

### **3.6 Deputy T.M. Pitman of St. Helier of the Minister for Home Affairs regarding the ‘Metropolitan Police Interim Report’:**

Given that the Minister has consistently advised the Assembly that he has not personally seen the Metropolitan Police interim report relating to the process leading to the suspension of the Chief Officer of the States of Jersey Police, will he advise whether he has now been able to obtain a copy and confirm that the report does exist as a physical document?

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

Minister, is this a question you are content to answer in the public ...?

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

Yes. The position is that I have not seen the contents of the relevant document. I have twice made inquiries in order to check the existence of documents. On the first occasion I saw an email and I saw an attachment to the email which purported to be this very document but I did not look at the contents. On the second occasion, I saw a document but I cannot remember whether that document was the interim report or the final report. I have, since the asking of the written question, been attempting to obtain access to the document because I accept that I should now look at its contents. Unfortunately, I have been utterly thwarted by the fact that the Acting Chief Officer has been away on holiday and only he has access to the safe where the document, I understand, is kept and access to his private computer area but I will look at it as soon as I can.

#### **3.6.1 Deputy T.M. Pitman:**

I would like to refer to my answer to written question 15 if only there was an answer. But can I then put it to the Minister that the Metropolitan Police Interim Report does not, and has never, existed in the suggested official form? Could I further suggest that all that does exist are some rough and preparatory notes without any such official title *Metropolitan Police Interim Report*; that does not exist and perhaps they were, as has been suggested, purely to legitimise suspending the Chief of Police?

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

What is being suggested to me is completely contrary to what I have been told and what I have previously set out in written answers, namely that a document was requested for reasons which I set out previously in written answers prior to the completion of the full report. There was, as I understand it, one additional witness to be seen before the production of the full report. There was great concern, as I have set out in written answers before, with the current acting leadership as to risks of whole cases being dismissed for abuse of process. It was felt necessary to correct impressions which had previously been given in the public arena and for that reason an earlier report was requested. That is my information; that I stand by.

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

One report that we know does exist is the Wiltshire report. When will the Minister be releasing the Wiltshire report into the public domain?

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

As soon as possible but I cannot say in precisely what form because the reports contain names of individuals; those names may need to be deleted. I have not yet had

an opportunity to take advice on the precise form but the answer is: as soon as possible. I would hope to do so at the end of July after the expiry of the term of office of the current Chief Officer of Police.

### **3.6.3 Deputy F.J. Hill of St. Martin:**

I can understand Deputy Pitman's frustration about the lack of information about the police interim report because I do believe it does not exist and I am disappointed that the Minister cannot say so. Just to get back to the Wiltshire report with the answer we have just had, does the Minister not think it important that that Wiltshire report is available as soon as possible and preferably before the suspended police officer retires? Can the Minister give really justified reasons as to why it is not presented now and also ask when he received the report? So how long has he had it and why is it not now available to States Members?

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

The Deputy of St. Martin should well know, as he purports to represent the Chief Officer of Police, that there is a confidentiality clause in the Disciplinary Code. That I have sought to abide by as far as I have been able so to do and to release the reports at this stage would be a blatant breach of that confidentiality clause. I am afraid I have now forgotten the ending part of the question.

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

Could you repeat the end of the question, Deputy?

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

Will the Minister now accept that there will not be any disciplinary action because the Chief Officer will have retired, resigned, whatever, but he will not be here? So does it not make sense for the States Members to have that part of the report which deals with the actual suspension and forget the discipline because it is a non-starter?

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

If the Deputy of St. Martin could prevail upon the Chief Officer of Police to agree to that, then I would be very happy to agree to that. The fact is what I have said is that a full-run disciplinary process would take a great deal of time - it is clearly not going to be sufficient time in relation to the first disciplinary matter - to achieve a final completion of that. That I have known for some time. In terms of the dates of receipt of reports, in relation to the first report I received the interim report in November, I think. I am not certain whether it was October or November. **[Aside]** Autumn. **[Laughter]** I have to anticipate questions on this point; the final report a month later. I then had to wait a further period until February until the relevant documents were produced. I then had to wait a further month until the report of the Deputy Chief Executive was produced. I then had to read and consider the documents and I have since then been trying to arrange a date to meet with Mr. Power. I have not been delaying things in any way whatsoever.

### **3.6.4 Deputy R.G. Le Hérissier:**

As the Minister knows, and I am not blaming him, there is among the public a state of obviously considerable confusion about the sequence of events. Could the Minister clarify perhaps yet again, did the interim report play a crucial role in the suspension, and if that were the case, would he revisit it in order to examine that role?

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

I have agreed in the written answer to the written question of Deputy Trevor Pitman that I would now look at the document. Clearly, that is what a significant number of Members would like me to do. I tried to avoid doing that in the past because of the danger of this impinging upon the disciplinary process on the one hand and, secondly, because the information I have is that that document contains a great deal of information and advice about individual prosecutions. Now I, as the Minister for Home Affairs, try to distance myself from the operational side of matters and therefore do not really want to do that. Those are purely the reasons why I have not looked at detail. I accept that I now need so to do and I am frustrated by the fact that I have not been able to do it despite all my efforts in the last few days.

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

A final question, Deputy Trevor Pitman.

**3.6.5 Deputy T.M. Pitman:**

I have to say as a States Member I find it really appalling that we can laugh about issues. This is a man's life and his reputation. The Chief Officer was, I believe, suspended under 2.33 of the Disciplinary Code; this demands a serious breach of conduct, as I understand it. Will the Minister clarify what this breach is or confirm that, in fact, nothing in the notes previously spun to the public as the Metropolitan Police interim report match this action at all?

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

The suspension of the Police Chief on both counts is fully justified both in relation to the information I had at that time and also in relation to subsequent information.

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

I said that was the final question; I did see the light of the Deputy of Grouville. Perhaps we will allow one more supplementary.

**3.6.6 Deputy C.F. Labey of Grouville:**

The Minister spoke about a disciplinary process. Could he expand on this? What disciplinary process and when is this going to take place?

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

The disciplinary process in this case started before my time. It started with a process by which the Chief Officer was suspended before my time. At that time a report was requested from Wiltshire: this is the first Wiltshire report; I have just given dates as to when that was produced and so on. That is the disciplinary process. The process which follows through from the stage where the report of the Deputy Chief Executive is received is that the Minister then has to consider the matters. He then has a meeting with the Chief Officer of Police and subsequently, and only subsequently, can the Minister decide what, if any, disciplinary charges are being faced. That is the point that we are at in relation to the first set of disciplinary matters. I am at the point of arranging dates for such a meeting. I think I have altogether given details of the total thing but I have answered many questions in writing before where I have set this out in great detail.

**Deputy T.M. Pitman:**

Can I just seek clarification from this?

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

Briefly, Deputy.

**3.6.7 Deputy T.M. Pitman:**

Did the Minister clarify when he will have an answer as to whether there is an official document: the *Metropolitan Police Interim Report* with those words?

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

No, I did not. I am going to get access as soon as the Acting Chief Officer is back and I can get access to the documents and look at the contents which I have not done so far to check that they correspond - I expect they will - with the information I have previously provided.

**3.7 The Deputy of St. Martin of the Minister for Home Affairs regarding positive identification of the fragment found at Haut de la Garenne in 2008 as a piece of coconut shell:**

I must say, I find this is rather in bad taste before I start my question. Would the Minister advise whether the fragment found at Haut de la Garenne in 2008 has been positively identified at Kew Gardens; whether it is a piece of coconut shell, and if it is not, will he inform Members what it is and confirm that it is still in police possession?

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

The fragment referred to has been positively identified by 2 experts at Kew Gardens as being from a coconut endocarp. This diagram is not in the least in bad taste. This is a diagram to show Members what an endocarp is and it does that in 2 ways. Firstly, the top diagram shows that the outside skin of a coconut has 3 different levels. This is the inner level of the 3 and the bottom picture demonstrates - the bottom half of it - what an endocarp looks like, so this is purely information for Members. If I said "endocarp", people would have said: "What is an endocarp?" and I would not have been able to explain. There it is; both diagrammatically at the top and a picture of what a coconut endocarp looks like at the bottom. My information is that that identification was on 12th May 2009.

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

I did ask whether it was still in possession. Can the Minister inform Members whether the alleged fragment, or whatever it is, is still in police possession?

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

It is indeed still in police possession, yes.

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

Obviously the Minister might not want to make the names of the people - the anthropologists at Kew Gardens - available to Members on the floor but could I ask the Minister whether he could make those names available to me at some other time? I think it is very important that we know when this fragment was identified as a piece of coconut.

[10:30]

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

It is not customary to provide the names of experts in relation to such matters and I do not propose to depart from the normal practice.

### **3.8 Deputy D.J.A. Wimberley of St. Mary of the Minister for Planning and Environment regarding the costs and benefits of building underground parking spaces within the North of Town Masterplan:**

In view of the need to seek out best value for money, can the Minister advise Members what he has done to evaluate the costs and benefits of building underground parking spaces within the North of Town Masterplan, against the costs and benefits of providing spaces above ground and avoiding the need for so many spaces by measures such as reducing car commuting and creating car clubs.

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

Most modern urban planning and regeneration accepts the principle that car parking in towns is best delivered underground or semi-underground or out of town. I intend to pursue the revisions to the Masterplan with this ideal in mind. I would point out, of course, that costs of underground car parking vary from site to site. Car clubs and car sharing can be a help in providing a solution, but they play only a small part. My department is working with other departments and the Parish to deliver a holistic solution to car parking in the north of town. As I previously stated in my earlier answer, a privately-owned site has emerged as a possible solution to delivering some of the key principles of the Masterplan, including car parking. Thank you.

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

Thank you for that answer, which does not answer the question. It is nice to know that we are going to have a modern approach, but I did ask whether the Minister has undertaken any analysis of the costs of building underground versus the cost of providing spaces over ground, or against the cost of initiating and promoting car clubs, or the cost of promoting a move away from car commuting towards other modes, which is part of the Sustainable Transport Policy? Has he done any work on the comparative costs and benefits?

#### **Senator F.E. Cohen:**

Some comparative cost work has been done in relation to underground car parking as opposed to over ground car parking. As I said in my answer, this is very much on a site-specific basis and we are currently looking at a new site for the provision of some of the car parking. Thank you.

#### **3.8.2 Deputy G.P. Southern:**

In a previously written answer the Minister said that he could not give an assurance that the creation of underground car parking will not necessitate a further environmental or health impact assessment. Can the Minister firm-up on that and can he confirm to Members today that going down up to 5 metres, which was never planned previously, in a major part of this area, it will be certain that a new environmental and health impact assessment will have to be done?

#### **Senator F.E. Cohen:**

It seems that whatever one says the Deputy always views the matter from a half-empty perspective. As I have previously said, we are looking at a new site for the provision of some of the key elements of the Masterplan. That will be properly costed in relation to the delivery of car parking and at that time I will make the information available to States Members. Thank you.

#### **3.8.3 Deputy G.P. Southern:**

I will repeat my question in a different form. Will digging out up to 5 metres depth on this site require a new environmental and health impact assessment?

**Senator F.E. Cohen:**

If the Deputy wishes to dig out 5 metres, that is up to him. I do not intend to do so. Thank you.

#### **3.8.4 Deputy G.P. Southern:**

He really cannot get away with that. In his written answer then, which rather contradicts it, it says: "There is contamination in only 2 areas of the Gas Place site. The impermeable clay layer is variable between 1 and 8 metres [notice 1 and 8 metres] below the surface. The depth of excavation is likely to be no more than 5 metres." If it is 5 metres then he will require an environmental impact assessment, will he not? Otherwise he endangers the health and the environment all around this site and could open up to the States being sued for millions.

**Senator F.E. Cohen:**

For the final time, can I express to the Deputy a very simple principle: we are looking at another site. Thank you.

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

Do you wish a final question, Deputy?

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

Yes, indeed. I am astonished that the Minister is not aware of how this looks, to be spending £10 million on one underground car park and more than that on another underground car park with no evaluation of the alternatives. He has not offered a single shred of evidence that he has looked at the alternatives, the costs and the benefits, of doing the same job in another way. Does he not accept the gravity of this in the light of the financial constraints that we are all told we are under? Here he is spending over £20 million without any looking at alternatives. Will he assure the House that he will do this cost-benefit analysis before we come to debate this matter?

**Senator F.E. Cohen:**

I am endeavouring to deliver a Masterplan that will be cost-neutral. I have expressed a view this morning that this may result in a requirement for developer levies, which is normal in this sort of programme. I will most certainly evaluate all possible car parking alternatives, but at the end of the day, underground or semi-underground car parking is more expensive than above-ground car parking, but in urban planning terms it is better and it will be a decision of this House which route we take. Thank you.

### **3.9 Deputy M. Tadier of St. Brelade of the Minister for Home Affairs regarding disciplinary action against the suspended Chief Officer of the States of Jersey Police regarding Operation Blast:**

Will the Minister inform the Assembly if any disciplinary action is going to be brought against the suspended Chief Officer of the States of Jersey Police regarding Operation Blast?

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

It is already in the public domain that the Chief Officer of Police is suspended in relation to the issue and investigation in relation to his involvement, if any, in Operation Blast. The current position is that I have now received the report from Wiltshire in relation to the investigation of Operation Blast, but not the documents in support of that report. The next stage is that I will receive a report from the Deputy Chief Executive to the Council of Ministers. The stage after that is I will decide if I want to meet with Mr. Power in order to discuss matters before deciding whether I proceed with formal disciplinary procedures against him on this. That is the procedure set out in our disciplinary code; that is the procedure that I am contractually bound to follow. It follows from that, in short, that I have not arrived at the stage at which I can properly formally make a decision on that.

#### **3.9.1 Deputy M. Tadier:**

In an email sent to Senator Breckon on 1st March, but also copied into all States Members, the Minister did say that he supports the inquiry and he supports it taking place rapidly. I think this is the very core of the problem here. We have a Chief Officer who is up for retirement on 21st July 2010, so my question would simply be is it likely that any further action, apart from the suspension, if any disciplinary action likely to be brought before that date? If that is not the case, what are the implications as to what will happen one way or the other to this man after that date?

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

We are at the stage at which I will make decisions as to which disciplinary charges would be appropriate in relation to the matter, but because of the timescales involved and the complexity of matters there is really no prospect of a full disciplinary hearing before the July date. What I said before in relation to information being put out to Members and into the public domain applies equally for the second disciplinary matter, as it did to the first.

#### **3.9.2 Deputy M.R. Higgins of St. Helier:**

The Minister just told us that although he has received the Wiltshire report regarding it, he did not have the documents that he needs to make a final determination. He also mentioned the Deputy Chief Executive. Can he confirm if the Deputy Chief Executive has had the documents and when he received them and when the Minister expects to receive them?

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

No, the Deputy Chief Executive does not have the documents. If he had I would treat myself as effectively having access to them. There is a delay pending some discussions with Wiltshire Police in relation to a particular matter which I cannot go into.

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

If ever there was a case for open and transparent government this is surely it. Would the Minister please confirm that he will release as much data as is possible regarding the contents of these alleged files that were kept on this? Thank you.

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

That is absolutely right. That has consistently been my position, but I am consistently hamstrung by the contractual arrangements. If I had attempted to then I would be blatantly in breach of the contract and that is not something that would be proper or appropriate. As soon as I can the information will go out. That has always been my commitment. There is no reason whatsoever why I would want there to be secrecy about anything. But I have to check exactly in what format it can go out because there are matters, particularly in relation to the second matter, it was not just a disciplinary investigation in relation to the Chief Officer of Police; it was also in relation to other police officers. Also, there were possible criminal issues that arose as well. It is a 3-part investigation, which slightly complicates the matter.

**3.9.4 The Deputy of Grouville:**

Other civil servants who were also involved in Operation Blast, is it the intention of the Minister to also suspend them?

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

Decisions in relation to matters relating to other police officers involved are not my decision; they are matters for the Acting Chief Officer of Police and the Deputy Acting Chief Officer of Police.

**The Deputy of Grouville:**

No, not other police officers; civil servants, I said.

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

I do not think that is a matter for the Minister for Home Affairs, but he will no doubt answer.

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

I am not aware of the involvement of any civil servants in relation to the potential disciplinary matters. It is only police officers.

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

Do you wish any final question, Deputy Tadier?

**3.9.5 Deputy M. Tadier:**

I do. I think we all know who the Deputy of Grouville is alluding to and I am sure that the Minister knows that as well. **[Aside]** No? I think she is clearly talking about the Chief Executive Officer of the States of Jersey who allegedly has had some involvement in Operation Blast. I mean, let us not beat around the bush here. **[Interruption]** That is obviously the case. The final question, if the heckling would stop from Senator Le Main, is that obviously justice must be done swiftly. Clearly it has not been done here even if under the Minister's own admission previously the initial process was rushed. The question is will justice be done either way if the matter is not brought to a close before 21st July? How can justice be done satisfactorily either way? Does the Minister agree that in this case we are not likely to get a satisfactory conclusion to this matter?

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

In my opinion, whatever procedure had been followed here, even if it had gone to full disciplinary hearings, even if it had gone to appeals, even if it had gone to the States itself, at the end of the day, members of the public of the Island would still continue to argue over this and individuals involved for many years to come. That was apparent to me right from the start of my involvement in this. It is regrettable that the formal procedures have not occurred, but the members of the public and Members of the States will receive information and they will then have to make up their own minds.

**3.10 Deputy R.G. Le Hérissier of the Minister for Health and Social Services regarding the provision for persons under 65 requiring residential/nursing care:**

I am on the board of an organisation that does accommodate under-65s - Roseneath. Question: would the Minister identify whether the provisions for persons under 65 requiring residential/nursing care is sufficient?

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

The provision of care for people under 65 is very wide-ranging. The services we provide include children and young people with special needs, adults with very complex mental health problems, and people with learning disabilities who are unable to live independently. In some areas, such as care for people with learning difficulties, we do very well as these services are very well developed. However, availability of appropriate services in some other areas, which include high-end residential care for people, some of whom have mental health problems, is under significant pressure and we could always do better.

**3.10.1 Deputy R.G. Le Hérissier:**

Given the Minister's answer and given the fact that there appears to be emerging a group who are ironically on the wrong side of the 65 age barrier but quite clearly cannot stay in a home situation for a variety of reasons - they present multiple causes to the authorities - would the Minister acknowledge whether or not she is making provision for that group before the situation gets even worse than it is?

[10:45]

**The Deputy of Trinity:**

As I said, there are different areas of difficulties for people under 65 and our range is quite specialised, all of which have very specialised needs. Health and Social Services are very much aware of it. We had a workshop back in 2005 which involved both the community and residential settings just to look at these issues. From that workshop, we worked in partnership with a small number of service providers to successfully develop high-end residential nursing care for under-65s with complex needs. The intention is to repeat these workshops on a 2-year cycle and one is planned for the end of this year so that present and future needs can be effectively met.

**3.10.2 Deputy R.G. Le Hérissier:**

It is a final question. Would the Minister tell the House when the workshops will be finished and when she and the Minister for Social Security will work out a financial arrangement to deal with what, at the moment, is a very serious anomaly? In other words, the inability often to finance such people in the under-65 group.

**The Deputy of Trinity:**

As I said, the workshop is planned for this autumn, so it will be work after that. Adding to this workshop too is the long-term care Green Paper results that have just gone out and we will always work in partnership with Social Security to look at these very important issues.

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

We come to question 11 that Deputy Power will ask of the Assistant Minister for Treasury and Resources.

**Deputy S. Power:**

I wonder, could I withdraw this question? I have had a discussion with the Assistant Minister who was going to answer this and I feel it would be a better question if it was resubmitted as a written question.

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

Very well; that seems logical, Deputy. So we come to question 12 that the Deputy of St. Martin will ask the Chief Minister.

### **3.11 The Deputy of St. Martin of the Chief Minister regarding the arrangements for the briefing for States Members relating to the suspension of a hospital consultant in 2006:**

Will the Chief Minister inform Members why the only convenient time to arrange a briefing for States Members to discuss the review into the circumstances relating to the suspension of a hospital consultant in 2006 is immediately after today's sitting and why copies of the report have not been made available to Members before the briefing?

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

Copies of the report, which has only just been finalised, will be available before the meeting. Arrangements have been made for copies to be placed in States Members pigeon holes before the States lunch break today. The reason for the meeting being this evening is that due to other commitments the Review Panel members were not available to travel to Jersey either in the week before or for several weeks after the current date. Therefore, taking into account these commitments, and the desire to publish the findings, this was the earliest date it was possible to meet. The author only arrives this afternoon and hence a lunchtime presentation was not possible.

#### **3.11.1 The Deputy of St. John:**

Given this evening is a nomination meeting at the Town Hall where Members, *et cetera*, will be attending and all 12 Constables are due to be there, does he consider that he is being a bit unfair to all Members of the Chamber to try and rush something like this through on a States day?

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

This meeting was planned for immediately after the States sitting at 5.30 p.m. It should finish by 6.15 p.m. or 6.30 p.m. at the latest, which will give Members time to arrive at the Senatorial Nomination Meeting well in advance of 7.30 p.m.

#### **3.11.2 The Deputy of St. Martin:**

Will the Minister confirm that following the debate on 11th September the Minister said this report would be available within 4 and 6 weeks? Will the Minister inform Members as to why it has taken 4 to 6 months? Also, bearing in mind the body that was carrying out the review is being paid by the States, surely they owe it to the States to be here at a convenient time for States Members to have the briefing?

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

I think 2 questions there. The review has taken longer than I anticipated. The report was drafted in the middle of January of this year. It has taken another 4 months to iron out all the legal niceties and the parties concerned before it can be published. I am sorry it has taken that long. I had not anticipated that, but on the other hand the procedure has to be done properly. As to the second question, I have forgotten that now, if the Deputy can repeat it?

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

The reviewers are being paid at taxpayers' expense. Do they not consider it their duty to be here at a convenient time for the States Members?

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

They are not full-time employees of the States; they have other duties to do as well as this. It has been difficult enough to get them today, but I have asked that they did come today in order that we can do this without further delay. I am as conscious as the Deputy of St. Martin that this has gone on longer than any of us would have liked and hence my desire to have them at the earliest possible opportunity, even if it clashes with other arrangements.

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

Will the Minister agree he is being very disingenuous to all States Members in the manner in which he is answering these questions? By only allowing us up to 2 hours for this particular review this evening for Members and these advisers that have done this report; it is not being fair to the Members, it is not being fair to the people who are mentioned within this report, and this is yet another cover-up from within his department.

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

Sorry, we are not quorate, Chief Minister, so the Assembly will have to await the arrival of one Member. I will ask the usher to summon Members from the empty rooms so the Assembly can become quorate?

**The Deputy of St. Martin:**

Can I suggest if the other half of us in here would like to go out for tea we adjourn for 10 minutes?

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

Very well, Chief Minister, you are able to ask the question asked.

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

No, I am refuting a suggestion I am being disingenuous; far from it. I am trying to be as clear as I can about the reason for the meeting having to be today and having to be this evening. The Deputy seems to think it will not be long enough to answer all his questions. I think that is a premature judgment of him to make. Let him see the report first, let him hear the presentation from the consultants, and then decide whether it has been long enough or not.

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

Do you wish a final question, Deputy?

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

Yes. I think most of those people who followed the investigation will know that it is likely to be quite critical of the management. Bearing in mind the current Minister for Health will not apologise to the consultant it concerned, will the Chief Minister feel big enough to apologise to the doctor in this particular case?

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

I suggest that is a question better answered after the presentation this evening. I would be happy to answer that question at that time.

**3.12 Deputy G.P. Southern of the Minister for Social Security regarding the differences between the definitions of incapacity in Long Term Incapacity Allowance (L.T.I.A.) and impairment contained in the medical components of Income Support:**

Will the Minister inform Members what differences, if any, there are between the definitions of incapacity in L.T.I.A. (Long Term Incapacity Allowance) and impairment contained in the medical components of income support and whether it is appropriate to regard L.T.I.A. awards as income?

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

The definition of incapacity and long-term incapacity allowance is set out in the Social Security (Assessment of Long-term Incapacity) (Jersey) Order 2004. The definition of impairment in Income Support is given in the Income Support (Jersey) Regulations 2007. In summary, the L.T.I.A. assessment is based on the loss of faculty of the individual. The impairment component in income support is based on the loss of function experienced by the individual. L.T.I.A. is a contributory benefit paid under the social security system and as with all other contributory benefits it is appropriate that it should be included as part of the household income when assessing the needs of the household for additional financial support.

**3.12.1 Deputy G.P. Southern:**

Is it not the case that until recently impairment and the payment attached was defined as compensation for loss of faculty and therefore, until recently, was not regarded as income? If that is no longer the case and justified, is it not the case that impairment components are designed to cover the additional costs of the impairment and, again, should not be defined as income?

**Deputy I.J. Gorst:**

I am not sure whether the Deputy is confused by his question, but I certainly was. The income support regards income under L.T.I.A. It was a historical transfer in ... As I said, under L.T.I.A. it looks at loss of faculty; income support looks at loss of function. There are impairment components within income support, which those who are receiving L.T.I.A., if it is extremely severe and they also have loss of function, might be entitled to. So I am not sure what point the Deputy is trying to make.

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

Household income: where a person is a tenant or a lodger within the house that is claiming income support, would the tenant or the lodger's income be taken as the overall within the household income?

**Deputy I.J. Gorst:**

Income Support looks at the household as a whole. I am not certain whether in that case a lodger might be classed as a separate household within their own right. If the Deputy has a particular case that he would like to speak to me about then I would be more than happy to discuss that with him.

**3.12.3 Deputy G.P. Southern:**

Does the Minister accept that payment for incapacity is defined as compensation for loss of faculty? Equally, does he not accept that the award of an impairment

component is to cover the additional costs - the extra costs - for that person of that impairment?

**Deputy I.J. Gorst:**

I do accept that under L.T.I.A. if payments are made for loss of faculty, if that person is also entitled to income support they might be entitled to impairment components under income support. The Deputy well knows that how we calculate income support is we look at all the components that an individual might be entitled to. They are all based around what the cost might be to that individual who is entitled to that component. This component is no different to any other component within our system in that respect.

**3.12.4 Deputy J.A. Martin:**

The Minister said he is slightly confused and I am slightly confused. Could he explain simply what is the difference between loss under either scheme ... involved in either scheme? The loss of faculty or the loss of function? A simple example would do, please.

**Deputy I.J. Gorst:**

I was not confused by my legislation or my schemes. What I was confused by was the Deputy's question because it seemed to me that she was confused as well. These are obviously determined in the case of L.T.I.A. by medical boards; in the case of income support, a self-declaration and then a medical form submitted by the G.P. (general practitioner). Quite simply, under L.T.I.A. if an individual were to lose a finger there is a percentage that the medical board can look down and say: "Okay, you have lost a faculty, as it were [i.e. a finger or a body part]. You are entitled to a set percentage" and that is what they look at. Under income support what we look at is: "Okay, you might have lost that faculty, but are you still able to function?" So are you still able to perhaps go out to work, are you able to hold things? Does it influence whether you are able to work or what function you can carry out? It does involve G.P.s and doctors; I am not saying that that makes it complicated, but it is quite difficult to give a straightforward explanation.

### **3.13 The Deputy of St. John of the Minister for Social Security regarding the employees working on the Energy from Waste Plant site:**

What is the total number of employees working on the Energy from Waste Plant site; how many are paying Jersey Social Security contributions and, if any are not, in the event of an accident on the site, who meets the necessary medical costs?

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

Social Security collects information by the name of the employer rather than the location of the employee, so it is not possible for me as Minister for Social Security to answer this question directly. Information provided by the main contractor indicates that there are currently 331 employees engaged on this project of whom 195 are paying Jersey Social Security contributions.

[11:00]

Where non-Jersey subcontractors have been employed they are obliged to hold employer's liability insurance. The social security system, of course, in Jersey does not cover hospital treatment.

#### **3.13.1 The Deputy of St. John:**

Will the Minister undertake to ask his inspectors to visit the site and carry out an actual audit of those people who are not on the social security list of paying contributions and come back to this House giving us full figures of that audit and details of how these people are properly insured? Because many of them will be coming from E.U. (European Union) countries where no reciprocal health agreement is held.

#### **Deputy I.J. Gorst:**

There is absolutely no need for me to do that. My inspectors have already visited the site and therefore I am happy to confirm those numbers that I have just given to the Deputy. It would have been remiss of me to submit those numbers without some form of verification. The Deputy is absolutely right if an individual there comes from a country where there is no reciprocal health agreement and they are not employed by a Jersey subcontractor and therefore not paying social security contributions then it is my understanding that on this particular contract they were, in the first instance, expected to hold their own insurance. If, for some reason, that has not been the case then the employer has a liability insurance. If for some reason should they unfortunately sustain an injury, should it not be covered under that, then I understand that the actual Jersey subcontractor, as a matter of last resort, is prepared to fund those health costs.

#### **3.13.2 Deputy J.A. Martin:**

It is interesting to hear that the majority - I think you said 195 - are paying local social security, but would the Minister not agree that possibly this question would have been better directed to the Minister for Economic Development and find out how many of the 331 employed are over 5 years?

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

That would have been a different question, Deputy, I think.

#### **Deputy I.J. Gorst:**

I could not agree more with the Deputy; I am always happy if a questioner prefers to question someone else rather than myself. **[Laughter]** I cannot say how many of the 195 are under or over the 5-year licence requirement; that would have to be addressed to the Minister for Economic Development. I suspect, of course, on the other part, they are employed by a subcontractor and employed in a different jurisdiction. So perhaps the Deputy of St. John would like to address a future question to the Minister for Economic Development.

### **3.13.3 The Deputy of St. John:**

The question would always go to Social Security. This is a Social Security problem. Will the Minister give me details or give Members details of that 136 who are not paying social security in Jersey, where are they paying social security? If they are not paying social security, will he ensure that anybody working on Island, and particularly on building sites, must have Jersey social security, if they are not paying, whether it is in France or wherever their native insurance stamp would be paid?

### **Deputy I.J. Gorst:**

I am not sure why the Deputy thinks it is a Social Security problem. The licences to operate are granted by the Economic Development Department. Of course we have a duty to undertake from time to time inspections to make sure that people are appropriately paying where there is a liability to pay a Jersey social security contribution, but we cannot be held responsible for individuals who are employed under contract outside of the Island, whether they are paying contributions in their home jurisdictions or not. The fact that they are not paying contributions in Jersey means that they are not entitled to benefits under the Jersey Social Security Fund, unless of course we have a Social Security Reciprocal Agreement with that jurisdiction, but then we get into a much more complex area, which I do not think we really want to touch on today.

### **3.13.4 The Deputy of St. John:**

Given that the Minister is as slippery as the Constable of St. Clement, will the Minister please look up the Social Security Law because I am given to understand in my days as an employer if you employed anybody on Island who did not come over with their own social security arrangements in their own country they had to, under Jersey law, have a Jersey social security registration. It appears that that is not happening and therefore will he agree the States of Jersey, through their contractors, could be in breach of Jersey Regulations or Jersey law?

### **Deputy I.J. Gorst:**

I am pleased to hear that the Deputy, when he was employing individuals, had employed them and they were paying the appropriate contributions. What he is, I think, failing to grasp when he is asking me questions here is these individuals are not employed by Jersey companies; they are employed by the subcontractor in their home jurisdiction. I am not at liberty to say exactly what contributions ... or I do not have knowledge of exactly what contributions they should be making in their home jurisdictions. I try to hold as much information in as I can. It would not, I do not think, be feasible for me to understand exactly each Social Security Law in every jurisdiction of the world. If the Deputy is driving at another issue and what he is suggesting is that there are individuals who are employed in Jersey by Jersey companies and they are not paying their social security contributions then I would hope that he would let me know straight after we finish this question session and I

will certainly have my investigators look at those individual cases, as I asked them to visit the site to confirm that all was in order only earlier this week. Thank you.

**3.14 Deputy T.M. Pitman of the Chairman for Comité des Connétables regarding the likely cost of organising and running the forthcoming Senatorial by-election:**

Will the Chairman advise the Assembly of the likely cost of organising and running the forthcoming Senatorial by-election?

**Connétable K.P. Vibert of St. Ouen (The Chairman for Comité des Connétables):**

I am unable to answer this question with real certainty because the information is not only held across the 12 Parishes, but by the Judicial Greffe as well as the Treasury. I can say that the Parishes receive approximately £20,000 in expenses; this to cover the manning of each polling station. These expenses do not account for the preparation and dismantling of the polling stations by Parish employees, or for the cost of the paid employees of the Parish who assist with the running of the poll. I am aware that this figure could possibly add a further £6,000 across the 17 polling stations. Over and above this must be added the costs of advertising as well as the administration costs of postal voting. It must also be noted that over 150 volunteers, together with many members of the Honorary Police, give up their day to assist. I am sure that I would not be exaggerating if I say that the forthcoming by-election will cost in the region of £30,000.

**3.14.1 Deputy T.M. Pitman:**

I hope I am not stretching the issue of costs too far, and I was aware that the Parishes do not in fact get back all the money they outlay, but given the huge and embarrassing problems experienced in the U.K. with people being unable to vote before the polling stations closed, can the Chairman confirm to the Assembly that he and his colleagues would not support the opening times of polling stations being reduced, possibly under the justification of cutting costs in future?

**The Connétable of St. Ouen:**

I believe that we are bound by the law which this House has passed and until such law is brought for debate then I am not in a position to comment on behalf of all the Connétables.

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

Very well. Well, Deputy Tadier who had the last question is not in the Assembly and the question falls away.