it by this circuitous back door route of just letting the minimum wage atrophy and disappear through fiscal drift. How do we get there? I think it is very simple and I am not sure the Employment Forum fully recognised what it was doing. If you award a certain percentage then inevitably as you go through the years you increase the gap between the rich and the poor because in cash terms 2.5 per cent of £100,000 is significantly different to 2.5 per cent of £13,620 which is what the minimum wage is annually; a

significant difference. What you get is a creep of the rich getting richer proportionality and the poor getting poorer. You must maintain... the key thing is that percentage of the average; that is how you hold the *status quo*. A number of speakers talked about raising the minimum wage by 4 pence. "In order to maintain its value", is the key phrase they were not referring to. I think that is the important thing. A number of speakers, including the Minister, made reference to comparisons with the U.K., Guernsey and the Isle of Man and their minimum wages; now, Ministers cannot have it both ways, in the last 6 months I brought a proposition to have a definitive comparison between the cost of living here and the cost of living in the U.K. and Ministers turned it down and said: "No, we do not want to do that" at which point I said: "Well, how are you ever going to make any comparison and use any comparison between us and anybody else? We do not know." The Ministers chose to keep that ignorance because they do not want to make a comparison; well you cannot have it that way and then have Ministers come to us and say: "Yes, but our minimum wage is 6 per cent higher than in the U.K." The cost of living in the U.K. is how much lower than ours? The Ministers do not know. So it is one rule for Ministers and another rule for the others. Deputy Martin and Deputy Pinel, in her very welcome maiden speech, made the point that we deliver help to those on the minimum wage in other ways. Indeed we do. They made the point that there is a knock-on effect; minimum wage is set a little bit higher - 4 pence higher - and that has a knock-on effect on all salaries. Possibly it does; and what will the effect of that be to the taxpayer? The reality is that on £13,620 that person on a minimum wage pays tax - not a lot of tax - but does pay tax and receives in income support - if they are eligible, they have been here for 5 years - and other benefits to top-up the social security contributions, an additional £3.

[16:45]

For every £1 we get out of a minimum wage worker we pay out as a taxpayer £3. So that 4 pence which amounts to £180 a year is paid by the employer and saved to the taxpayer. The minimum wage is not the only way we help those on low wages; income support does so and the ratio of approximately £3 to every £1 we get back from that worker; that is the reality. As I said earlier, people keep talking about this rise in the minimum wage, it is a rise to maintain its value, to not have those who are lowest paid slip further behind the rest. I am asked to somehow see into the future and guarantee that there will not be any job losses by Deputy Martin and she says: "Who do I believe, Deputy Southern or the employer who is threatening job losses?" I advise her to trust me and believe me. I cannot see 4 pence in the pound is going to cause further mass unemployment and I do not believe with their hand on their heart they would also say that. I maintain the proposition.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats; the vote is on the proposition of Deputy Southern for Minimum Wage: revised hourly rate and I ask the Greffier to open the voting.

POUR: 8	CONTRE: 43	ABSTAIN: 0
Senator A. Breckon	Senator P.F. Routier	
Connétable of St. Brelade	Senator P.F.C. Ozouf	
Deputy G.P. Southern (H)	Senator S.C. Ferguson	
Deputy S. Pitman (H)	Senator A.J.H. Maclean	
Deputy M. Tadier (B)	Senator B.I. Le Marquand	
Deputy T.M. Pitman (H)	Senator F. du H. Le Gresley	
Deputy M.R. Higgins (H)	Senator I.J. Gorst	
Deputy G.C.L. Baudains (C)	Senator L.J. Farnham	
	Senator P.M. Bailhache	
	Connétable of St. Helier	
	Connétable of Trinity	

		Connétable of Grouville		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Connétable of St. John		
		Connétable of St. Ouen		
		Connétable of St. Martin		
		Connétable of St. Saviour		
		Deputy R.C. Duhamel (S)		
		Deputy R.G. Le Hérisier (S)		
		Deputy J.A. Martin (H)		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		
		Deputy of St. John		
		Deputy J.P.G. Baker (H)		
		Deputy J.H. Young (B)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Mary		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy R.J. Rondel (H)		

The Deputy Bailiff:

I give notice to Members that P.8 - Property and Infrastructure Regeneration: appointment of member to the Regeneration Steering Group - the proposition is lodged by the Chief Minister and Members will find copies of the proposition in their pigeon holes.

14. Draft Employment (Minimum Wage) (Amendment No. 8) (Jersey) Regulations (P.180/2011)

The Deputy Bailiff:

We now come to P.180 - Draft Employment (Minimum Wage) (Amendment No. 8) (Jersey) Regulations - lodged by the Minister for Social Security and I ask the Greffier to read the citation of the draft.

The Deputy Greffier of the States:

Draft Employment (Minimum Wage) (Amendment No. 8) (Jersey) Regulations. The States, in pursuance of Article 17 and Article 104 of the Employment (Jersey) Law 2003, have made the following Regulations.

14.1 Senator F. du H. Le Gresley (The Minister for Social Security):

This proposition amends the minimum wage regulations from 1st April this year; where an employer provides accommodation or accommodation and food to employees as part of their employment package, the regulations set out a maximum value that may be attributed to those benefits for the purposes of establishing whether the minimum wage or the trainee rate has been paid. These regulations amend the maximum values by a further 2.5 per cent. If this proposition is adopted I will make an Order applying the same 2.5 per cent increase to the minimum wage taking it to £6.48 an hour and the trainee rate to £4.86 per hour. These proposals are based on the recommendations of the Employment Forum following extensive public consultation. The Forum's full recommendation is included as an annex to this proposition. I would like to take this opportunity to thank the members of the Forum for their excellent work in 2011 and for the future work they will do this year. Just for the benefit of Members I will clarify that the offsets are as follows: the maximum weekly offset against minimum wage for accommodation for 2012 will raise to £70.94; for food and accommodation £94.58; and in respect of the trainee rate for accommodation £53.21 and accommodation and food £70.94. I propose the principles.

The Deputy Bailiff:

Are the principles seconded? [**Seconded**]

14.1.1 The Deputy of St. Ouen:

I would just like to make a couple of points; first of all the rapporteur mentions the trainee rate and that certain employers have difficulty understanding the criteria that is linked to the trainee rate. Also issues have been raised regarding the length of time that one can pay a trainee rate. I draw Members attention to page 32 where there is a recommendation from the Forum, not only over the trainee rate of £4.86 per hour but they recommend that direct consultation should be undertaken with the Jersey Schools Board and Jersey Enterprise in 2012; obviously to determine whether or not that particular period of time that a trainee rate can be paid should be extended and what criteria should be linked to it. I would like the Minister in his summing up to confirm that consultation will take place this year because I am very mindful of the fact that we do have some serious unemployment issues and a lot of young people involved and if we really are mindful to encourage businesses to offer, not only meaningful employment to people but opportunities to develop their skills, then we are going to need to be prepared to be flexible in our approach. Equally, another recommendation that has not been mentioned today is on page 34 of the report where it says: "The Forum recommends that resources be made available in 2012 to enable the Forum to commission research to explore youth employment and the potential impact of a youth rate on all employees regardless of age." Another issue, because obviously at the moment we do not have a youth rate, we are well aware that there are good reasons for that, however, the Forum are flagging-up this as an important issue. I would just again like to have confirmation from the Minister that the recommendations not only of the hourly rate is accepted but all other recommendations contended in this report are accepted and implemented.

14.1.2 Deputy M. Tadier:

Talking about the trainee rate it reminds me of an anecdote when a recently employed employee went to his boss and said: "Can you give me a pay increase, I cannot really live on this rate?" He said: "Well, you are a new employee, you have got no experience, you do not know what you are doing." He goes: "Exactly, the job is a lot more difficult when you do not know anything about it; so I think I should be paid more." That is not what I am talking about though. My question relates to the accommodation side of this and the offset. Now, I do not have a problem with this proposition in principle because it is simply consequential on the fact that we are increasing the minimum wage by 2.5 per cent and, therefore, this component should go up. But my question - and

this is coming from somebody who has experience as an immigrant worker having worked in a ski resort in France. Ironically the hotel was owned by a Jersey man; I say “ironically” because he had no ties to Jersey apart from that - and I know what it is like because I was living in accommodation which was illegal under French law. It was a box room with 2 in a bunk bed, no windows there. That said, quite content, I do not think it did me any harm but it probably did not do me any good either. So the question is are there checks and balances in place; are there regulations to make sure that the accommodation is of a reasonable quality? Also because they are paying essentially up to £70 a week so there needs to be checks and balances to make sure it is habitable, *et cetera*. So I would like to get some reassurances, if he can, from the Minister and if not to give an assurance that he will look into this area. But I think this ties-in with housing in general; we need to look at the possibility of substandard accommodation or regulation right across the board, so I would be interested to hear comments from the Minister in that respect.

14.1.3 Deputy G.C.L. Baudains:

Given the present economic climate I am quite certain that most employers are in fact looking to make sure that their overheads are as low as possible; any prudent employer would do that. However, I am concerned, it has been the case in the past that some employers have been paying a trainee rate for people they are not training at all; they should legally have been paying them a minimum wage. When he is summing up could the Minister advise us what steps he is taking to advertise the criteria that applies to these 2 different wages so that everybody knows, and people who are receiving the trainee rate that should in fact be receiving the minimum wage are, therefore, made aware of the situation.

14.1.4 Deputy J.H. Young:

I think it is important that the report of the Employment Forum be followed as a whole because after all we have taken their recommendation to set the minimum wage, but there is a lot more in this report besides. I was very impressed with it, particularly the debate about the youth rate and the relationship with the trainee rate and clearly there is evidence in there of a large body of support in the Island for a rate tied-in with job creation for young people. So I would like to hear from the Minister that the requests they are making, for that to be followed up, so hopefully during 2012 we can see some evidence and reach some conclusions on that. So I do not think it is something we can afford to set aside.

The Deputy Bailiff:

Does any other Member wish to speak? Then I call on the Minister to reply.

14.1.5 Senator F. du H. Le Gresley:

I thank those who have spoken and will deal with their individual questions. The Deputy of St. Ouen asked if there would be consultation this year on the training rate. There is very much a desire to expand perhaps the trainee rate and look at what it is achieving because it is only available for one year, and the employee on the training rate has to be attending an accredited course of training for a maximum period of one year. We are considering whether the code of practice which is set out on the J.A.C.S. (Jersey Advisory and Conciliatory Service) website and whether that needs to be reviewed by the Forum in conjunction with the Social Security Department; so the trainee rate is very much up for consultation and review in 2012. Similarly, the youth rate of course is an issue for the Back to Work programme initiated by the Chief Minister. The Forum has already been instructed to commence the independent research and they are employing somebody to do this research and they hope to report back to myself by the end of April of this year. So that is very much in hand and I hope that answers the questions of the Deputy of St. Ouen. I think I have strayed into Deputy Baudains' question as well there, he asked if there is much done to advertise the trainee rates; as far as I am aware it is illegal to employ somebody on a trainee rate if

the course they are doing has not been approved by the Minister of the department. As I say, the main place you will find it is on the J.A.C.S. website, which is very much used by employers. I think I have also responded to Deputy Young by saying there is a real urge to look at the youth rate again. Deputy Tadier was concerned about the quality of accommodation which of course is not the responsibility of myself; I would suggest that probably falls under a number of Ministers, Environmental, Health and Social Services, Housing, Planning and Environment, Economic Development; we all should be assuring that our seasonal workers in particular who live in accommodation which comes under the minimum wage is reasonable and suitable for the short time that they are working in the Island.

[17:00]

So it is very important that there are controls; I do not think there are enough controls at the moment and this needs to be tightened up. I maintain the principles.

The Deputy Bailiff:

The principles are proposed. All Members in favour of adopting the principles kindly show. Those against. The principles are adopted. Do you propose the 2 regulations together, Minister?

Senator F. du H. Le Gresley:

Yes, Sir.

The Deputy Bailiff:

Is that seconded? [**Seconded**] Those Members in favour of adopting the 2 regulations kindly show. Those against. The regulations are adopted. Do you propose the regulations in Third Reading?

Senator F. du H. Le Gresley:

Yes, Sir.

The Deputy Bailiff:

Is that seconded? [**Seconded**] The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the Draft Employment (Minimum Wage) (Amendment No. 8) (Jersey) Regulations in Third Reading. I will ask the Greffier to open the voting.

POUR: 41		CONTRE: 1		ABSTAIN: 1
Senator P.F. Routier		Deputy S. Pitman (H)		Deputy M. Tadier (B)
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				

Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

The Deputy Bailiff:

Can I apologise to the Chairman of the Health, Social Security and Housing Scrutiny Panel because I forgot to ask you if you want to scrutinise the regulations, I hope you do not.

Senator B.I. Le Marquand:

Before we start that could I just say that I would like to defer item P.184 until the next sitting please.

The Deputy Bailiff:

Very well, P.184 is deferred.

15. Health Insurance Fund: transfer to Health and Social Services Department for 2012 (P.185/2011)

The Deputy Bailiff:

We come to P.185 - Health Insurance Fund: transfer to Health and Social Services Department for 2012 - lodged by the Minister for Social Security 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 to refer to their Act dated 18th November 2010 in which they adopted, subject to the sanction of Her Most Excellent Majesty in Council, the Health Insurance Fund (Miscellaneous Provisions) (Jersey) Law 201-, and to their Act dated 15th September 2011 in which they adopted the Annual Business Plan 2012 and agreed *inter*

alia that there should be a transfer of £6,131,000 from the Health Insurance Fund in 2012; and to agree in accordance with the provisions of Article 2 of the Health Insurance Fund (Miscellaneous Provisions) (Jersey) Law 2011 that there shall be withdrawn from the Health Insurance Fund and credited to the Consolidated Fund, for the purpose of funding primary care services in 2012, the sum of £6,131,000 with the sum to be treated as income of the Health and Social Services Department in accordance with the provisions of Article 2.

15.1 Senator F. du H. Le Gresley (The Minister for Social Security):

As Members will have seen from the report accompanying this proposition, the debate today is based on 2 previous decisions; I will come back to those specific decisions in a few minutes. However, to start I will set out a short summary of recent developments in primary care services and funding, principally for the benefit of new Members. The need to improve and reorganise our local health services has been identified as a priority over the last decade. More recently, changes in the approval process for doctors registered with the U.K. General Medical Council has created an urgent pressure to modernise our local system. After a number of false starts the first major step was taken in May 2010 when the States approved P.36 of that year. This proposition set out the foundation for a local governance system for Jersey G.P.s and provided funding for G.P. practices to modernise their administration systems as well as funding to develop a centralised database for patient records. The debate on P.36 was the culmination of extensive joint working between the Jersey Primary Care Body representing local general practitioners; officers from the Health and Social Services Department; and officers from my department. I am pleased to say that this spirit of co-operative working has continued since then and good progress has been made on a number of fronts. P.36 identified the need to substantially review the existing health insurance legislation. The Health Insurance Law dates back to 1967 and currently the fund can only be used to subsidise G.P. visits and prescription charges and drugs. There have been many advances in the range of primary care services since then and the Health and Social Services Department now funds a wide variety of primary care services that do not fall within the Health Insurance Law. The cost of these services in 2011 was budgeted at over £7 million. With a firm commitment to a full review of the current legislation in November 2010 the States agreed to allow no more than 2 lump sum transfers - one in 2011 and the other this year - from the Health Insurance Fund. These transfers would allow the Health budget to be maintained in the short term and give time for the necessary review of health care legislation. The 2011 transfer was included as part of the 2011 Business Plan, which had previously been approved by the States in September of 2010. I can confirm that of all of the 2011 amount was allocated to primary care services funded by the Health and Social Services Department and this has been checked and audited by the States Treasury. In early 2011 KPMG began a major review of health services in Jersey. This culminated in the Green Paper *Caring for Each Other, Caring for Ourselves* which was published at the end of May 2011 in R.63 of that year. The Green Paper described 3 possible options for future health care in Jersey. Following a wide public debate the consultation closed at the end of August and since then a number of detailed work streams have been set up. Firm proposals are now being developed for a White Paper to be published during 2012. In July last year the States agreed to a cost of living up-rate in the medical benefit of 3.1 per cent, taking it from £19 to £19.59 for G.P. consultations. This followed on from the original debate in 2010 and confirmed the ongoing positive relationship between the 2 departments and local G.P.s. Later in the same month the States also approved changes to the Medical Practitioners Law in P.106; these changes introduced a live register of doctors practising in the Island. The amended law allows the Minister for Health and Social Services to approve doctors to practice in medicine in the Island to suspend and remove doctors from the register in specific situations. This is a major improvement in the control of doctors practicing in Jersey and lays the legal foundation for a proper governance structure. A further substantial legal change was agreed in November of last year in P.136, the Health Insurance Law

was extended into 2 separate areas. Building on the changes to the Medical Practitioners Law just mentioned, the Health Insurance Law was amended to provide for regulations to set up a performance list for general practitioners. In future a G.P. will need to be included on the performance list in order to receive medical benefits under the Health Insurance Law. Each G.P. will need to pass an annual appraisal and a 5-year revalidation to remain on the performance list. A small governance unit will be set up, funded through the Health Insurance Fund, to oversee the process. These changes will provide the local governance structure required by the U.K. medical authorities to allow doctors working in Jersey to remain licensed to practice. The Health Insurance Law was also extended to allow payments to be made to G.P. practices and to pharmacists for providing primary care services under a contract. The first contract will be with G.P. practices and will require the practices to meet certain standards under an agreed quality improvement framework. This framework will be developed by the new governance unit working with both U.K. experts and local G.P.s. The use of contracts will eventually allow a far wider variety of primary care services to be funded through the Health Insurance Law, including services provided directly by practice nurses and other healthcare professionals working within GP practices, as well as services provided directly by pharmacists. Over the next few years it is anticipated that the range of services covered by such contracts will be steadily expanded. So, in summary, we have made significant progress towards a modern primary healthcare system during the last 2 years. There is still much more to do but the new Council of Ministers is fully supportive of the work being undertaken in this area and my department will continue to work very closely with officers from Health and Social Services. Returning to the subject of today's debate, the transfer of a second sum of £6,131,000 has already been approved by the previous States Assembly as part of the Business Plan for 2012. The Health and Social Services Department is currently funding primary care services to the tune of at least £7 million per annum, which are set out in the appendix to P.125, page 12 of this proposition. The transfer in 2011, I repeat, has been rigorously audited by the Treasury Department and it has been confirmed that the full amount of transferred monies was allocated to primary care services. An initial budget for 2012 shows a similar allocation for the proposed second transfer this year. The States Treasurer is currently leading a project to identify a sustainable source of renewable health funding for 2013 and beyond, working closely both with Health and Social Services and Social Security. I hope Members will have found this background explanation helpful and trust that they will duly acknowledge the decision that has already been made by the previous Assembly to include the 2012 transfer within the cash limit for the Health and Social Services Department for 2012. Without this transfer the Health and Social Services Department will face a deficit of over £6 million this year. I make the proposition.

The Deputy Bailiff:

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

15.1.1 The Deputy of Trinity:

I just start by reminding Members too that Health and Social Services, as I said, funds a number of areas of primary care, some of which are provided directly by third parties such as family nursing services and home care. I would like to pay tribute to this excellent primary care service that delivers good service every day in people's homes. Once again I am grateful to the Minister for Social Security and his department for bringing forward a proposition that supports the delivery of primary care in Jersey. As we have had a recap from the Minister, those different propositions - P.125 and P.136 - were historic propositions which will change primary care and health and social services care into the future. Prior to the approval of the 2010 propositions health insurance monies could only be used to subsidise G.P. visits and prescription drugs.

[17:15]

This had numerous implications. Not only did the care provided by G.P.s and other community based services evolve in separate ways, it also meant that some of Health and Social Services' funding was diverted into primary care. These included direct services delivery such as childhood immunisations, antenatal care, sexual health clinics and dressing clinics. The funding of primary care supplies such as dietary products, oxygen, continence products and the funding for third party organisations such as family nursing and home care. Department investment in primary care inevitably affects our ability to make much needed investment in other essential services while in the meantime by the end of 2009 the Health Insurance Fund had accumulated over £77 million surplus. I would like to thank States Members for approving the release of £6.1 million in 2011. This did enable the department to avoid transfer of some user pays charges to the public and supported the department investing in other essential services. That investment is still required but I must stress that this arrangement is not open-ended. There is no provision for any further transfers from the Health Insurance Fund after 2012. Instead you will all be aware that we are working to redesign health and social care provision in Jersey in order to meet the challenges of increased demands and deliver a modern health and social service which is efficient, effective and sustainable. As I mentioned this morning, the department is working on 8 outlined business cases which are essential to provide a sustainable service but also will need appropriate resources for the future. The release of this 2012 money will be tightly controlled by the Minister for Treasury and Resources and like in 2011 it will be audited to demonstrate that it has been used for the purpose for which it has been intended. The purpose for which the Health Insurance Fund is intended is primary care. I urge Members to support this proposition: it is key for my department's ability to care for health of all Islanders during this financial year.

15.1.2 Senator A. Breckon:

I was one of a number of Members who expressed some concern when this was brought to the house in November 2010, I think the Deputy of St. John was another. The reason we expressed those concerns was there was a pot of £77 million that had accumulated in this fund because of the way it was set up and at the time I think it was said that the Minister for Treasury and Resources, the Minister for Health and Social Services and the then Minister for Social Security had seen this as a good idea to help the health funding by dipping into this and some of us voted against it for those reasons. The reason I say that is - and the Minister mentioned - when we look at some of the things that are in... and some of it is to do with people stopping smoking, and I think from memory at the time we said if we are going to look at what G.P.s do in services, and they are getting more of a community feel about the way they are delivering business. They are not doing it from townhouses they are doing it from purpose-built premises, attaching pharmacies and doing other things. But perhaps with health promotion and stopping smoking and supporting that, and perhaps even child immunisations, then these are services that could be provided by G.P.s and in here we are funding this for the smoking £420,000 including 5 staff. Part of that involves somebody going around looking to see if anybody is having a sneaky fag outside a restaurant and there is a cover coming over and I have seen 2-page letters that were sent to proprietors for exactly that thing when it started raining. So that is partly, Members should be aware, what we are funding out of Social Security and I would question really if that is appropriate and indeed it is necessary. As I said, there are things perhaps with health promotion that also G.P.s could do so we should perhaps be looking at doing things the other way rather than just saying this is the way we do it and we have got a nice pot of money here and it is nice to dip into it. Because the other thing that the Minister for Social Security did not mention; when this fund was set up there were some hanging clauses in the Social Security thing that said: "Okay, we will fund G.P.s for now but we will also possibly fund optical and dental and things like that." Now, if we do have a pot of money then perhaps we should be looking at that because regularly Jersey Annual Social Surveys have said - this is the public of Jersey - one of the reasons why they do not seek some of this treatment is because of the

cost. Now, I am not saying we should just give money to dentists and opticians but perhaps there is a way we could do that. If we do have this money then it is not just for the Treasury or for the Minister for Health and Social Services to come back again and say: "Well, we would like some more out of this; this is very useful" and it saves us doing some of the discipline, looking at the services provided and how we deliver them. Perhaps we are avoiding some of the issues. So I may well - having said that - have a problem supporting this. The other thing of course is we do have free prescriptions; we do not need to have free prescriptions and that was done in 2008 in an election year and we have just had an argument about 4 pence an hour for minimum wage when we did this without any consultation. It was done within a Ministers meeting; we hear about means testing everything, this was done without any means testing; we hear about millionaires and people who do not need it getting this, that and the other but this was one of those cases where it was done. Now, the Minister has not said whether he is considering, he has talked about a law review. He said this year, he has not really said much detail about that; what the law will look at; will it encompass some of the things I have just touched on; who will be doing it; is it in the department; is it somebody outside; is anybody else going to be involved? So I think in order for me to support this I really need a bit more detail because I am not happy just handing over the second tranche of this £6.1 million; and it could not be any earlier in the year that it is. So have all these organisations run out of money? I do not think so. So to me when I saw this I was a bit uncomfortable, I thought it was a bit early, perhaps we should have had a bit more debate, even a presentation from Social Security; Health could have been involved, I know we have got something on Friday. But for me I was uncomfortable in November 2010 with this and I still am because I am not happy with those items that are continuing to be funded from this. To me it is just another way of getting around maybe some of the problems we have got with health funding and it is not addressing the issues; and for that reason I still have not made my mind up whether or not I will support this.

15.1.3 Deputy G.C.L. Baudains:

I was not a Member of this Assembly when the previous decisions leading to this particular proposition were made. I have to say I am opposed to this transfer in principle as I would have been had I been present for the previous decisions. In my view it is an inappropriate use of the Health Insurance Fund; as Senator Breckon has just outlined, if there is money to spare in this fund I would much rather it was used on dental treatment as there are people out there who cannot afford simple repair to their teeth such as abscesses or whatever and they have to live with the pain because they cannot afford dental fees. That is simply not right, I cannot support this proposition as it stands.

15.1.4 Senator S.C. Ferguson:

Like Senator Breckon, I was one of the Members uneasy about this whole setup. Originally at the very beginning Health and Social Services produced a list of services which they maintained were rarely part of primary health care and which they maintained should be subsidised by the Health Insurance Fund; but health departments under the previous management had been coping with a hole in their budget by various means, moving from Peter to pay Paul; and this is a nice hole, it is a big pot, this is a very plausible way to fill it. As a corollary to that, when my panel looked at C.S.R. 2, one of the important things that we felt departments should be doing was for them to look at their core services and say: "Are the services we are providing core services?" Quite a number of departments had not really assessed that and we asked for lists and unfortunately Health and Social Services was one of the ones who had not got a list for us. Now, page 12 of the proposition lists those services which the department maintains that it provides but are rarely primary care; but where is the comparable list of expenditure for 2012? Senator Breckon has mentioned some of the easy wins and I would add to it the fact that some G.P. practices are now holding antenatal clinics,

so this should have reduced the cost to the hospital. Have the services which were taken away from Brook in something like 2005 been returned to them because they were doing it very much more cost effectively. We have heard mention of the smoking cessation and the health promotion, which are obviously things that should be done by the private sector or done by the G.P. - the primary sector. There are easy wins, why are they not being done? The Senator also mentioned looking at the way we provide services and this is something - as the Minister knows - I am extremely keen on, but where is it? The original cost of the G.P. patient record software in actual fact in the Health and Social Services figures it was budgeted for about £1 million in the original projects but my understanding is that it did not cost anything like as much. Is there an overrun on the Health and Social Services software project and if so how much? What is the progress of the plan to move services to the primary care sector? What progress has been made with the contract for the G.P.s and finance professionals? We are told that there will be a White Paper; when? We need to know what the timeline is. I checked the business plan to look at what the comparable list of expenditure for 2012 was but the details were not readily available, there was only the total figure. As Senator Breckon said; there was considerable disquiet among some Members when this was last debated as it seemed to be just a raid on a useful piggy bank; and the lack of the information in this proposition is somewhat supportive of that view. While the Health Insurance Fund may be a proper source of funding for primary care services it is not a piggy bank for Health. The original plan was for assistance in 2011 and 2012 and I very much doubt now that this will be the final transfer. The implications from this morning's question time imply that Health and Social Services will be making further indentations on this particular piggy bank. I supported the 2011/2012 transfers originally in the end because I was hopeful that primary healthcare would get a shot in the arm and would get moving. But all I am hearing about now are work streams, plans. We had a very good report by the Health and Social Security Scrutiny Panel under Deputy Southern which said that there were lots of plans but not much scoping. Now, where is the information? Where is the progress? Are we getting on with this or are we going to have another request in a year's time to ask for another £6 million from the Health Insurance Fund? I would be grateful if somebody could put my mind at rest on this.

The Deputy Bailiff:

I was going to draw to Members attention that it was 5.30 p.m. and there is one Member left to speak. So the adjournment is proposed if Members wish to adjourn at this stage. Very well, the States stand adjourned until 9.30 a.m. tomorrow.

ADJOURNMENT

[17:30]