

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 18th JANUARY 2011

| | |
|--|-----------|
| APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS | 9 |
| 1. Resignation of the Connétable of St. Peter from the Environment Scrutiny Panel, the Public Accounts Committee, and Waterfront Enterprise Board | 9 |
| 1.1 Deputy P.J. Rondel of St. John: | 9 |
| 1.2 Senator B.E. Shenton:..... | 9 |
| 1.3 Senator T.A. Le Sueur: | 9 |
| 2. Nomination of a member of the Public Accounts Committee | 9 |
| 2.1 Senator B.E. Shenton:..... | 9 |
| 3. Nomination of a member of the Corporate Affairs Scrutiny Panel | 10 |
| 3.1 Senator S.C. Ferguson: | 10 |
| Senator T.A. Le Sueur: | 10 |
| QUESTIONS..... | 10 |
| 4. Written Questions | 10 |
| 4.1 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING FUNDING FOR THE ISLAND GAMES IN 2015:..... | 10 |
| 4.2 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING FUNDING FOR THE ISLAND GAMES 2015: | 11 |
| 4.3 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE RECIPROCAL HEALTH AGREEMENT WITH THE UNITED KINGDOM: | 11 |
| 4.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING A REVIEW OF TAXATION: | 12 |
| 4.5 SENATOR B.E. SHENTON OF THE CHIEF MINISTER REGARDING PERSONAL INJURY CLAIMS IN THE ROYAL COURT: | 13 |
| 4.6 SENATOR F. du H. LE GRESLEY OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE TIMETABLE FOR CHANGES TO SOCIAL SECURITY CONTRIBUTION LEVELS:..... | 14 |
| 4.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING ZERO/TEN AND COMMUNICATIONS WITH THE UNITED KINGDOM: | 15 |
| 4.8 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING A SITE FOR SKIP SORTING:..... | 16 |
| 4.9 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE STATES TUG: | 17 |
| 4.10 THE DEPUTY OF ST. MARTIN OF THE CHIEF MINISTER REGARDING CHANGES TO THE TERMS OF REFERENCE FOR THE NAPIER REPORT: | 18 |

| | | |
|-----------|---|-----------|
| 4.11 | DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE REPLACEMENT OF STATES VEHICLES: | 20 |
| 4.12 | DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE IMPLEMENTATION OF RECOMMENDATIONS MADE AFTER THE RECENT REVIEW OF HIS DEPARTMENT: | 21 |
| 4.13 | DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING CALLS FOR JERSEY TO BECOME AN INDEPENDENT JURISDICTION: | 21 |
| 4.14 | THE DEPUTY OF ST. MARY OF THE CHIEF MINISTER REGARDING TAX INFORMATION EXCHANGE AGREEMENTS IN FORCE FOR THE LAST SIX YEARS: | 22 |
| 4.15 | THE DEPUTY OF ST. MARY OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PUBLIC ACCOUNTS COMMITTEE’S “REPORT ON THE ACCOUNTS OF THE STATES OF JERSEY FOR THE YEAR ENDED DECEMBER 2009” (P.A.C.4/2010): | 23 |
| 4.16 | THE DEPUTY OF ST. MARY OF THE CHAIRMAN OF THE PUBLIC ACCOUNTS COMMITTEE REGARDING THE COMMITTEE’S “REPORT ON THE ACCOUNTS OF THE STATES OF JERSEY FOR THE YEAR ENDED DECEMBER 2009” (P.A.C.4/2010): | 25 |
| 4.17 | DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING COMPANIES SUBJECT TO ZERO RATE TAX: | 26 |
| 4.18 | DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING DISCUSSIONS WITH THE ISLE OF MAN AND GUERNSEY REGARDING ZERO/TEN: | 27 |
| 4.19 | DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE TOTAL REVENUE RECEIVED FROM DEEMED DISTRIBUTION PROVISIONS: | 27 |
| 5. | Oral Questions..... | 28 |
| 5.1 | Deputy F.J. Hill of St. Martin of the Minister for Economic Development regarding the establishment of a social responsibility fund: | 28 |
| | Connétable L. Norman of St. Clement (Assistant Minister for Economic Development - rapporteur): | 28 |
| 5.1.1 | Deputy M.R. Higgins of St. Helier: | 28 |
| 5.2 | Deputy T.M. Pitman of the Chairman for the Privileges and Procedures Committee regarding the implementation of reforms agreed in October 2010: | 29 |
| | Connétable J. Gallichan of St. Mary (Chairman, Privileges and Procedures Committee): | 29 |
| 5.2.1 | Deputy T.M. Pitman: | 29 |
| 5.2.2 | Deputy D.J.A. Wimberley of St. Mary: | 29 |
| 5.2.3 | Deputy G.P. Southern of St. Helier: | 30 |
| 5.2.4 | Deputy P.V.F. Le Claire: | 30 |
| 5.2.5 | Deputy R.G. Le Hérissier of St. Saviour: | 30 |
| 5.2.6 | Deputy T.M. Pitman: | 31 |
| 5.3 | Deputy G.P. Southern of the Chief Minister regarding the Island’s compliance issues with the E.U. Code on Business Taxation: | 31 |
| | Senator T.A. Le Sueur (The Chief Minister): | 31 |
| 5.3.1 | Deputy G.P. Southern: | 31 |
| 5.3.2 | Deputy M.R. Higgins: | 32 |
| 5.3.3 | Deputy G.P. Southern: | 32 |
| 5.3.4 | Deputy G.P. Southern: | 32 |

| | |
|--|----|
| 5.4 Deputy P.V.F. Le Claire of the Minister for Planning and Environment regarding Island Plan consultation: | 32 |
| Senator F.E. Cohen (The Minister for Planning and Environment):..... | 32 |
| 5.4.1 Deputy J.A. Hilton of St. Helier:..... | 33 |
| 5.4.2 Deputy J.A. Hilton:..... | 33 |
| 5.4.3 The Deputy of St. John: | 33 |
| 5.4.4 Connétable A.S. Crowcroft of St. Helier:..... | 33 |
| 5.4.5 The Deputy of St. Mary:..... | 33 |
| 5.4.6 The Deputy of St. Mary:..... | 34 |
| 5.4.7 Deputy M. Tadier of St. Brelade: | 34 |
| 5.4.8 Deputy P.V.F. Le Claire: | 34 |
| 5.5 Deputy R.G. Le Hérissier of the Minister for Treasury and Resources regarding the application of the Code of Remuneration for Board Members by Jersey Post International Limited: | 35 |
| Senator P.F.C. Ozouf (The Minister for Treasury and Resources): | 35 |
| 5.5.1 Deputy R.G. Le Hérissier: | 35 |
| 5.5.2 Deputy R.G. Le Hérissier: | 35 |
| 5.5.3 Senator A. Breckon: | 35 |
| 5.6 The Deputy of St. John of the Minister for Economic Development regarding the provision of passenger information airside:..... | 36 |
| Senator A.J.H. Maclean (The Minister for Economic Development):..... | 36 |
| 5.6.1 The Deputy of St. John: | 36 |
| 5.7 Deputy M. Tadier of the Minister for Education, Sport and Culture regarding allegations against members of staff at the Education, Sport and Culture Department relating to historic abuse cases:..... | 37 |
| Deputy J.G. Reed of St. Ouen (Minister for Education, Sport and Culture): | 37 |
| 5.7.1 Deputy M. Tadier: | 37 |
| 5.7.2 The Deputy of St. Martin:..... | 37 |
| 5.7.3 Deputy T.M. Pitman: | 38 |
| 5.7.4 Deputy M. Tadier: | 38 |
| 5.8 Senator F. du H. Le Gresley of the Chief Minister regarding the Jersey Law Commission’s review of the Bankruptcy (Désastre) (Jersey) Law 1990 (Social Désastre): | 38 |
| Senator T.A. Le Sueur (The Chief Minister): | 38 |
| 5.8.1 Senator F. du H. Le Gresley:..... | 39 |
| 5.9 The Deputy of St. Mary of the Minister for Transport and Technical Services regarding the analysis of road traffic accidents: | 39 |
| Connétable M.K. Jackson of St. Brelade (The Minister for Transport and Technical Services): | 39 |
| 5.9.1 The Deputy of St. Mary: | 40 |
| 5.10 Deputy A.K.F. Green of St. Helier of the Minister for Economic Development regarding the provision of free short-term parking areas at the Airport: | 40 |
| Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur)..... | 40 |
| 5.10.1 Deputy A.K.F. Green: | 40 |
| 5.10.2 The Deputy of St. John:..... | 41 |
| 5.10.3 The Deputy of St. John:..... | 41 |
| 5.10.4 Deputy R.G. Le Hérissier: | 41 |
| 5.10.5 The Connétable of St. Mary: | 41 |
| 5.10.6 The Deputy of St. Martin: | 42 |
| 5.10.7 Senator S.C. Ferguson:..... | 42 |
| 5.10.8 Deputy A.E. Jeune of St. Brelade: | 43 |
| 5.10.9 Deputy A.K.F. Green: | 43 |

| | |
|---|----|
| 5.11 Deputy T.M. Pitman of the Chairman for the Privileges and Procedures Committee regarding the filming of Scrutiny meetings by ‘citizen media’: | 43 |
| The Connétable of St. Mary (Chairman, Privileges and Procedures Committee) | 43 |
| 5.11.1 Deputy T.M. Pitman: | 44 |
| 5.11.2 Deputy M. Tadier: | 44 |
| 5.11.3 The Deputy of St. Martin: | 44 |
| 5.11.4 The Deputy of St. John: | 45 |
| 5.11.5 The Deputy of St. Mary: | 45 |
| 5.11.6 Deputy R.G. Le Hérisier: | 45 |
| 5.11.7 Deputy T.M. Pitman: | 45 |
| 5.12 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the recouping of corporate tax lost through Zero/Ten from foreign-owned non-finance companies: | 46 |
| Senator P.F.C. Ozouf (Minister for Treasury and Resources): | 46 |
| 5.12.1 Deputy G.P. Southern: | 46 |
| 5.12.2 Deputy T.M. Pitman: | 47 |
| 5.12.3 Deputy M. Tadier: | 47 |
| 5.12.4 The Deputy of St. Mary: | 48 |
| 5.12.5 Deputy G.P. Southern: | 48 |
| 5.12.6 Deputy G.P. Southern: | 48 |
| 5.13 Deputy M. Tadier of the Minister for Social Security regarding eligibility for the Food Costs (or ‘G.S.T.’) Bonus: | 49 |
| Deputy I.J. Gorst of St. Clement (Minister for Social Security): | 49 |
| 5.13.1 Deputy M. Tadier: | 49 |
| 5.13.2 Deputy G.P. Southern: | 49 |
| 5.13.3 Deputy G.P. Southern: | 50 |
| 5.13.4 Deputy M. Tadier: | 50 |
| 5.14 The Deputy of St. Martin of the Minister for Health and Social Services regarding the impact of restrictions on the duties of certain doctors: | 50 |
| Deputy A.E. Pryke of Trinity (Minister for Health and Social Services): | 50 |
| 5.14.1 The Deputy of St. Martin: | 51 |
| 5.14.2 Deputy M.R. Higgins: | 51 |
| 5.14.3 Deputy M.R. Higgins: | 52 |
| 5.14.4 Senator S.C. Ferguson: | 52 |
| 5.14.5 Senator S.C. Ferguson: | 52 |
| 5.14.6 Senator S.C. Ferguson: | 52 |
| 5.14.7 Deputy A.E. Jeune: | 53 |
| 5.14.8 Deputy T.M. Pitman: | 53 |
| 5.14.9 The Deputy of St. John: | 53 |
| 5.14.10 The Deputy of St. John: | 53 |
| 5.14.11 Deputy M. Tadier: | 54 |
| 5.14.12 The Deputy of St. Martin: | 54 |
| 5.15 The Deputy of St. Mary of the Minister for Transport and Technical Services regarding air, sea and surface run-off emissions from the Energy from Waste Plant: | 54 |
| The Connétable of St. Brelade (Minister for Transport and Technical Services): | 54 |
| 5.15.1 The Deputy of St. Mary: | 55 |
| 5.15.2 Deputy J.A. Hilton: | 55 |
| 5.15.3 The Connétable of St. Helier: | 55 |
| 5.15.4 Deputy D.J. De Sousa of St. Helier: | 55 |
| 5.15.5 Senator J.L. Perchard: | 55 |
| 5.15.6 Deputy M.R. Higgins: | 56 |
| 5.15.7 Deputy M. Tadier: | 56 |

| | | |
|--------|--|----|
| 5.15.8 | The Deputy of St. Mary:..... | 56 |
| 5.15.9 | The Deputy of St. Mary:..... | 57 |
| 5.16 | Deputy R.G. Le Hérisssier of the Minister for Health and Social Services regarding revised waiting list targets: | 57 |
| | The Deputy of Trinity (Minister for Health and Social Services):..... | 57 |
| 5.16.1 | Deputy R.G. Le Hérisssier: | 57 |
| 5.16.2 | Deputy G.P. Southern: | 57 |
| 5.16.3 | Deputy A.E. Jeune: | 58 |
| 5.16.4 | Senator S.C. Ferguson:..... | 58 |
| 5.16.5 | Senator S.C. Ferguson:..... | 58 |
| 5.16.6 | Deputy M.R. Higgins:..... | 58 |
| 5.16.7 | Deputy M.R. Higgins:..... | 59 |
| 5.16.8 | Deputy R.G. Le Hérisssier: | 59 |
| | The Deputy of St. Martin: | 59 |

| | |
|---|-----------|
| LUNCHEON ADJOURNMENT PROPOSED..... | 59 |
| LUNCHEON ADJOURNMENT..... | 59 |

6. Questions to Ministers Without Notice - The Minister for Housing59

| | | |
|-------|---|----|
| 6.1 | Deputy P.V.F. Le Claire: | 59 |
| | Deputy S. Power of St. Brelade (The Minister for Housing):..... | 60 |
| 6.2 | Deputy A.E. Jeune:..... | 60 |
| 6.2.1 | Deputy A.E. Jeune:..... | 60 |
| 6.3 | Deputy M.R. Higgins:..... | 60 |
| 6.3.1 | Deputy M.R. Higgins:..... | 61 |
| 6.4 | The Deputy of St. John: | 61 |
| 6.4.1 | The Deputy of St. John: | 61 |
| 6.5 | Deputy G.P. Southern:..... | 61 |
| 6.6 | Deputy M. Tadier: | 62 |
| 6.7 | Senator S.C. Ferguson: | 62 |
| 6.7.1 | Senator S.C. Ferguson: | 62 |
| 6.8 | Deputy J.A. Hilton:..... | 62 |
| 6.9 | Deputy A.K.F. Green:..... | 63 |
| 6.10 | The Deputy of St. Mary:..... | 63 |
| 6.11 | Deputy J.M. Maçon of St. Saviour:..... | 63 |
| 6.12 | Deputy D.J. De Sousa:..... | 63 |
| 6.13 | Connétable D.W. Mezbourian of St. Lawrence: | 63 |

7. Questions to Ministers Without Notice - The Minister for Economic Development ...64

| | | |
|-------|--|----|
| 7.1 | Deputy R.G. Le Hérisssier: | 64 |
| | Senator A.J.H. Maclean (The Minister for Economic Development):..... | 64 |
| 7.1.1 | Deputy R.G. Le Hérisssier: | 65 |
| 7.2 | Deputy M. Tadier: | 65 |
| 7.2.1 | Deputy M. Tadier: | 65 |
| 7.3 | Senator F. du H. Le Gresley:..... | 65 |
| 7.3.1 | Senator F. du H. Le Gresley:..... | 65 |
| 7.4 | Deputy P.V.F. Le Claire: | 66 |
| 7.5 | Deputy J.A.N. Le Fondré of St. Lawrence: | 66 |
| 7.6 | Deputy J.B. Fox of St. Helier:..... | 66 |
| 7.7 | Deputy D.J. De Sousa:..... | 66 |
| 7.8 | Deputy G.P. Southern:..... | 67 |
| 7.8.1 | Deputy G.P. Southern:..... | 67 |

| | | |
|--|--|-----------|
| 7.9 | Deputy A.K.F. Green: | 67 |
| 7.9.1 | Deputy A.K.F. Green: | 67 |
| 7.10 | Deputy M.R. Higgins: | 67 |
| 7.10.1 | Deputy M.R. Higgins: | 68 |
| 7.11 | The Deputy of St. John: | 68 |
| 7.11.1 | The Deputy of St. John: | 69 |
| PERSONAL STATEMENTS | | 69 |
| 8. | Personal Statement by Deputy J.A.N. Le Fondré on his removal as Assistant Minister | 69 |
| 8.1 | Deputy J.A.N. Le Fondré: | 69 |
| STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY | | 71 |
| 9. | Statement by the Chief Minister statement regarding the Order of Justice put forward by Mr. S. Syvret | 71 |
| 9.1 | Senator T.A. Le Sueur (The Chief Minister): | 71 |
| PUBLIC BUSINESS | | 72 |
| 10. | Proposition to alter the order of debate | 72 |
| 10.1 | Senator F.E. Cohen: | 72 |
| 10.2 | Deputy J.A. Martin of St. Helier: | 72 |
| 10.3 | The Connétable of St. Mary: | 72 |
| 10.4 | Senator F.E. Cohen: | 73 |
| 10.5 | Deputy R.G. Le Hérisser: | 73 |
| 10.6 | The Deputy of St. Mary: | 73 |
| 10.7 | Deputy T.M. Pitman: | 73 |
| 10.8 | The Connétable of St. Mary: | 74 |
| 10.9 | Deputy J.A. Martin: | 74 |
| 10.10 | The Deputy of St. John: | 74 |
| 10.11 | Deputy M. Tadier: | 74 |
| 10.12 | Deputy E.J. Noel of St. Lawrence: | 76 |
| 10.13 | The Connétable of St. Mary: | 78 |
| 10.14 | Deputy P.V.F. Le Claire: | 78 |
| 10.15 | Deputy M. Tadier: | 79 |
| 10.16 | Deputy I.J. Gorst: | 80 |
| 10.17 | The Deputy of Trinity: | 80 |
| 10.18 | Deputy T.M. Pitman: | 80 |
| 10.19 | Senator B.I. Le Marquand: | 80 |
| 11. | Canons of the Church of England in Jersey (P.179/2010) | 83 |
| 11.1 | Senator T.A. Le Sueur: | 84 |
| 11.1.1 | The Deputy of St. John: | 84 |
| 11.1.2 | Deputy T.M. Pitman: | 85 |
| 11.1.3 | The Connétable of St. Helier: | 85 |
| 11.1.4 | Connétable K.P. Vibert of St. Ouen: | 85 |
| 11.1.5 | The Deputy of St. Martin: | 86 |
| Mr. T.J. Le Cocq Q.C., H.M. Attorney General: | | 86 |
| 11.1.6 | Deputy M. Tadier: | 86 |
| 11.1.7 | The Deputy of St. Mary: | 86 |
| 11.1.8 | The Connétable of St. Brelade: | 87 |

| | | |
|------------|--|------------|
| 11.1.9 | Senator S.C. Ferguson: | 87 |
| 11.1.10 | Deputy A.E. Jeune: | 88 |
| 11.1.11 | Deputy P.V.F. Le Claire: | 88 |
| 11.1.12 | The Connétable of Grouville: | 89 |
| 11.1.13 | Deputy M. Tadier: | 89 |
| 11.1.14 | Senator B.I. Le Marquand: | 90 |
| 11.1.15 | The Very Reverend R.F. Key, B.A., The Dean of Jersey: | 90 |
| 11.1.16 | Senator T.A. Le Sueur: | 94 |
| 12. | Draft Employment (Amendment No. 6) (Jersey) Law 201- (P.143/2010) | 96 |
| 12.1 | Deputy I.J. Gorst (The Minister for Social Security): | 97 |
| 13. | Draft Restriction on Smoking (Warning Notices) (Jersey) Regulations 201- (P.156/2010) | 99 |
| 13.1 | The Deputy of Trinity (The Minister for Health and Social Services): | 99 |
| 13.1.1 | Deputy P.V.F. Le Claire: | 99 |
| 13.1.2 | Senator S.C. Ferguson: | 100 |
| 13.1.3 | Senator P.F.C. Ozouf: | 100 |
| 13.1.4 | Deputy M. Tadier: | 101 |
| 13.1.5 | The Deputy of Trinity: | 101 |
| | The Attorney General: | 102 |
| 13.2 | The Deputy of Trinity: | 104 |
| 13.2.1 | Deputy M. Tadier: | 104 |
| 13.3 | The Deputy of Trinity: | 108 |
| 13.3.1 | The Deputy of St. Mary: | 108 |
| 13.3.2 | Deputy M. Tadier: | 108 |
| 13.3.3 | The Deputy of Trinity: | 108 |
| 14. | Official Report ('Hansard'): retrospective removal of names (P.168/2010) | 110 |
| 14.1 | The Connétable of St. Mary (Chairman, Privileges and Procedures Committee): | 110 |
| 14.1.1 | Deputy P.V.F. Le Claire: | 112 |
| 14.1.2 | Deputy T.M. Pitman: | 112 |
| 14.1.3 | The Deputy of St. John: | 112 |
| 14.1.4 | Deputy M. Tadier: | 112 |
| 14.1.5 | The Deputy of St. Mary: | 113 |
| 14.1.6 | Deputy G.P. Southern: | 114 |
| 14.1.7 | Deputy A.E. Jeune: | 114 |
| 14.1.8 | Deputy M.R. Higgins: | 114 |
| 14.1.9 | Senator J.L. Perchard: | 115 |
| 14.1.10 | Connétable P.F.M. Hanning of St. Saviour: | 115 |
| 14.1.11 | The Connétable of St. Mary: | 115 |
| 15. | Draft Amendment (No. 14) of the Standing Orders of the States of Jersey (P.169/2010) | 118 |
| 15.1 | The Connétable of St. Mary: | 118 |
| 15.1.1 | Deputy M. Tadier: | 119 |
| 15.1.2 | Senator T.A. Le Sueur: | 119 |
| 15.1.3 | Deputy G.P. Southern: | 119 |
| 15.1.4 | The Connétable of St. Mary: | 119 |
| 15.2 | The Connétable of St. Mary: | 121 |
| 15.2.1 | The Deputy of St. John: | 122 |
| 15.2.2 | The Deputy of St. Mary: | 122 |

| | | |
|--------|-----------------------------------|-----|
| 15.2.3 | Deputy M. Tadier:..... | 122 |
| 15.2.4 | Deputy G.P. Southern: | 122 |
| 15.2.5 | Deputy P.V.F. Le Claire:..... | 122 |
| 15.2.6 | Deputy T.M. Pitman:..... | 123 |
| 15.2.7 | The Connétable of St. Mary: | 123 |

ADJOURNMENT.....123

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

[10:40]

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

1. Resignation of the Connétable of St. Peter from the Environment Scrutiny Panel, the Public Accounts Committee, and Waterfront Enterprise Board

The Bailiff:

We come now to F and the first is the resignation of the Connétable of St. Peter from the Public Accounts Committee and also from the Environment Scrutiny Panel.

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

As Chairman of the Environment Scrutiny Panel, can I say how sorry I am to lose the Constable of St. Peter from my panel. He has been one of the most active members that I have worked with over many years in Scrutiny, since the inception of Scrutiny, and he will be a great loss to my panel. I would like to thank him for the work he has done. While on my feet, I must say I am very disappointed in the Chief Minister not having had the courtesy to speak to myself and the Chairman of P.A.C. (Public Accounts Committee) about the appointment because he has left my panel with just 2 members and left P.A.C. with having to find another member at very short notice. The Chief Minister needs to look at the process in which appointments are made by his department and not leave other areas of government short of members. In doing so, I would like to thank the Connétable.

1.2 Senator B.E. Shenton:

Can I just, on behalf of the Public Accounts Committee, thank the Constable of St. Peter for his excellent support and work on the Public Accounts Committee during his tenure. He has been extremely diligent in everything he has done in respect of the Public Accounts Committee and we will miss him, but I wish him well on his move to the... I was going to say the dark side, but I cannot say that - to the other side of the Chamber.

The Bailiff:

Similarly the Connétable of St. Peter has notified his resignation as a States-nominated director of the Waterfront Enterprise Board.

1.3 Senator T.A. Le Sueur:

I think it might be appropriate at this stage for me to thank the Constable for his services on the Waterfront Enterprise Board. He serves as one of the 3 States Members appointed to that board. As Members will be aware, we are in the process of transition from the Waterfront Enterprise Board to the States of Jersey Development Company and we shall be shortly seeking new appointments to that new function. In the circumstances, I do not intend at this stage to bring a proposition for a replacement to the Constable of St. Peter for such a short period of time. But I thank him for his services over the time he has spent on that board and the benefit which he has brought to the decisions that that board has made.

The Bailiff:

We come next to a nomination of a member of the Public Accounts Committee.

2. Nomination of a member of the Public Accounts Committee

2.1 Senator B.E. Shenton:

I have great pleasure in nominating Deputy John Le Fondré to join the Public Accounts Committee. The move is particularly useful at this time as we are in the middle of a review on property disposals by the States. **[Laughter]** I am sure that his insight will be extremely valuable. Can I just assure the Deputy that if he does not disagree with the committee we will not get rid of him. **[Laughter]**

The Bailiff:

Are there any other nominations? Very well, I declare Deputy Le Fondré nominated to the Public Accounts Committee. **[Approbation]**

3. Nomination of a member of the Corporate Affairs Scrutiny Panel

The Bailiff:

I understand there is also a nomination of a member of the Corporate Affairs Scrutiny Panel.

3.1 Senator S.C. Ferguson:

The Corporate Services Scrutiny Panel by unanimous decision invited Deputy Le Fondré to join the panel and we are delighted to say that he has accepted, obviously subject to the agreement of the Assembly. Deputy Le Fondré has a broad range of experience both in the Assembly and in the wider world beyond, and he will be a great asset to the panel. The panel would request the Assembly to agree to this appointment.

The Bailiff:

Are there any other nominations? Then I declare Deputy Le Fondré a member of the Corporate Affairs Scrutiny Panel. **[Approbation]**

Senator T.A. Le Sueur:

Maybe at this time it would be appropriate for me publicly to express my thanks to Deputy Le Fondré for the support he has given to me as Assistant Minister over the past 2 years, and indeed for 3 years prior to that as well in a different capacity. I shall miss his services but Standing Orders have certain restrictions on them, but I am sure he will be an excellent member of both the Public Accounts Committee and the Corporate Affairs Scrutiny Panel, and I wish him well in the future.

[10:45]

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

Just as a matter of procedure, I wonder if we needed a seconder on that? I would be glad to second him if that is the case.

The Bailiff:

Yes, I suppose technically we do as a nomination. You have seconded both, have you?

Deputy P.V.F. Le Claire:

With great pleasure, Sir.

QUESTIONS

4. Written Questions

4.1 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING FUNDING FOR THE ISLAND GAMES IN 2015:

Question

Given that during December 2010, there was concern about the Isle of Wight securing some £360,000 towards hosting the forthcoming Island Games, will the Minister confirm that sufficient funding is in place to support the Island Games in Jersey in 2015?

Answer

The Council of Ministers supported the bid for the Island Games in 2015 following a presentation to Ministers in January 2010.

Following the success of the Games bid, the Council of Ministers included initial funding of £100,000 p.a. from 2013 for Education, Sport and Culture as part of the CSR Part 2 growth allocation in P157/2010. This will provide funding for two full-time officers in the run up to the event, one of which will be the Games Director.

In addition, £583,000 has been included in the indicative capital programme for the FB Field Running Track Replacement project in 2013, which is critical to the success of the event.

Therefore I can confirm, subject to States approval, that funding has been put in place to support the current funding requirements.

In its presentation to Ministers, the Department for Education, Sport and Culture estimated the net cost of holding the Games in 2015 would be £1.2m. An organising Committee has been established which will be reviewing this estimate and investigating potential sources of income from official Island Games sponsors, competitor accreditation and corporate sponsorship.

Once the exact level of the additional financial support is known, the Council of Ministers will bring forward proposals to incorporate additional funding in the appropriate year's Business Plan.

4.2 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING FUNDING FOR THE ISLAND GAMES 2015:

Question

Given that during December 2010, there was concern about the Isle of Wight securing some £360,000 towards hosting the forthcoming Island Games, will the Minister confirm that sufficient funding is in place to support the Island Games in Jersey in 2015?

Answer

I have consulted both the Council of Ministers and the Treasury Minister and I concur with the written answer the Treasury Minister has provided in respect of this question.

4.3 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE RECIPROCAL HEALTH AGREEMENT WITH THE UNITED KINGDOM:

Question

Following the statement by the Chief Minister on 6th December 2010, that the reciprocal health agreement with the United Kingdom "should be signed and completed before the end of this year", would the Minister advise why this has not happened and when she now expects it to be signed?

Answer

The previous Reciprocal Health Agreement between the UK and the Channel Islands ended on 31st March 2009. I took up post as Minister for Health and Social Services at the end of April 2009 and have been working since that time to reintroduce a new agreement between Jersey and the UK.

I can confirm that our officials are continuing positive discussions with officials from the UK Department of Health. From our side, these discussions are being taken forward by our Director of International Affairs from the Chief Minister's Department and the Deputy Chief Officer from the Health and Social Services Department. From the UK side, the discussions are being led by the Overseas Healthcare Team at the UK Department of Health (who also dealt with the new Isle of Man Reciprocal Health Agreement).

More recently, I wrote to Anne Milton MP, Parliamentary under Secretary of State, Department of Health on the 4th November 2010 regarding the reintroduction of a reciprocal health agreement between the UK and Jersey. I received a reply on the 13th January 2011 to which I have already responded. In her letter Anne Milton MP stated that she is happy to give her in principle support for the reintroduction of a bilateral health agreement. She informs me that she will write again shortly with a formal proposal for my consideration.

The next steps are for the Department of Health to consult with the devolved administrations regarding the agreement whilst officers from my Department and the Chief Ministers Department liaise with their UK counterparts with a view to having an agreement identical to that which the UK recently signed with the Isle of Man.

I am hopeful that a new agreement will be in place as soon as possible.

4.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING A REVIEW OF TAXATION:

Question

Was the review *'of all aspects of 1(1)(k) taxation by an individual with international expertise in wealth management'* mentioned in the Minister's response to question 4996 on 8th December 2009 ever conducted and if so, by whom?

Given that in response to question 5228 on 23rd March 2010, the Minister advised the review would *"encompass arrangements prior to 2005"* when Article 135A of the Income Tax Law came into force, what advice has he received on the treatment of taxation of currently resident 1(1)(k) residents who obtained consents both before and after 2005 and why was no mention of arrangements prior to 2005 made in his 2011 budget speech?

Will the Minister clarify whether the £100,000 minimum 1(1)(k) tax contribution (raised to £125,000 in the 2011 budget) refers to Jersey income, foreign income or both?

Will the Minister give members details of the *"new high-value residents' regime for new residents"* that he proposed in the budget to raise over £2m additional tax?

Will he detail the changes to tax revenues he expects from the decision to limit 1(1)(k) tax on worldwide income at 20% on £625,000, instead of 20% on £1m and 10% on the next £500,000 as at present?

Answer

The review of 1(1)(k)s is well progressed with some independent research undertaken during 2010 by a London based law firm. A report is being prepared, for publication by March this year, which will set out proposals for changes to the 1(1)(k) regime. The independent research contains tax sensitive information and for that reason will not be published. However the conclusions of that review and extracts from it will be referred to in the report currently being prepared.

I am also establishing a Ministerial advisory group including the Ministers or Assistant Ministers from Housing, Economic Development and Treasury to review the proposals. I intend to lodge draft tax law for debate before the Summer recess and to work with the other Ministers to develop other policies during 2011 to ensure Jersey attracts more wealthy individuals.

The independent advice was clear that if Jersey wanted to maintain and expand the tax contribution from its 1(1)(k) regime, no changes should be made to the tax rules that apply to existing 1(1)(k)s. Those who arrived before 2005 already pay 20% on all of their taxable income. To change the tax rules that apply to those already here would indicate instability and Jersey would struggle to attract more wealthy residents.

The £100,000 minimum tax contribution (now £125,000) refers to tax on both Jersey and foreign source income.

The £2m additional tax referred to was illustrative of the tax that could be raised if 15 new applicants were attracted under the new regime. As set out clearly in the Budget speech part of that regime includes a change to the tax rules but there will also need to be a focus on marketing to ensure people are aware that Jersey is open for business.

The purpose of the proposed changes to the tax law for 1(1)(k)s is to maintain Jersey's competitiveness and prevent the current practice of capping tax liabilities that sometimes occurs under the existing regime. The new regime is intended to discourage them from doing so and bring their business to Jersey rather than put it in another jurisdiction. The additional tax revenues likely to arise as a result will depend on how many Jersey successfully attracts. That will depend on many factors other than just the Jersey tax regime but it is important that the tax regime is competitive against such jurisdictions as Switzerland, Singapore, Guernsey and the Isle of Man.

Further details of all of these aspects and any proposed changes in the regime will be provided in the report currently being prepared which will be published by March this year.

4.5 SENATOR B.E. SHENTON OF THE CHIEF MINISTER REGARDING PERSONAL INJURY CLAIMS IN THE ROYAL COURT:

Question

Does the Royal Court currently have the power to issue periodic payment orders in respect of personal injury claims and, if not, will the Chief Minister advise whether there are plans to introduce the periodic payment order option available in the UK whereby awards are made as a traditional lump sum; a mixture of a lump sum and a periodic payment order or a provisional damages bolt-on to either of the aforementioned, and, if not, why not?

Answer

This question relates to the Royal Court's powers to award damages in very serious personal injury claims. By serious, it is understood that the injury is so significant and permanent that the plaintiff

will continue to be materially disabled well after the conclusion of the civil action. Tetraplegia is an obvious example of such a condition.

In these cases, the plaintiff is entitled to future damages reflecting, *inter alia*, future lost earnings and costs of care over the plaintiff's remaining lifetime. At present, the Royal Court makes an award of such future damages as a lump sum, calculated by reference to established legal principles. The damages awarded for future loss can be considerable.

The Royal Court also has the power to award provisional damages pursuant to Article 3 of the Administration of Justice (Interim Payments and Damages) (Jersey) Law 1993. That is to say, the award of damages at the conclusion of a civil action is not necessarily final. If, as a result of the act or omission which gave rise to the cause of action, it is proven that the plaintiff may develop some serious disease or suffer some serious deterioration in physical or mental condition in the future, then the Court can order that the case be returned to the Court in the event of such an occurrence so that further damages can be awarded as appropriate.

In April 2005, the Courts in the UK were given the power to order the payment of periodic payments in respect of future losses. Previously, only the parties to an action could agree to such a course of action. As a result, the UK Courts can, when assessing damages in respect of future loss of earnings and care, order the defendant to make suitable annual payments over the plaintiff's lifetime to cover the plaintiff's annual losses rather than the payment of a one-off lump sum to the plaintiff to cover their entire lifetime.

At present, the Royal Court has no power to make periodic payments.

Periodic payments are not automatic in the UK not least because the Court is obliged by law to ensure that there exists sufficient guarantee and security that the payments will be made. There will still be cases in the UK when the order of a lump sum is appropriate and indeed there will still be cases when the plaintiff indicates that they would prefer a lump sum.

There is a practical consideration here. In the UK, there is an insurance scheme in place to protect the plaintiff in the event that the defendant or their insurer could not longer make the periodic payments. It may be that this could be extended to Jersey.

There are no plans at present to introduce the periodic payments option to Jersey.

4.6 SENATOR F. du H. LE GRESLEY OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE TIMETABLE FOR CHANGES TO SOCIAL SECURITY CONTRIBUTION LEVELS:

Question

Would the Minister set out his timetable for the introduction of the additional 2% Social Security contributions above the ceiling from employees and employers and advise when he intends to consult with groups which represent the self employed, such as the Small Business Group at the Jersey Chamber of Commerce?

Has the Minister considered carrying out a further consultation exercise this year with the public and interested groups on the reform of our personal taxation system so as to have an alternative option available in the event that the required changes to legislation, to implement the proposed increase in Social Security contributions from 1st January 2012, were to be rejected by the States?

Would the Minister set out his timetable for consultation with members of the financial services industry on the ISE fee structure, from which it is proposed to generate additional income of £2m in 2012?

Answer

Social Security

All matters relating to progressing the policy of changes to Social Security contributions are the responsibility of the Minister for Social Security. The regulations to make changes to the contributions above the ceiling will be lodged by the Social Security Minister for States debate by July 2011 and introduction from 1 January 2012. Informal consultation, led by the Minister for Social Security, will take place with key stakeholders throughout the year as part of the ongoing development. This is in addition to an extensive Fiscal Strategy Review consultation which was undertaken last year, during which Chamber members and representatives of other employment groups attended meetings and sent in their responses to the green paper.

The proposals for 2011 and the rest of the strategy set out in the 2011 Budget to bring our finances back into balance by 2013 was approved by the States in December. The increase in Social Security contributions is a key part of the strategy, alongside the increase in GST and ISE fees.

There are no plans to carry out further consultation this year in order to develop an alternative to an increase in Social Security contributions. Detailed research was carried out in preparation for the Fiscal Strategy Review consultation, which identified the four tax raising measures which could raise the necessary level of revenue. However, longer term tax policy development is being looked at and there will be opportunities taken to consult on tax matters in future.

The possibility of reform of our personal tax system through other means such as the introduction of a higher rate of income tax was considered during last year's Fiscal Strategy Review consultation and discounted. If the changes necessary to increase Social Security contributions are not approved, then the alternatives would be to further reduce spending and/or increase other taxes.

ISE fees

The consultation process will take place in the spring and early summer of this year with the intention that specific proposals will be included in the 2012 Budget.

4.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING ZERO/TEN AND COMMUNICATIONS WITH THE UNITED KINGDOM:

Question

Following his response to an urgent question on 12th December 2010 on zero/ten, will the Chief Minister inform members what communication, if any, he or any of his Ministers have had with either H.M. Revenue and Customs, the UK Treasury or Lord McNally, the Minister responsible for relations with the Channel Islands and will he reveal the content of those communications?

If only the deemed distribution provisions are harmful, will he give members a full list of the mechanisms he and the Minister for Treasury and Resources have at their disposal to replace the "deemed distribution rules" that were proposed to recoup up to £15m of taxes from locally owned non-finance companies under the "zero/ten" regime?

Will he further inform members how such mechanisms would not breach Articles 1 and 2 of the Code in offering advantages only to non-residents and ring fencing those advantages from the domestic market?

Answer

Communications between governments are confidential and so will not be revealed. Members have however been provided with a detailed report setting out all of the issues in relation to the Code Group's assessment of our business tax system <http://www.gov.je/Government/Pages/StatesReports.aspx?ReportID=495> A copy of the briefing that was given to the Code Group when it met on 19th November 2010 has also been circulated. These two documents set out the information very clearly.

The deemed distribution rules were not introduced to "recoup up to £15m of taxes from locally owned non-finance companies". They were introduced as personal tax anti-avoidance provisions, with the support of the UK. Anti-avoidance measures apply in most countries where there is a difference in rates of taxes.

As stated in the response to the urgent question on 10th December 2010, the Code Group recommended, and ECOFIN agreed, to ask the High Level Working Party on tax issues to consider the scope of the Code and in particular the extent to which personal tax matters fell within that scope. We will be engaging with HM Treasury once the outcome of that review is known, to discuss what action Jersey should take.

Also once the outcome of that review is completed and we fully understand the scope of the Code and the implications to the 0/10 regime, we will be in a position to consider and if necessary develop realistic alternatives. It would therefore be unwise and a waste of resources to develop a list of speculative alternatives before knowing the constraints that we are expected to work within.

Whatever alternative measures are introduced, full consideration will be given to the articles within the Code, as well as the findings of the High Level Working Party, to ensure that such measures comply.

4.8 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING A SITE FOR SKIP SORTING:

Question

Could the Minister update members on the progress being made between his Department and Transport and Technical Services in locating a site for skip sorting for skip operators who are providing a service with little government support, and also give members a date when he and the Minister for Transport and Technical Services will notify the States that a site has been identified and ready for use?

Answer

Again I must thank the Deputy of St John for raising this important matter. Resolving the issue of the Island's aspirations for recycling with the delivery of an appropriate large scale skip sorting site is of great importance.

The work required from proposition P97/2010 is being led by officers from Jersey Property Holdings who will be consulting Transport and Technical Services and Planning and Environment

in due course. Consequently responsibility is shared with the Constable of St Brelade and Senator Ozouf.

I understand that numerous sites are currently being evaluated from a property perspective. These will then be assessed from an environmental perspective and an operational perspective. I am assured that a report will be presented to the States in line with the six month timetable previously agreed.

I cannot at this stage answer the second part of the question as a site will have to be identified in the first instance. To make a site 'ready for use' requires a number of steps. The States needs to decide, either directly or through Property Holdings, that the site is acceptable and available.

A planning application needs to be made incorporating an Environmental Impact Assessment. A planning consent needs to be achieved and a waste licence applied for and consented.

4.9 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE STATES TUG:

Question

Further to questions in December 2010 regarding the States Tug, is the Minister in a position to provide a fuller explanation of the works undertaken and costs involved including staffing time and overtime, as well as advising which account within the Department is to pay for the repairs and give reasons why at the time of inspection of the vessel at the yard in Holland the works were not put in hand and why it was necessary for the vessel to return to Holland for this work to be undertaken?

Would the Minister provide details of the full costs to date (rather than estimates) of the replacement stand-in vessels including manpower charges and the costs of the 'Sealion'?

Could details of the ship's logbook be made available to members given the Minister has said that the vessel is in use on average 175 days per year?

Answer

I am told that in early November, routine checks of hydraulic oil samples on the '*Duke of Normandy*' revealed an unusually high content of contaminate. As all the hydraulic systems on the vessel are fed from a common tank, there was a high risk of equipment damage to various components therefore the system had to be isolated and urgent repairs carried out.

The problem had not occurred at the time of the inspection in May and would not have been apparent any earlier.

Equipment to carry out the repairs was not available locally and quotes were sought from yards in the UK and Holland. The quote from Damen represented best value for money.

The fault was traced to the failure of a single hydraulic pump which on inspection did not need to be replaced. The faulty pump was rebuilt using spare components available in the yard. An enhancement to the hydraulic system was carried out at the same time to ensure that any future such failure can be isolated.

The cost of the repair in total was £43,000 including overtime costs of £7,000. The tug is an asset of the Port of Jersey and costs were therefore charged to this account.

The replacement tug 'Goliath' cost £26,500 including the skipper. Jersey Harbours' staff made up the remainder of crew. The charter of 'Sealion' to carry out essential dredging work cost £17,800.

Logbooks are available for inspection on board the 'Duke of Normandy'. If any Member would like the opportunity to review these, an appointment should be made by request to the Harbour Master.

An operational summary for 2008, 2009 and 2010 is provided below, illustrating the number and types of task undertaken.

| TASK | 2008 | 2009 | 2010 |
|------------------------------------|-------------|-------------|--------------|
| VESSEL BERTHING ASSISTANCE* | 108 | 52 | 57 |
| BUOY MAINTENANCE | 32 | 42 | 22 |
| BEACON AND OFF SHORE MAINTENANCE | 5 | 12 | 11 |
| OUTSIDE CHARTER WORK | 20 | 4 | 0 |
| COMMUNITY / SPONSORSHIP / EVENTS | 7 | 14 | 10 |
| PILOTAGE TRAINING & EXAMINATIONS | 19 | 12 | 6 |
| HARBOUR MAINTENANCE | 50 | 36 | 21 |
| EMERGENCY EXERCISES AND TRAINING | 5 | 16 | 2 |
| SEARCH & RESCUE / SALVAGE / TOWAGE | 1 | 8 | 1 |
| TOTAL | 247 | 196 | 130** |

* Vessel berthing assistance is often for early morning arrivals and late evening shipping movements.

** Duke of Normandy was off station for two periods totalling 69 days in 2010 whilst statutory survey work and repairs were carried out.

4.10 THE DEPUTY OF ST. MARTIN OF THE CHIEF MINISTER REGARDING CHANGES TO THE TERMS OF REFERENCE FOR THE NAPIER REPORT:

Question

With reference to the removal of part (d) from the Napier Terms of Reference will the Chief Minister inform Members –

- (a) why this was considered necessary when the former Chief Officer of the States of Jersey Police had agreed to partake in the Review and, if he had not participated, would part (d) have been removed?
- (b) what was to be achieved by deleting part (d) and what date in April 2010 was it decided?
- (c) with whom did the Deputy Chief Executive consult before the decision was made and when was the Chief Minister advised?

- (d) why the Deputy Chief Executive did not consult with the Deputy of St Martin beforehand or inform him at the time the decision was taken?
- (e) why the Chief Minister and Deputy Chief Executive ignored concerns raised by the Deputy of St. Martin regarding the possible deletion a month before the publication of the Report, and why no explanation relating to the deletion from the Terms of Reference has been offered?
- (f) why the Chief Minister has not informed Members why part (d) was deleted and will he now agree to make a formal statement informing Members the reason this decision was taken?

Answer

- (a) During a discussion with Mr Napier at the time he commenced his review, the TOR were discussed and the relevance of paragraph (d), given that Mr Power had confirmed that he would fully participate in the review. Mr Napier's view on this particular clause is re-produced below and has already been provided to the Deputy of St Martin in a previous e-mail exchange.

"I too remember our conversation. But I am afraid I don't have a note of the date. It didn't, to be honest, seem an important point at the time. My recollection is that it seemed unnecessary to go into the affidavit since it had become clear that Mr Power was willing to talk to me."

Had Mr Power chosen not to participate, part (d) would not have been reviewed. The very reason this paragraph was put in at the outset (P9.COM) was to enable the Reviewer (at that time not known) to have access to Mr Power's version of events should he not wish to participate. Given that Mr Power or, one of his supporters chose to place the Affidavit in the public domain, it seemed reasonable that the Reviewer should have access to this document.

- (b) It was not a case of what would be achieved. It was a discussion with Mr Napier as he commenced his review that resulted in agreement that as this was not the only evidence that he would receive from Mr Power. As confirmed, Mr Napier was of the view that it seemed unnecessary to go into the affidavit.
- (c) The Deputy Chief Executive did not consult with anyone as it seemed reasonable that as Mr Napier would have access to more information than originally envisaged, it was not material. Given that Mr Power had chosen to participate, Mr Napier would have full access to any information that he required in order to complete his review. As it turned out, Mr Napier chose to make reference in his final report to the content of the affidavit, which demonstrates that he did use this document.
- (d) Given that Mr Napier would have access to more and better information than originally envisaged as a result of Mr. Power agreeing to participate, the need to consult was not seen as important or necessary.

- (e) Because Mr Napier had access to everyone he asked to see and had full co-operation from all participants, the issue of the deletion of para (d) did not seem relevant.

The document referred to by the Deputy of St Martin in August was R.39. It has subsequently been found to have had a reproduction error in it. When the Council of Ministers approved the appointment of Mr Napier and agreed that R.39 could be presented to the States, the Terms of Reference as approved had para (d) included. When the Terms of Reference were then transmitted to the Greffe for reproduction, the second page which contained para (d) was accidentally omitted.

- (f) The deletion of the paragraph referred to by the Deputy of St Martin has been fully investigated and Mr. Napier who undertook the review has confirmed that its deletion had no bearing on his investigation into the Suspension of the previous Chief Officer of Police. I too am fully satisfied that the deletion of this paragraph did not in any way hamper Mr. Napier's review and I do not consider it necessary to take the matter any further and I will not be making a Statement

4.11 DEPUTY R.G. LE HÉRISSEUR OF ST. SAVIOUR OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE REPLACEMENT OF STATES VEHICLES:

Question

What criteria, if any, are in place for assessing when a vehicle is due for replacement and what is the average age of the Transport and Technical Services vehicle fleet?

Answer

Jersey Fleet Management purchases, maintains and disposes of vehicles on behalf of Transport and Technical Services Department and several other States Departments. Currently there are 285 vehicles and mobile plant assets in this category.

Prior to purchase a decision is taken by Jersey Fleet Management and the user Department as to the expected economic life of the vehicle given its planned use, purchase cost, type of vehicle and likely residual value.

Once in service it is depreciated as a 'fixed asset' over that agreed number of years, usually between 6 and 10 however there may be operational, economic or environmental reasons to vary this period. Indeed, due to advances in vehicle reliability the trend in recent years has been to extend the 'life' of many vehicles within the States' fleet towards the upper end of this replacement age band.

A rolling three-year replacement plan is maintained by Jersey Fleet Management and each vehicle is assessed on its condition, current usage and future operational needs prior to a decision being made to dispose of it or not. Whilst mileage is a factor, it is often less significant than other factors given the size of the Island.

An example would be a school minibus that does not cover high mileages in its normal use but needs to be to current passenger safety standards and will be replaced within the previously stated

age band. It is planned to be disposed of whilst it is still safe, reliable and can provide a good residual income to the trading fund.

With the growing awareness of environmental issues, specifically air quality, the Department has a responsibility to balance the economic life of its vehicle fleet with the advances in engine emission standards and as such the current replacement criteria means that the vast majority of the current fleet meet, or exceeds, the Euro 3 emission standard. Those that don't are currently being considered for replacement.

The average age of the vehicle fleet is currently 4 years old.

4.12 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE IMPLEMENTATION OF RECOMMENDATIONS MADE AFTER THE RECENT REVIEW OF HIS DEPARTMENT:

Question

When does the Minister intend to implement the recommendations of the recent report into the internal workings of the Planning and Environment Department?

Answer

I thank Deputy Le Herissier for raising this issue.

The report's recommendations are divided into two types.

The first details operational improvements. Three of the key recommendations relate to increasing the amount and type of development that does not require planning permission, improving the IT systems in planning and reviewing and simplifying the fee structure. I propose to commence work on these immediately and will expect the first implementation by the end of March 2011.

The second section deals with recommendations for change in the mechanisms of determination. In this area I am concerned that we need to fully respect the very special nature of the expectations of Islanders in respect of the determination of planning applications. Furthermore Islanders have a justifiable expectation to have direct access to the Minister who is after all responsible for all decisions emerging from the Department. I believe that a wider group of politicians needs to examine the report's recommendations in this area and determine the best method of change. Consequently I have decided to establish a small group of politicians to consider the reports recommendations in this area and work will begin in the next few weeks. I will not take a personal role in the group as it will be making recommendations about my role. It will be chaired by the Assistant Minister for Planning and Environment who will be pleased to receive expressions of interest from Members who would like to play a role in participating.

4.13 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING CALLS FOR JERSEY TO BECOME AN INDEPENDENT JURISDICTION:

Question

What is the current political stance of the Council of Ministers with regard to calls for Jersey to become an independent jurisdiction?

Answer

Jersey is already recognised as being autonomous in domestic affairs with an increasing need to participate in matters of international affairs. The 2007 *Framework for developing the international identity of Jersey* agreed with the UK recognises that Jersey has an international identity which is different from that of the UK, that UK will not act internationally on behalf of Jersey without prior consultation and that UK will seek to represent any differing interests when acting in an international capacity.

Increased independence could be realised through Jersey seeking to establish full international sovereignty separate from the UK. In 2008 the Council of Ministers received the report of the Constitutional Review Group, chaired by the former Bailiff, which explored as a precautionary exercise the steps that might be necessary if Jersey was obliged at some time to become more independent from the United Kingdom. During 2011, the Council of Ministers will be considering an update on progress in addressing the actions recommended in this report.

4.14 THE DEPUTY OF ST. MARY OF THE CHIEF MINISTER REGARDING TAX INFORMATION EXCHANGE AGREEMENTS IN FORCE FOR THE LAST SIX YEARS:

Question

Can the Chief Minister inform members how many Tax Information Exchange Agreements were in force at the beginning of 2005, 2006, 2007, 2008, 2009 and 2010?

Can he further tell members, for each of those years, how many requests for information have been received, from how many countries they were received, and in how many cases was the information requested found and sent to the requesting authorities, and how many staff (FTE's) were employed in this work?

Answer

The number of Tax Information Exchange Agreements in force at the beginning of each of the following years on a cumulative basis is –

2005 – nil

2006 – nil

2007 – 1

2008 – 1

2009 – 2

2010 – 12

2011 – 15

In addition there was one Double Taxation Agreement with equivalent tax information exchange provisions in force at the beginning of 2011.

I am unable to provide members for each of the years the number of requests for information received and from how many countries they were received. Jersey has been requested by some of

our treaty partners not to publish the number of requests received. Quoting figures for the earlier years would identify the number of requests received from the USA which is one of the countries concerned. What I can say is that for the period from 1 January 2007 until the 31 December 2009 there were 12 requests and for the year 2010 there were 27 requests. Over the period as a whole requests have been received from Australia, Denmark, Germany, Iceland, the Netherlands, Norway, Sweden and the USA.

Of the total of 39 requests received by the end of 2010, two were subsequently withdrawn by the requesting authority and three have given rise to issues relating to the distinction drawn in the agreements between criminal and other tax matters, and the definition of what is a criminal tax matter, which issues we are currently seeking to resolve in discussion with the countries concerned. Otherwise all requests have been responded to within the forty days set by the Jersey competent authority (the Comptroller of Income Tax). This is significantly faster than is required by the OECD Model Agreement.

All the requests to-date have been dealt with by the Comptroller of Taxes personally as a normal part of his duties, and there are no staff specifically employed in this work.

4.15 THE DEPUTY OF ST. MARY OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PUBLIC ACCOUNTS COMMITTEE'S "REPORT ON THE ACCOUNTS OF THE STATES OF JERSEY FOR THE YEAR ENDED DECEMBER 2009" (P.A.C.4/2010):

Question

With reference to the PAC's 'Report on the Accounts of the States of Jersey for the year ended December 2009' (PAC.4/2010) can the Minister inform members of the following –

- (a) given that in his foreword the Chairman of PAC states: "The States overspent in 2009 by over £100 million compared to the 2005 estimate" but the Financial Report and Accounts for 2009 clearly show an underspend against budget of £7.6 million, can the Minister list the actual underspends against budget in the years 2005 to 2009?
- (b) given that net revenue expenditure was £100 million more in 2009 than was forecast in 2005, could the Minister explain to members precisely where the additional £100 million went?
- (c) does the Minister accept that in some way his Department was at fault for not anticipating that there could be unexpected expenditure arising from issues such as the credit crunch, the Historic Child Abuse Inquiry, the Williamson report and the Pandemic Flu?

Answer

- (a) The PAC report compares the indicative level of 2009 expenditure, as reported in the 2005 Budget against the actual level of 2009 spend. Much has changed during the intervening years and whilst the forecast level of expenditure has clearly increased, departments have not overspent – they have spent within their approved budgets. Part (b) provides further detail on this matter.

Departments' out-turn against approved 2009 budgets amounted to an underspend of £7.6 million. This position is reported in the States audited 2009 Financial Report and Accounts, specifically in the Treasurer's report and again in the Annex to the Accounts.

The departmental out-turn against approved budget is reported to the Assembly each year in the States Financial Report and Accounts. The out-turn for the years 2005-2008 can be found in the accounts for each year.

- (b) The level of States expenditure is debated in each year's Business Plan and the annual increases from the indicative level anticipated in the 2005 Budget through to the 2009 approved level of expenditure can be found in each year's business plan. I refer the Deputy to the relevant Business Plans for the detail of the changes, but in summary, the movement from the £466m indicative level of 2009 expenditure shown in the 2005 Budget statement to the final approved budget (excluding capital servicing) for 2009 of £572 million is shown below.

| 2009 Level of Revenue Expenditure | £ million * |
|---|--------------------|
| Indicative level of 2009 Expenditure | 466 |
| (as per 2005 Budget Statement) | |
| Net Additional Expenditure Approved in 2006 Business Plan | 14 |
| Net Additional Expenditure Approved in 2007 Business Plan | 27 |
| Net Additional Expenditure Approved in 2008 Business Plan | 24 |
| Net Additional Expenditure Approved in 2009 Business Plan | 11 |
| | |
| Approved 2009 Business Plan budget | 542 |
| | |
| Additional States Expenditure Approvals 2008-2009 | 13 |
| (as reported in 2009 accounts) | |
| Transfers between capital and revenue budgets | 12 |
| (as reported in 2009 accounts) | |
| Budgets carried forward to 2009 | 5 |
| (as reported in 2009 accounts) | |
| | |
| 2009 Final Approved Budget (excluding capital servicing) | 572 |

** all figures exclude capital servicing budget*

- (c) During my time as Minister for Treasury and Resources I have made it one of my priorities to address the issue of essential unforeseen expenditure within a financial year. Before the 2011 Business Plan the States' resource allocation process did not fully address unplanned spending, apart from moving previously approved budgets or bringing additional funding requests to the States. With the approval of the 2011 Business Plan and Budget we, as an Assembly, have now recognised the need for contingency funding to be made available. I

regard this as a significant step forward in the maturity of our approach to financial management.

The 2011 Budget statement, aims to provide a mechanism for the financial management and control of unexpected, unforeseeable and unplanned events within total States spending limits. This has provided a relatively low level of central contingency funding to meet the cost of unexpected events in 2011 and is an essential element of the financial framework enabling the provision of essential public services whilst at the same time delivering significant savings through the Comprehensive Spending Review.

4.16 THE DEPUTY OF ST. MARY OF THE CHAIRMAN OF THE PUBLIC ACCOUNTS COMMITTEE REGARDING THE COMMITTEE'S "REPORT ON THE ACCOUNTS OF THE STATES OF JERSEY FOR THE YEAR ENDED DECEMBER 2009" (P.A.C.4/2010):

Question

Can the Chairman of the PAC –

- (a) provide for members the text of the press release which accompanied the PAC's 'Report on the Accounts of the States of Jersey for the year ended December 2009' (PAC.4/2010)?
- (b) can the Chairman give specific examples of –
 - (i) the 'uncontrolled spending' which according to the Report (paragraph 21.4 page 11) is the result of 'lack of accountability' and;
 - (ii) the 'spending of considerable sums of public funds which cannot be accounted for' (paragraph 21.8 page 11)
- (c) can the Chairman tell members exactly what the additional "spend" was for as detailed in paragraph 3.5 on page 12 when there was a disparity between the predicted expenditure and the actual expenditure?
- (d) why was this information not in the Report?
- (e) how can the underestimation of spend within financial forecasts be regarded as a key finding (P.14 paragraph 4.8) when the discussion in the preceding 3 paragraphs is about estimating tax income?

Answer

The content of the press release for the P.A.C report on the Financial Report and Accounts 2009 dated 15th December 2010 was as follows:

There is no collective responsibility for States Spending, says Public Accounts Committee Report

The Public Accounts Committee's review of the States Accounts for the year ended 31st December 2009 identified a worrying lack of collective responsibility for overall cost control at both a political and civil servant level. The Committee concluded that the current system encourages a silo mentality whereby both Ministers and departments will tend to operate in their own best interests, rather than to the overall benefit of the Island.

The acceleration in public spending since the adoption of Ministerial Government and the implementation of the Public Finance (Jersey) Law 2005 should not be viewed as coincidental as the Public Accounts Committee found critical weaknesses in the overall oversight and management of the current arrangements.

Senator Ben Shenton, Chairman of the Public Accounts Committee, stated:

“ This Report highlights severe weaknesses in the current system and these need to be addressed with extreme urgency. The Committee established that lines of accountability for centralised States spending are unclear – indeed it proved impossible to identify who has overarching responsibility for states spending. This is exacerbated by ambiguities within the Public Finances (Jersey) Law 2005, and the lack of collective responsibility engendered by the Council of Ministers, where each Minister acts as a corporation sole.

We would like to stress that the aim of the Report is to highlight and eliminate any weaknesses in respect of the current system. It should not be seen as personal criticism of any individuals who are currently working to the existing guidelines, mandates, and controls. It is inevitable that any new system of Government will have flaws that require action. It is hoped that the executive, civil servants, and other States Members will accept these criticisms in the spirit intended and work with the PAC to correct them. It is doubtful, in our opinion, that Ministerial Government can successfully operate without collective responsibility at many levels.”

The answers to the Deputy’s other questions are all contained within the PAC report itself, which contains numerous evidence based examples of uncontrolled spending and funds expended with no apparent accounting officer.

As regards the exact figures of the spend, the figures are contained within the States Report and Accounts themselves produced by the Treasury and signed by PWC and the Deputy Treasurer. It is not the PAC’s job to produce the Accounts, it is our job to review them. If figures within the Accounts are missing or unclear, then this is a question for the Treasury to answer.

N.B The PAC acknowledges that the word ‘spend’ at point 4.8 (p.14) should have been ‘income’, this is a typographical error.

4.17 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING COMPANIES SUBJECT TO ZERO RATE TAX:

Question

Will the Minister state how many companies are subject to a zero rate of tax in 2009 or 2010 and give a breakdown of how many of these companies are locally owned and potentially subject to “deemed distribution” and how many are foreign owned and would previously have been described as “exempt companies”?

Answer

In 2009 approximately 29,900 companies registered at the JFSC were subject to tax at 0%. Of these approximately 41% (c12,300) were wholly or partly owned by Jersey residents and would therefore subject to the deemed distribution rules, if they do not actually distribute their profits. Approximately 59% are foreign owned (17,600).

The data for 2010 has not been obtained but it would be expected to be similar.

4.18 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING DISCUSSIONS WITH THE ISLE OF MAN AND GUERNSEY REGARDING ZERO/TEN:

Question

Will the Minister detail the dates of any meetings and telephone conversations that he and his Department or ministerial colleagues have had with their counterparts in Guernsey and the Isle of Man (including informal meetings at conferences etc) on the question of zero/ten, their attitudes to EU Harmful Tax talks, the UK Treasury stance on zero/ten or to possible successors to the zero/ten tax regime over the last two years?

Answer

I, and my ministerial colleagues, meet regularly with our counterparts in Guernsey and the Isle of Man to discuss all matters of interest between the islands, including zero/ten. It would be an inappropriate use of resource to list details of the dates of every meeting and telephone conversation. Officers of the three islands have also been in regular contact throughout this period.

I have kept Members informed of all matters relating to zero/ten including providing them with a detailed report setting out all of the issues in relation to the Code Group's assessment of our business tax system <http://www.gov.je/Government/Pages/StatesReports.aspx?ReportID=495>. A copy of the briefing that was given to the Code Group when it met on 19th November 2010 has also been circulated. These two documents set out the process very clearly.

4.19 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE TOTAL REVENUE RECEIVED FROM DEEMED DISTRIBUTION PROVISIONS:

Question

Will the Minister advise members of the total revenue received to date by the Treasury from deemed distribution provisions introduced under the zero/ten income tax regime, specifying clearly the tax years concerned and identifying the estimated loss of revenue that is likely to occur during 2011 and 2012 if the Island is forced to abandon this source of revenue?

Answer

Deemed distributions are a personal tax anti-avoidance provision. The question assumes that by removing this all of the related tax will be lost. There are other anti-avoidance provisions that could be used to prevent unacceptable tax avoidance and so mitigate any tax loss.

The number of assessments raised for the year of assessment 2009 in relation to deemed final dividends was 145. The amount of income assessed as deemed final dividends was £4,642,839. It is not possible to give an exact figure for the tax yield but, assuming an effective tax rate of 15%, the tax yield would be some £697,000.

It is not possible to give any figures for the year of assessment 2010 as the Tax Returns for that year are being issued to taxpayers this month. 2010 will be the first full year of assessment when both deemed interim and final dividends will be declared, so it is not possible to give an accurate picture of the tax revenues from this source until the figures for that full year are available.

By way of explanation, 2009 year of assessment was the first year that any deemed dividends would have been disclosed by shareholders under 0/10. In this first year only deemed final dividends have been disclosed as these are deemed payable immediately. No deemed interim dividends have been disclosed as these are deemed payable only at the end of the financial period following the 2009 financial period, ie, in 2010 year of assessment. A deemed final dividend in 2009 would have been triggered by a specific event such as the sale of the shareholding in the company, death of the shareholder or the shareholder leaving the Island.

5. Oral Questions

5.1 Deputy F.J. Hill of St. Martin of the Minister for Economic Development regarding the establishment of a social responsibility fund:

Will the Minister inform Members how many people have benefited from the programme of education, prevention, treatment, counselling and research which Members were assured during a debate on the Gambling Commission (Jersey) Law 2010 (P.139/2009) it would be financed by the establishment of a social responsibility fund and is he content that the programme is providing value for money and if so, why?

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

Could I ask my Assistant Minister, the Connétable of St. Clement to answer that question?

Connétable L. Norman of St. Clement (Assistant Minister for Economic Development - rapporteur):

I welcome this question but some might consider it to be a little premature because the Gambling Commission only came into being in October of last year and its staffing arrangements were only put in place some 2 weeks ago. But nevertheless the Commission has been busy in this area. The Social Responsibility Account has been established at the Commission's bank and requests for donations have been made to all bookmakers, both on course and off course and have received a positive response from the vast majority of them. Also the Public Lotteries Board have recommended that the Economic Development Department make a contribution to this fund from the reserves of the Jersey part of the Channel Islands Lottery, a recommendation which we are almost certainly going to accept. The Commission has undertaken 2 practical steps. The first is to engage Responsible Play, which is a U.K. (United Kingdom) based charity who are producing a website specifically for Jersey, which will offer a confidential service for clients both online and through the telephone and, after appropriate training, also we hope to have face-to-face availability. They have also established or will be establishing very shortly an independent social responsibility panel to advise the Commission on developing appropriate levels of education, prevention, counselling and research.

The Deputy of St. Martin:

Nothing to add, I am delighted that the question has raised the issue and I shall be monitoring the effect of the Commission's work.

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

Could the Assistant Minister tell us first of all whether the industry is going to be levied or whether it is just donations, as he seemed to indicate, and secondly, the size of the fund he expects to be established?

The Connétable of St. Clement:

The law does provide for a levy and that particular article in the law relating to a levy is very intrusive, as it enables the Commission to investigate the various companies' accounts. It is hoped

that the donation route will be the most appropriate but the Commission will, I have no doubt, go down the levy route if that proves to be necessary. Originally with the Shadow Commission, we were talking about an initial fund of £30,000, but after consideration and taking advice they think that something like £15,000 for the first year would be sufficient, which would equate to approximately £500 per betting shop plus £1,000, as I mentioned, from the Channel Islands Lottery, will be sufficient for the first year. Then we would have to see how it goes.

5.2 Deputy T.M. Pitman of the Chairman for the Privileges and Procedures Committee regarding the implementation of reforms agreed in October 2010:

Would the Chairman advise whether the adoption by the Assembly of either of the propositions lodged by Senators Cohen or Ferguson would effectively prevent any of the reforms agreed in October 2010 from being implemented?

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

I believe that this question is fully addressed by the P.P.C. (Privileges and Procedures Committee) comments issued in respect of Senator Cohen's proposition P.198/2010. In response to his suggestion that a referendum should be held, P.P.C. stated: "Members must be aware that if Senator Cohen's proposition is adopted all other aspects of reform agreed last October will be deferred for at least 3 years." The reasons for this statement are spelt-out at length in the comments which, for the sake of clarity, also confirm that I will not be able to propose P.176/2010, the Draft States of Jersey (Miscellaneous Provisions) Law 201-, should P.198 be adopted. That draft law proposes a reduced number of Senators and can clearly not be proposed if the States have just agreed that there should be no reduction in the number of Senators before a referendum is held. The proposals agreed by the States in October 2010 for a spring election and a 4-year term of office will also fall away. Furthermore, the comments confirm that should Senator Ferguson's amendment to P.176 be adopted then the effect would be to maintain the current number of Senators in contradiction to the States decision of 13th October last. But the other reforms agreed on that date, namely the move to a spring election and the move to a common 4-year term for all Members, would not be affected.

Deputy P.V.F. Le Claire:

Can I ask on a point of order please? Is it in order for propositions to be allowed to be tabled that negate decisions of the States without a rescindment having been brought?

The Bailiff:

Well, it has been lodged. I am sorry, I do not think we can have this theoretical debate at the moment. It has been lodged as being in order.

5.2.1 Deputy T.M. Pitman:

Given a number of members of the public have contacted me about what many consider time wasting proposals, will the Chairman just clarify for the House whether the fact that the Senators evolved from a position from Jurats, that there is absolutely no reason or justification for there being 12 or indeed any research to back-up that the Island want 12 as opposed to maintaining some kind of Island-wide mandate?

The Connétable of St. Mary:

I think that really strays too far from the original question. The number of Senators is something the States has debated and our projet simply tries to enforce a States decision.

Deputy T.M. Pitman:

It is a simple question.

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

I just want to ask the Chairman, she puzzled me with her first answer: how is it that if P.198 is passed and we proceed to a referendum on the number of Senators, how that can affect us voting through the measures to ensure the spring election and the 4-year term of office? Surely, they are dealt with separately in the regulations. They must be. Can she explain why all other aspects will fall, as she claimed, when I cannot see that the 3 things are necessarily connected?

The Connétable of St. Mary:

P.P.C. got to the stage of lodging the proposition P.176 as a result of the States adoption of a package of measures taken together. P.P.C. has always, in bringing reformed proposals, tried to evade piecemeal reform, so the package hangs together. The draft law proposes all the changes that the States agreed, and I am advised that the course of action is to not propose the law should the referendum be adopted.

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

Does the Chairman not accept that this rash of proposals on the constitution of the States has been brought about by this Chamber's refusal to accept the Clothier report in its entirety and the piecemeal approach adopted by her committee and previous committees to electoral and constitutional reform in this Island? Is it not time that she brought a proposal bringing forward a single type of Member in the States Chamber?

The Connétable of St. Mary:

I am afraid I cannot accept what Deputy Southern has said at all. We are at the situation where we are for having followed through numerous debates, numerous proposals, numerous opinion polls, numerous States decisions that have led us in one direction or the other, and the package of reforms that was adopted in October was not the first certainly to be presented by P.P.C. but it did gain the absolute majority of this House. The lodging of amendments to the legislation that enforces that decision of the House has nothing to do with anything else that has gone before, but merely, I would say, decisions of States Members who have questions about the decisions that they made or decisions that were made democratically about other Members.

5.2.4 Deputy P.V.F. Le Claire:

Please can I ask that you do not take this question as in any way related to your decisions, it is not, Sir. It is just a general principle. I would like to ask the Chairman of P.P.C. whether or not she will undertake with her committee to look into this issue of the States decisions being superseded by propositions that are lodged that do not bring rescindments to States decisions that stand?

[11:00]

It seems that at a whim we are able to dismiss States decisions at the moment. We had it recently with Deputy Southern and numbers, and I think we are in danger, if the Chairman is not willing to do this, of making this whole process in the States Assembly seem absolutely and totally benign. Is she willing to undertake to look into it?

The Connétable of St. Mary:

Firstly I would like to say I do not believe there are exact parallels between the situation today and the situation with Deputy Southern's recent piece of business where there was a question of an Appointed Day Act and various other things having come in. What P.P.C. has done is give effect, in draft legislation, to the States decision. The mechanisms for dealing with changes to States decisions are clear but, as Deputy Le Claire says, more often the States decides to, if it does not like a decision, attempt a rescindment. Certainly the way that this could be tackled in future is something that P.P.C. perhaps could put on its agenda for a future day.

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

Does the Chairman think that the 400 years it has taken to bring the revisions of the Canon law is likely to be matched by the achievement of government reform?

The Connétable of St. Mary:

I think that depends entirely now on the decisions of States Members today, whether they were going to change their minds from what they did last October. Certainly if I had my way, the reforms we had agreed would be in place by the end of the day.

5.2.6 Deputy T.M. Pitman:

I thought it was going to take 400 years. Following on from Deputy Le Claire's point, could the Chairman advise us, does she feel there is a chance, if we carry on with these sort of vested interest-driven propositions, that in 3 months' time we may have a scenario where someone attempts to overturn a decision yet again and just make us look even more stupid than usual.

The Connétable of St. Mary:

It is not for me to second guess Members, but I have to say the Deputy asked my personal opinion, sometimes there are things that are brought to the floor of this Assembly that astound me. That is my personal opinion. But all I can say is the committee has worked hard with able assistance from the States Greffe and the Law Draftsman to put into draft legislation the decisions this Assembly took. I hope this Assembly will not shy away from enforcing those decisions. I hope that, but it is a matter for Members and it is a matter for Members' judgment as to how they treat this.

5.3 Deputy G.P. Southern of the Chief Minister regarding the Island's compliance issues with the E.U. Code on Business Taxation:

Will the Chief Minister inform Members what communications he, the Deputy Chief Minister or his department have had with counterparts in other Crown Dependencies and the U.K. Government over the resolution of outstanding Zero/Ten issues, and if no meetings have taken place will he inform Members if and when meetings are scheduled to resolve the Island's compliance issues with the E.U. (European Union) Code on Business Taxation and if not, why not?

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

This information has already been requested in 2 similar written questions: one by the Deputy and the answer is the same. We will not be in a position to discuss what action we need to take to resolve outstanding Zero/Ten issues and ensure that our corporate tax system is code compliant until we see the outcome of the review of the scope of the Code being undertaken by the E.U. Council high-level working party. I have already provided full details of the current position on Zero/Ten in the briefing documents issued to States Members in December and nothing has changed since then. We have been in contact with the secretariat of the high-level working party to ensure that we can engage with the work of that group. I am also in regular contact with the Chief Ministers of Guernsey and the Isle of Man at which this and other matters of common interest are discussed. We have also met with the financial secretary to the Treasury and the Ministry of Justice Minister with responsibility for relations with the Crown Dependencies where these matters were discussed, and I intend to continue to meet with them - all Island officials - as appropriate. At this point in time there is no more information to give States Members than that previously and clearly set out in the briefing documents, which are publicly available, and I would respectfully ask the Member to be patient. I will update Members as soon as we know anything further.

5.3.1 Deputy G.P. Southern:

Has the Chief Minister or the Minister for Treasury and Resources come under pressure from either the governments of Guernsey or the U.K. to toe the line on the implementation of Zero/Ten?

Senator T.A. Le Sueur:

I do not know what the Deputy means by “toe the line” but, in effect, no. The U.K. Government fully appreciate the ability and the need for Jersey and the other Crown Dependencies to make their own decisions in the light of full information.

5.3.2 Deputy M.R. Higgins:

Does the Chief Minister agree with the former Member of the States of Guernsey, Laurie Morgan, who was on Radio Jersey this morning, who feels that the 3 Crown Dependencies are not working together on this issue, who feels that each Island is always thinking of the competitive advantage they are going to have over the other and that they are always reacting to the situation? He also commented he felt that Jersey was likely to bring down the wrath of the British Government on all 3 dependencies because of its stance, along with the Isle of Man. Would the Chief Minister care to comment on those comments?

Senator T.A. Le Sueur:

Any person, including a former Chief Minister of Guernsey, is entitled to express his own views. But they are very much his personal view and I do not wish to comment on them.

5.3.3 Deputy G.P. Southern:

Does the Chief Minister accept that the move to Zero/Ten, far from bringing stability to the tax regime in Jersey, has led to nothing but instability as the continuing furore and concerns are expressed by the E.U. and the U.K. Government?

Senator T.A. Le Sueur:

No, I do not. The Zero/Ten regime was brought in in order to address a particular issue, it was brought in with the full understanding of the implications and brought in with the full understanding of the U.K. Government at that time, so I believe this has in fact led to a situation where Jersey has been able to maintain its position for several years and hope will do so for several more years to come.

5.3.4 Deputy G.P. Southern:

Point of clarification; is the point addressed by Zero/Ten, the compliance with E.U. Code of Business Taxation Articles 1 and 2, not to ring-fence advantages for foreign-owned companies and deny those advantages to local-based companies?

Senator T.A. Le Sueur:

As I have tried to make clear to the Deputy and other Members, those are the sorts of issues that we need to resolve as a result of the outcome of the high-level working party and once we have a full and clearer picture I will be able to answer his question and others in much better detail than I can at the current time.

5.4 Deputy P.V.F. Le Claire of the Minister for Planning and Environment regarding Island Plan consultation:

Will the Minister’s consultation “with the Connétables and Parish Deputies to explore other options to meet our housing needs”, as mentioned in his press release publicising the Inspectors’ report on the Draft Island Plan, include the Parish of St. Helier?

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

I have written to each Connétable, including the Connétable of St. Helier, requesting that they and their Deputies consider how they can assist in meeting future housing needs by identifying additional sites in the Parish that they consider suitable for affordable housing developments in the next 5 years. This could be for first time buyers, Jersey Homebuy or social rented, but they should

be additional to any sites currently being considered by the Parishes. Indeed I am scheduled to meet the Comité des Connétables in a few days to discuss the matter in general terms.

The Bailiff:

Deputy Le Claire, do you wish a further question?

Deputy P.V.F. Le Claire:

I am willing to wait to the last one.

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

The Minister will no doubt be aware of the battle that the residents in Le Pouquelaye have been fighting for the last 10 years to keep Field 1248 green. My question to the Minister is, is he going to stick by his assurance that he has given, and certainly his department has given, that any additional sites to be considered will not be greenfield sites and they will come either from the built-up area or currently brownfield sites?

Senator F.E. Cohen:

The Deputy can be assured that I will always seek to honour my commitments. It is really up to the Connétables to bring forward sites that they consider appropriate. That is the purpose of asking them for their support and help. All those sites will then be considered by the Planning Department as to their suitability and, of course, the preference will be for brownfield sites.

5.4.2 Deputy J.A. Hilton:

Just following on from that, in his response the Minister said it would be up to the Constables to put sites forward, so I would ask him again if a Connétable was to put forward a greenfield site who basically ... I need to know whether he is going to honour that commitment because if a Connétable does put forward a greenfield site is he going to put that before his own assurances?

Senator F.E. Cohen:

My assurances take precedent but I make it clear that while I have asked the Connétables to consider sites that may be suitable I am also hoping the Connétables will consult with their Deputies to ensure that we have the full representation applying itself to the search for sites in the Parishes.

5.4.3 The Deputy of St. John:

Would the Minister agree that the working party set up by the Constable of St. John for this purpose and to assist the Connétable is working well?

Senator F.E. Cohen:

It is an excellent example and I hope that other Parishes will follow suit. In fact, some already have.

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

The Minister has referred a couple of times to the needs of the Connétables and Deputies; does he not agree with me that such an important decision as to build on a greenfield site, in particular, should be taken to a Parish Assembly in each case?

Senator F.E. Cohen:

Yes, personally I think they should be taken to a Parish Assembly but of course that will be a matter for the Connétables themselves.

5.4.5 The Deputy of St. Mary:

I was researching another proposition and I realised that when I went to school at St. Lawrence there were 60,000 people in this Island, there are now 90,000-odd. Can I ask the Minister whether when the review of the population policy happens this year, which it is scheduled to do, will the Minister be taking the position that it has to end so that this crazy cycle of finding ever more, ever more, ever more sites to build on this Island comes to an end, or will he be taking the line of least resistance?

Senator F.E. Cohen:

Other than my 4 children, I am not responsible for the increase in population, and I will seek to respond to the needs of the Island in the best way that I can. That includes the provision of affordable housing to those who need affordable housing to be provided.

5.4.6 The Deputy of St. Mary:

With respect, the question was about the ever rising population, it was about the population policy, which at the moment is plus 150 households net increase every year. This will inevitably lead to the urbanisation of the entire Island, and I am asking the Minister what position will he take when the Council of Ministers refuse the population policy as they are due to do this year? Will he take his planning responsibility seriously?

Senator F.E. Cohen:

Of course I take my planning responsibility seriously but the decision in relation to population control and balance will be a decision finally made by this House. I am one of 53 Members.

5.4.7 Deputy M. Tadier of St. Brelade:

During the consultation will the Minister be taking account of what I believe are many frustrations on the part of Parish Constables and Parish Deputies when dealing with agencies, for example, such as Property Holdings, who seem to have much more power within the individual Parishes than necessarily either of the Parish representatives. So will he be speaking to both Jersey Property Holdings on this front and to the Parish representatives to make sure that more power is given for both maintenance and to deal with housing needs to the Parish, rather than constantly being obfuscated by Jersey Property Holdings?

Senator F.E. Cohen:

I am not sure that we are constantly having difficulties emanating from Property Holdings. This is a simple exercise in asking the Connétables, who are the fathers of their Parishes, and through them the Deputies, to consider whether or not they can think of any sites in their Parish that are suited to the provision of affordable housing in the categories that I have outlined. It is a pretty simple proposal and Connétables can either make recommendations or not.

5.4.8 Deputy P.V.F. Le Claire:

The Minister has responded to many of the questions, it would seem, focusing on where we build houses. The Inspector's Report on the Draft Island Plan highlights the fact that no type of housing, whether it be a 3-bedroom house or a one-bedroom flat is affordable to people on ordinary incomes. Will the options that he is asking us to explore also include affordability options?

[11:15]

Senator F.E. Cohen:

Yes, they will. I hope I am not jumping the gun by saying that my Assistant Minister, Deputy Duhamel, is looking at this area at the moment, and he is likely to come forward with some novel solutions to deliver more affordable housing.

5.5 Deputy R.G. Le Hérissier of the Minister for Treasury and Resources regarding the application of the Code of Remuneration for Board Members by Jersey Post International Limited:

Why, as reported in Jersey Post International Limited's Business Review 2009, was Principle B1.4 of the Code of Remuneration for Board Members not applied in respect of one member's declaration of his role as a director of the boards of various other companies?

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

The Business Review is a matter for the board of Jersey Post, it is not a document that the Treasury drafts or approves. What I can say is Principle B1.4 refers to the disclosure of directors' remuneration from other sources. I am advised that the board satisfied itself that other non-Jersey Post positions held by the director did not conflict with or impact on his ability to perform in his role as interim executive director of Jersey Post. The board disclosed this fact and considered it was not necessary to make a more detailed disclosure in this case. I am advised that the statement in the company's Business Review explains this matter and complies with the standard reporting requirements.

5.5.1 Deputy R.G. Le Hérissier:

Would the Minister not think that given there was a lot of contention in regard to the board member that it would have been much more transparent had all this been published? There is absolutely no earthly reason why it should not be published so that Members should not gain the full picture.

Senator P.F.C. Ozouf:

I do not think I can really add much more than I have said in my answer. This is a matter for the board themselves, in terms of their disclosure. I require all States-owned companies, and companies that the States has a shareholding in to adhere to the high standard of governance, and I am satisfied that there has been no issue in terms of governance or lacking in standards in relation to the reporting of Jersey Post. Deputy Le Hérissier is entitled to his own view in relation to some matters, but as far as reporting requirements, I am satisfied.

5.5.2 Deputy R.G. Le Hérissier:

Would the Minister not concede that the full circumstances and the full monitoring arrangements upon which the said director left should be publicised in order that people can make their own assessment, after all the Minister has been defending Jersey Post, as has his Economic Development colleague, for some time and there have been serious concerns raised about the financial viability of projects launched by that said organisation?

Senator P.F.C. Ozouf:

That is a new issue. That is not related to the question that the Deputy raised, which is about disclosure in the annual report. First of all, I am the one that defends Jersey Post, the Minister for Economic Development is responsible for the regulator and there will be natural tensions between us. I do not think that he is defending Jersey Post at all. Certainly there were issues in relation to the diversification strategy that Jersey Post was pursuing. I suppose that it could be the case that when you are taking risks in terms of growing a business some things will fail and some things will succeed. I am satisfied that Jersey Post has succeeded in more than it has failed in terms of diversification, and I am absolutely supportive of Jersey Post's focus on delivering a postal service within a competitive environment in a world in which letter deliveries are falling significantly, and that is Jersey Post's focus, certainly for the next 12 months, and I have a meeting with the board next week in order to discuss this strategy.

5.5.3 Senator A. Breckon:

Is the Minister aware he is referring to postal services, but I understand the executive director concerned had an interest in a mobile telephone company and Jersey Post set one up as well; is he aware of that?

Senator P.F.C. Ozouf:

I am aware of it. I refer the Senator to the answer that I gave earlier, which is that in fact disclosures for the board members and the executive director are a matter for the board and not for me.

5.6 The Deputy of St. John of the Minister for Economic Development regarding the provision of passenger information airside:

Would the Minister advise whether passengers have a point of contact with airline staff or airport personnel once past security (airside) other than an unmanned telephone to deal with queries or complaints, and if not, will he consider providing an information desk similar to that based in the external departure hall, particularly when there are delays due to inclement weather?

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

Yes, passengers do have a point of contact airside. As part of the refurbishment of the airside passenger facilities in 2009 a dedicated passenger assistance desk was created for use by airlines to allow them to communicate with their passengers. The desk is manned during periods of flight disruption by staff employed by the airlines' appointed ground handling agent. I am not in a position to commit Jersey Airport to the cost of establishing and manning a second information desk airside. However, airport staff do work airside and part of their role is to offer their services to passengers who may require assistance or specific information. The courtesy telephone that the Deputy refers to is a direct line to the landside information desk, which is always manned during airport opening hours and, once again, assistance is offered to passengers that require it.

5.6.1 The Deputy of St. John:

Given the Minister's reply, which I think is very shoddy to the travelling public, will the Minister review the working practices at the airport given an experience I had in which I had to call his Assistant Minister on the issue on 13th December. I am given to understand since the ash cloud of last year and all the other delays we have had, through to the snow in November, et cetera, it is quite common that there is nobody outside of, shall we say, 9.00 a.m. to 6.00 p.m. manning this desk and you have to go to the telephone to try and get information. It is far from acceptable. Will the Minister review his procedures at the airport? He has an Assistant Minister, possibly he might want to do spot checks.

Senator A.J.H. Maclean:

I take exception to the suggestion my answer first of all was shoddy. I think it was a perfectly factual and accurate answer. I can assure Members that practices at the airport are continually reviewed to ensure that we deliver a sound and fair and reasonable service to members of the public. It is absolutely essential that we do that, and I am convinced that that, in the majority of cases, is absolutely right. I suspect, it may well have been the Deputy who felt that he himself received less than satisfactory answers to a stream of questions that he was able to ask to a customer service adviser, in fact, the manager, who attended to him at the time that he was delayed at the airport for a considerable period. I understand all his questions were thoroughly answered.

The Deputy of St. John:

On a point of order, the Minister is totally incorrect. No customer service manager attended on me. They telephoned me. They did not come down to see the problems they telephoned me, so will the Minister withdraw those remarks?

Senator A.J.H. Maclean:

I made the remark that a customer service manager had spoken at length to the Deputy, I did not specify how that conversation was undertaken, if indeed it was undertaken by phone, I believe that is absolutely correct, and I accept that point. But nevertheless a stream of questions were put forward by the Deputy about concerns he had. Each of his queries were, in many cases, corrected and answered.

5.7 Deputy M. Tadier of the Minister for Education, Sport and Culture regarding allegations against members of staff at the Education, Sport and Culture Department relating to historic abuse cases:

Following the Minister's statement on 6th December 2010 that all allegations against members of staff at the Education, Sport and Culture Department relating to historic abuse cases had been thoroughly investigated by the appropriate authorities and concluded, will he now follow the precedent of the Wiltshire Inquiry and publish a redacted version of the investigation reports?

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

As an employer the States of Jersey does not divulge publicly details of investigations involving individual employees. Not only is this a matter of good practice but contractual obligations are in place to provide a duty of care and mutual trust and confidence to all employees. All abuse allegations made to the police have been investigated as part of a thorough and detailed inquiry into allegations of historic abuse in Jersey, and it is now time to draw a line under this matter. I would like to reassure the public and the Deputy that I have no reason to doubt the integrity and professionalism of all senior civil servants in the Education, Sport and Culture Department in whom I have every confidence. [Approbation]

5.7.1 Deputy M. Tadier:

Of course there is a difference between saying: "I have no reason to doubt the integrity of all my staff" rather than "any of my staff" but perhaps that is a slip on the part of the Minister. It would also be interesting to hear from the Minister for Home Affairs because it seems that contrary to what the Minister for Education, Sport and Culture stated, that it is not a policy right across the board in the States not to give out and publish investigations because clearly that has been happening with the Minister for Home Affairs, so I would not want the Minister for Education, Sport and Culture to mislead the House in that respect. The further question I would then ask, and the reason these questions do have to come back unfortunately, is because on the 6th the Minister was unable to ask 3 basic questions about who the appropriate authorities were, under what circumstances and when the investigation took place and the nature of the investigation itself; so will the Minister simply ... I understand completely the nature of confidentiality but will he at least say overtly and unambiguously who conducted the investigation?

The Deputy of St. Ouen:

First of all, when I mean all, I mean "all" staff rather than "any". All. That includes every member of my senior staff. The other point I have already made is that all abuse allegations, which is the subject that the Deputy keeps focusing on, made to the police have been investigated as part of that thorough and detailed inquiry into the historic abuse matter. These have been thoroughly investigated and no further actions are required.

5.7.2 The Deputy of St. Martin:

Half the question has been answered about the appropriate authorities. We now know it was the police, but could we have the answer please from the Minister as to when these investigations were carried out because I understood some more allegations were made in court quite recently.

The Deputy of St. Ouen:

I do not know what allegations were made in court regarding any member of staff of my department. The matter is that any allegations that were made have been properly investigated. I am not party to the timing of those investigations because they have been undertaken by the police who are fully responsible for their actions.

5.7.3 Deputy T.M. Pitman:

Really following on from the Deputy of St. Martin, given that an individual was named again in the court and the information of the name is available to the public, in fairness to the individual and all others, would it not be better if the Minister did put out something official, some written report just to put an end to all this?

The Deputy of St. Ouen:

We are talking about alleged or allegations made about individuals who have no right or ability to defend themselves, albeit that certain individuals choose to pursue these people, whether in public or otherwise. It is only right that we acknowledge that the inquiry is over, allegations have been considered, and the individuals who have been found not to be involved are considered and allowed to pursue their normal employment and lives.

5.7.4 Deputy M. Tadier:

I appreciate the Minister's clarification and, firstly, it should not be taken as a criticism directly of him as a Minister. But one must accept that just because an investigation and a case has been closed does not mean we cannot learn lessons from it. The question I really want to address, which I do not think has been answered, is that if indeed there were investigations by the police, which were subsequently concluded, why is it that there seems to be an inconsistency across States departments in the way in which some departments would, as a matter of course, automatically suspend a member of staff as a neutral act while investigations are being pursued by the police? Why is it that in this case this was not the case in his department? That is not to say that the decision not to suspend was wrong but that in other departments a decision to suspend is what would normally happen. I think that is the nub of the question and that is what certain members of the public are also having trouble with.

[11:30]

The Deputy of St. Ouen:

As I have explained in past answers, individual Ministers are not responsible for the employment of States employees. In fact it comes under the remit of the States Employment Board. I am well aware that there are policies in place that address and consider any allegations made against an individual and then determine what action should be taken. At no point was it determined or decided that any of our members of staff at the department should be suspended because of the allegations made to them.

5.8 Senator F. du H. Le Gresley of the Chief Minister regarding the Jersey Law Commission's review of the Bankruptcy (Désastre) (Jersey) Law 1990 (Social Désastre):

Would the Chief Minister advise what action is being taken in relation to the Jersey Law Commission's review of the Bankruptcy (Désastre) (Jersey) Law 1990 (Social Désastre) and whether he is minded to pursue the Commission's suggestion, in their consultation paper dated April 2010, that in order for more debtors to have access to the bankruptcy system, another form of personal bankruptcy process should be introduced by legislation?

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

I acknowledge the Senator's long held concern, in fact, that of the Citizens Advice Bureau also, for the protection of people in debt and his interest in suggesting to the Jersey Law Commission that they examine the law under *désastre*. The Legislation Advisory Panel has reviewed the issue social *désastre* in recent years and agrees that the difficulties built into the concept are concerning and potentially detrimental to many debtors who seek assistance but who are in such significant debt that they are unlikely to be granted *désastre*. The panel is currently awaiting the production of the final topic report on the Bankruptcy (Jersey) Law 1990, which I understand is presently being undertaken by the Law Commission and should be completed later this year, at which stage the panel will be able to examine social *désastre* in the wider context and formulate a way forward. I believe it is too early at this stage to state whether another form of bankruptcy process should be introduced by legislation, and this is a matter that the Legislation Advisory Panel will have to consider in more detail. I can, however, assure the Senator, I do believe that more debtors should have access to the bankruptcy system, that any solution will require proper examination in the wide context. In the meantime, I will raise the matter with the Legislation Advisory Panel for further consideration at its next meeting.

5.8.1 Senator F. du H. Le Gresley:

I thank the Chief Minister for that very comprehensive response, however perhaps the Chief Minister could offer an explanation as to why during the current recession in Jersey there was only one personal bankruptcy in 2010 and 2 in 2009, yet in the southwest of England there were 15,000 personal insolvencies in 2009, being an average of 36 insolvencies per 10,000 adult population?

Senator T.A. Le Sueur:

I am always reluctant to make comparisons, but I do accept that the figures seem totally disproportionate. I would simply say that because there are totally different systems in the U.K. and in Jersey it is difficult to make meaningful analysis of that difference, and that is why, once we see a complete picture, then hopefully we may be able to learn a better way forward. I acknowledge, as I have already said to the Senator, that the present system does have significant flaws in it.

5.9 The Deputy of St. Mary of the Minister for Transport and Technical Services regarding the analysis of road traffic accidents:

With regard to promoting road safety under the Sustainable Transport Policy, will the Minister confirm that his department will be responsible for analysing the causes of road traffic accidents, and, if so, how will this analysis be reviewed, who will have ultimate responsibility for the success or otherwise of this programme, and how will this work be budgeted?

Connétable M.K. Jackson of St. Brelade (The Minister for Transport and Technical Services):

I can confirm that my department will be responsible for analysing the causes of road traffic accidents and have already developed data analysis software to assist in the interrogation of the States Police Accident Database. The States Police have trained road traffic collision investigators who investigate causes of individual accidents and the Police Statistics Unit will assist my department to identify the general causes and trends in our road traffic accidents. Results will be discussed with the Road Safety Officer, Driver and Vehicle Standards, the States and Honorary Police. Appropriate actions will be determined and a specific target set for 2015. According to the Deputy's amendment to the Sustainable Transport Policy approved last December I would inform the States of the target and proposed actions later in the year. If the target is not achieved by 2015 it would be my responsibility or future Minister for Transport and Technical Services to consider what further action was necessary. The Sustainable Transport Policy has funding and a proportion

of that funding may be required to support road safety initiatives. It will not be possible to estimate what the budget is required, however, until the actions are determined.

5.9.1 The Deputy of St. Mary:

I thank the Minister for that answer. That is reassuring that those measures will be taken. I just want to focus on the matter of resources. In his answer to a written question of mine on 12th October last year there was mention of how this issue would be taken forward, and the last phrase of his answer was: “Cost effective programme of road safety measures within available resources.” I would just like the Minister to comment on that phrase “within available resources” when we are looking at a financial cost to the community of an estimated £18 million, not to mention the heartache and anguish.

The Connétable of St. Brelade:

The S.T.P. (Sustainable Transport Policy) has funding of £500,000 as voted by the States, and a proportion of that funding may be required to support road safety initiatives. Likewise, there may be changes to legislation which would not require so much in the way of funds and they would be dealt with by using existing resources.

5.10 Deputy A.K.F. Green of St. Helier of the Minister for Economic Development regarding the provision of free short-term parking areas at the Airport:

I was pleased to hear in the answer to the Deputy of St. John they are always looking at customer service. As the Minister has introduced a free 10 minute parking area at the airport, although they are few in number and not conveniently placed for the infirm or disabled, will the Minister consider making all public parking areas at the airport free for the first 10 or 20 minutes, and if not, why not?

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

If I may, can I ask my Assistant Minister, Senator Routier, who has responsibility for the airport to answer that question?

Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur)

As part of the long term redevelopment plans of the arrivals facilities at Jersey Airport, the current traffic layout is something we wish to seriously consider improving, together with the potential introduction of free pick-up and drop-off zones. In the interim period and acting upon public requests, we have established a pick-up zone adjacent to the departures terminal in an area identified as being the closest location to the terminal to allow us to do this. While this is not an ideal location, we see from the current usage that as a temporary measure it is well-placed and well-used. Both the long stay and short stay car parks at Jersey Airport have dedicated disabled parking areas conveniently located to both the terminals. Jersey Airport is expected to contribute to its overall operational costs by generating income from commercial activities. Income derived from the parking charges at Jersey Airport forms a vital part of this commercial revenue and goes some way to ensure that we maintain the standards of service required and meet the ever increasing regulatory compliance matters. The car parking fees enable us to avoid raising passenger charges in other forms. I hope this answers and explains why it would not be appropriate to give up the income from the first 10 or 20 minutes of every car parked at the airport.

5.10.1 Deputy A.K.F. Green:

I just wondered if the Assistant Minister could explain why, for example, Guernsey, who are required to make an income to fund their commercial airport, can afford to give an hour free parking, the first hour free? Bristol, for example, can give 20 minutes free. Have we not lost our focus here? Are we looking at purely generating income and not customer service?

Senator P.F. Routier:

Customer service is a high priority for us and obviously customers are the ones that are flying, who use the planes, and if we are to reduce the parking charges we would no doubt have to increase the charges which are made for people flying. With regard to Guernsey, Guernsey are subsidised by their States. This House has only last December taken £4 million from the budget of the airport and we now have to find that money. So this is quite a clear decision about ... no parking is free anywhere. Someone has to pay, whether it be the person using the planes, whether it be anybody else, but as I say if the States are prepared to give the £4 million back, which they took away in December, then there might be a bit more flexibility.

5.10.2 The Deputy of St. John:

Will the Assistant Minister confirm that contrary to what his Minister says, the service at the airport is very poor, given that if we have to deal in the way everything has to be down to pounds, shillings and pence, in relation to disabled people, I think it is a very poor show that they are running the airport in that particular way.

Senator P.F. Routier:

No, I do not agree with the Deputy. The service at the airport is very good. The point about treating disabled people in a particular way and getting them to pay for parking, I think if you spoke to some of the disabled groups they do not see the actual need to have free parking for disabled people. It is quite common for people to pay for parking. Just because somebody is disabled does not mean they have the funds to pay for parking. Certainly we are very proud of the service we provide to the public and it is a matter of balancing the books. This House has put a demand on the Trading Committee to make a return to the States and we are unable to do that at the airport at the present time because the services we provide are very, very good and we need to be able to fund those, and we are struggling to do that with the income that we are getting.

5.10.3 The Deputy of St. John:

The Minister, I think, put the nail on the head when he said “balancing the books”. Will the Minister accept that the priority of the airport is to make money more so than give a service?

Senator P.F. Routier:

We have to balance those things quite clearly. The customer service is very important. There is a demand on this House. This House has put a demand on the Trading Committee to balance the books and we need to do that in a very, very careful way. Customer service is a high priority for us and we do provide excellent customer service.

5.10.4 Deputy R.G. Le Hérisier:

I would support that but I wonder if the Assistant Minister could tell the House what is the proportion of the operating budget expended on management and how does that stack-up compared to comparable airports?

The Bailiff:

That has absolutely nothing to do with this question, Deputy.

Deputy R.G. Le Hérisier:

I wonder in his analysis of parking charges [**Laughter**] and their impact upon the operating revenue whether it has led the Assistant Minister to analyse the cost of management at the airport?

The Bailiff:

Good try, but we are going to move on to the next question.

5.10.5 The Connétable of St. Mary:

Just to pick up on a couple of things the Assistant Minister has already said. Firstly, I am sure the Assistant Minister appreciates that not everyone who has difficulties in mobility qualifies for, under the current system, a disabled permit. First impressions of any situation, we all know they count. So do last impressions. I think it is vital that people coming into and leaving the Island through our airport do get favourable impressions. Would the Minister undertake to look at whether perhaps it would be possible to extend the number of free spaces but only for a limited period, for example, the first 10 or 15 or 20 minutes would be free but passing that time you would pay for the whole hour? That surely would alleviate the loss to revenue but still give that important impression.

Senator P.F. Routier:

Certainly the combination of charges for parking is something that we have looked at. I know Deputy Green has raised the issue of Bristol. Bristol themselves, although they have a 10 minute free period, they have a drop-off zone at the arrivals airport. Their actual charge for the first 30 minutes is £2.50 and ours is only 60p. You cannot compare things very carefully like that. But we have looked at it. We have looked at having different mechanisms to charge for parking but there is no such thing ...

[11:45]

The Bailiff:

A concise answer if you will.

Senator P.F. Routier:

I am trying, Sir, but making comparisons across is very, very difficult. It is important for first impressions from people coming to the Island to be good, and I think they do have a good impression.

5.10.6 The Deputy of St. Martin:

I welcome Deputy Green asking the question because this is a question I have been asking repeatedly probably every year, and I can see the Minister nodding his head. The concern has been, and will the Assistant Minister answer the question that I am proposing, is that he has mentioned about revenue received. About 6 or 7 years ago no revenue was received at all, because there was free parking for the first 20 minutes. Since then we have had some officer chasing or moving people on. Will the Minister send to the House the amount of money received from that 20 minute period that would be lost? There is a parking area for those collecting passengers. It is 60p for 20 minutes. Will the Minister give the figures to States Members of the total revenue received annually from that parking area, and the cost of policing it? Because I am sure the difference between the amount of money paid for policing ...

The Bailiff:

A concise question. I think you posed the question, Deputy.

Senator P.F. Routier:

I would have to go back to the department to get those figures for the Deputy. I know that the overall income from parking across the airport is in the region of £600,000 per year, so that is obviously something which defrays the cost of the charges for coming in and out of the airport, but I can certainly look at that and get back to him.

5.10.7 Senator S.C. Ferguson:

I think that £600,000 probably defrays the cost of the several directors they have got. Would the Assistant Minister like to make sure that the department have proper rules with regard to the disabled spaces? The disabled spaces in the paid part of the car park... if you are disabled and parking to pick someone up that is fine, if you are not disabled but you are parking to pick

somebody up who is disabled then you cannot park in the disabled spaces, you have to go all round the Mulberry Bush and perhaps bring the car up to the door ...

The Bailiff:

So you are asking whether the Minister will look at this?

Senator S.C. Ferguson:

Will the Minister please look at this?

Senator P.F. Routier:

I think this is an issue which is wider than the airport itself, certainly I know the Constable of St. Helier has a major issue with that, and no doubt the Minister for Transport and Technical Services also needs to look at how parking disabled badges are used. I know it is a bone of contention for many people with disabilities how they are able to use the spaces, but I am prepared to work with the Minister for Transport and Technical Services and the Constable of St. Helier to see if there can be an Island-wide resolution to this issue.

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

I appreciate the financial difficulties of all departments and everybody trying to balance their books. Would the Assistant Minister be prepared to consider a nominal charge on staff parking at the airport in order to facilitate a 10 to 20 minute free parking? It may help him balance the books.

Senator P.F. Routier:

At the outset in my response to my question I did sort of say we will be looking at all of the parking around the terminal and the road layout. That is an issue with regard to staff parking, it is all in the mix of trying to see how we can balance all those things out.

5.10.9 Deputy A.K.F. Green:

Would the Assistant Minister then confirm that he will be happy to review the parking situation and, to use a term, would he walk a mile in somebody else's shoes, and will he come out of the airport entrance with a 3 month-old baby under one arm and pushchair trying to pull along, and try and find where the person is coming to pick them up in the rain, in the wind? Will he try that, then will he come back with a real customer focus parking solution?

Senator P.F. Routier:

I return to my opening comments. As part of the long-term redevelopment plans of the arrivals facility to Jersey Airport the current traffic layout is something we wish to seriously consider improving, together with the potential introduction of free pick-up and drop-off zones. That was my opening comments at the very beginning and I maintain that.

5.11 Deputy T.M. Pitman of the Chairman for the Privileges and Procedures Committee regarding the filming of Scrutiny meetings by 'citizen media':

Following the withdrawal of P.100/2010 Media Relations - Code of Conduct will the Chairman advise when this matter will be brought before the Assembly so that issues relating to citizen media filming Scrutiny meetings can be resolved and will she detail what evidence, if any, the committee possesses that such media is any less biased than elements of mainstream media?

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

The Committee's original proposition on media relations asked the States to adopt a code of conduct for members of the public and the media when in the States building. The code had been drafted by the Media Working Party and was proposed unamended by P.P.C. Following an approach from the Deputy of St. Martin, P.P.C. agreed to withdraw the proposition to enable

further research to be carried out. The committee has now drafted some amendments to the code and I will shortly be arranging a meeting with the former members of the Media Working Party - Senator Shenton and Deputy Jeune - to receive their input on the proposed changes. I would anticipate that once that meeting has taken place and the revised code has been approved it will be lodged for debate as soon as possible. With regard to the final part of the Deputy's question, it is not the role of the Privileges and Procedures Committee to express a view in respect of the bias or otherwise of any form of media, nor to provide evidence to support any such view.

5.11.1 Deputy T.M. Pitman:

I know we are a bit wary about using names, but it is not in a derogatory way. Certainly from perhaps rough beginnings the main mountain person of citizens media, Mr. McMurray, has certainly played the game and been an exemplary... certainly in his dealings as far as I am concerned. Is it not time that this was now brought to a head and people can have a chance and if they blow it then they get those rights taken away? The only lies that have ever been said about me, very damaging lies, are from the *Jersey Evening Post*, so let us have some fairness here. Does the Chairman agree?

The Connétable of St. Mary:

As I have said, the media code has been reworked, the committee has made some amendments and it will shortly be hopefully approved by the Media Working Party and lodged. The Deputy can then judge the course of action it takes. I am obviously not party to his own experiences with the media, but of course the Deputy will have had a course of redress and I am sure that he will know that course of redress and would have taken action.

5.11.2 Deputy M. Tadier:

I am surprised to hear the Chairman's comments that it is not for the committee to express a view or at least to be able to express a view on potential bias seeing as I am sure the committee have already recognised and mentioned the fact that it is incumbent on certain mainstream broadcasters such as the BBC, at least in theory, to maintain an element of balance in their reporting, which is not necessarily incumbent on other reporters, either mainstream or non-mainstream. But will the Chairman agree that to make life a lot simpler and to have a more liberal but probably more effective approach it would be a lot simpler just to have an agreement, a piece of paper which could be signed by anybody who wanted to report the events of the States of Jersey to sign-up to it and if they contravened the points of the code of conduct then their permission to report on events would be taken away. Is that not a more appropriate and more fair-minded approach?

The Connétable of St. Mary:

This is obviously not the time, during question time, to have a debate on this, but I have no evidence from the Deputy as to who would be granting this status, who would be enforcing the status, which person it would be who would say to somebody: "You are not any more entitled to attend." Things need to be thought through thoroughly before they are brought to the Assembly.

5.11.3 The Deputy of St. Martin:

I think Deputy Tadier should go into some of the detail which came apart from the amendments I did submit to the P.P.C. The Chairman quite rightly said that she withdrew the proposition following a meeting with me but she did say also that she would be meeting with a working party. Would the Chairman not consider that I, too, could be invited to have a meeting, bearing in mind the number of amendments and the work I put into those amendments? Maybe, as a matter of course, I would be invited to attend that meeting.

The Connétable of St. Mary:

That could certainly be arranged, but obviously the amendments that the Privileges and Procedures Committee have suggested to what was, of course, the Media Working Party's report need to be vetted by the Media Working Party before any further action is taken.

5.11.4 The Deputy of St. John:

Would the Chairman agree with me that at the end of the last session we saw one of these so-called alternative medias have to be escorted from the gallery on the instructions of the Bailiff due to the behaviour of one of these members, and therefore does this not prove that at this time it is probably not right to even go down the road of allowing these people, who cannot behave, in the public gallery to become some kind of alternative media?

The Connétable of St. Mary:

I do recall the incident. I cannot comment on who was expelled and in what capacity they were in there. A member of the public may observe the States sitting. There are rules set down for behaviour and decorum and there is a mechanism in place, as we all saw, for how breaches of those rules are dealt with by the President. I think that just goes to show how important it is to have a well-thought-out code of conduct or a code of operation for every situation.

5.11.5 The Deputy of St. Mary:

Will the Chairman undertake to look seriously at the suggestion of Deputy Tadier that really the nub of this is to have a code of conduct, which she just mentioned in her last sentence, governing all media who report on any business of the States or its scrutiny panels or whatever, and that then people sign that and then if they break it then that is an objective matter and they can be struck-off the list? Otherwise we are just going to go round and round in circles. So, I just ask the Chairman of P.P.C. whether that is not a very good way to proceed because that focuses us on the code, what is the right behaviour for media reporting and what are the appropriate sanctions for when that code is broken.

The Connétable of St. Mary:

I would implore the Assembly to wait for the media code of conduct to be re-lodged so that they can judge for themselves the action that P.P.C. suggests but I do maintain that it is not simply a question of signing on the dotted line for any code of conduct. You need someone who is responsible for overseeing it, somebody who deals with any breaches, you need probably an appeals procedure or whatever, and that needs to be funded and resourced. I would urge Members to wait for our proposition.

5.11.6 Deputy R.G. Le Hérisier:

Would the Chairman not concede that even though there might well have been untoward behaviour which required correction in the public gallery, that it is possible to separate out a person's role as a media person and a person's role as a member in the public gallery, and that it is rather premature to attribute guilt simply on the basis of that behaviour.

The Connétable of St. Mary:

I thought that was exactly what I tried to do. I did make clear in my response to - I think it was the Deputy of St. John - that I was not aware of the capacity of any media person. I simply saw a member of the public in their rightful business of regarding the States Assembly.

5.11.7 Deputy T.M. Pitman:

As we are talking about moving forward in the Media Working Party, does the Chairman perhaps agree that it might be helpful if ... I believe we have one person on the Media Working Party who is very anti-filming; he is not here, as usual, so I cannot ask him - Senator Shenton - but Deputy Jeune is not even on Scrutiny and yet she is being able to have a say on what happens at Scrutiny. There

seems to be a big anomaly there. Would it not be better to talk perhaps to some other people? Then we can move forward.

The Connétable of St. Mary:

The Media Working Party was constituted with myself as Chairman of Privileges and Procedures, a representative of the Chairman's Committee, which was Senator Shenton, and a representative from the Council of Ministers from the Executive side, Deputy Jeune. The working party worked for some considerable time. I think it would be very unwise to introduce anybody else to it now, and I would urge Members to wait and see what the party comes up with.

5.12 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the recouping of corporate tax lost through Zero/Ten from foreign-owned non-finance companies:

Following his commitment in the 2011 budget to investigate the possibility of recouping corporate tax lost through Zero/Ten from foreign-owned non-finance companies and to report in December 2010, will the Minister inform Members what measures, if any, he has under consideration; how these measures will comply with the E.U. code on business taxation Articles 1 to 3 and if not will he inform Members when he will do so?

[12:00]

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

This issue was obviously debated at length during the budget debate. This matter is clearly integral to our Zero/Ten regime, which is being reviewed both here and by the Code of Conduct Group. I stated during the budget debate that we need to consider the outcome of that Code Group assessment and now high-level working party before formulating any changes to our regime. When the E.U. announced it would formally assess Zero/Ten we said we would consider the outcome when it was completed, and that is the case today. We will consider the impact of the high-level working party report when it is completed. We will also need to ensure that any changes comply with all 5 Articles of the Code, not just Articles 1 to 3. So, it is important that we continue to demonstrate that the Island's general rate of tax is zero. This is why the scope of entities originally subject to 10 per cent or 20 per cent was limited to certain regulated and utility entities. I can say that I am looking again to see whether the scope of the 10 per cent and 20 per cent bands can be extended further while ensuring that the zero per cent remains our general rate of tax. If that is possible - and work is under way to confirm this - I will propose it. If this is not possible I will look at alternative ways of raising revenues from these entities. However, whatever alternative is considered it is also important to ensure that these entities do not pay a double layer of tax.

5.12.1 Deputy G.P. Southern:

In figures given in an earlier written question the Minister for Treasury and Resources has explained that there are some 12,300 locally-owned, non-finance companies subject to zero tax and some 17,600 foreign-owned, non-finance companies subject to zero taxation. Is it not the case that the issue is that those 17,600 were previously defined as exempt companies ("ex cos"), and that Zero/Ten was a way to find a way round the E.U. code on business taxation? Is it not the case that whatever he does he is still stuck with this problem that locally-owned will be subject to tax, non-locally-owned will not, and that will inevitably break Articles 1, 2 and probably 3 of the E.U. code on business tax?

Senator P.F.C. Ozouf:

I am pleased the Deputy has read the written answer. I also hope that he has read the statement and briefing that Members were provided with prior to the Christmas break in relation to the whole background in terms of Zero/Ten. I have to say that I do not think that Deputy Southern and I are

ever going to agree in relation to Zero/Ten. The Island issues and provides services providing tax neutrality. That is the key issue in terms of what the Island offers. Clearly I do not think that Deputy Southern agrees with that situation. He probably agrees with a unified international rate of tax that is higher than zero. That is not in the interests of the Island and so I will continue to defend Zero/Ten, I will continue to defend our financial services industry and the important services that they provide in delivering tax neutrality.

5.12.2 Deputy T.M. Pitman:

Following on from Deputy Southern, with the benefit of hindsight in the way this lengthy saga is playing out, and I know the Minister still has his fingers crossed but, upon reflection, does he perhaps concede that in a race to the bottom there are no winners at the end of the day and really Jersey should probably be looking for a better, fairer way and perhaps lead the way with the world?

Senator P.F.C. Ozouf:

I certainly am proud of Jersey and I think that Jersey punches well above its weight. However, I do not think that we can ever be regarded as a leader in terms of international tax norms. The Deputy does raise quite an important point, though, about the cost of Zero/Ten as it was implemented and the report that the Chief Minister and I issued before Christmas does remind Members that the £100 million loss which was incurred as a result of the introduction of Zero/Ten was not simply incurred because of the zero, it was incurred to a large extent because of the drop in tax from the 20 to the 10. That is not an issue of international norms; that was an issue of international competition in terms of different jurisdictions competing against tax. As we are seeing, all sorts of countries do compete on tax, we compete on tax and we had to unfortunately compete at 10 per cent instead of previously 20 per cent, which is what we got on a number of entities before. That is something that is not often reminded but I take this opportunity of reminding Members that that was the large part of the £100 million.

5.12.3 Deputy M. Tadier:

Does the Minister acknowledge that when it comes to Jersey punching above its weight that cannot be said, for example, to being able to keep its own heritage sites, its own museum open for a period during the winter; and it does not also extend to being able to afford to pay for school milk for its children and a whole host of other areas; and does the Minister ...

The Bailiff:

This has nothing to do with the question so please ask a question that is relevant.

Deputy M. Tadier:

Thank you for the direction. The question I was asking, are those simply symptoms of a failed Zero/Ten policy which has eroded our tax base? Does the Minister acknowledge that there is a downside to the zero aspect of Zero/Ten, because in reality we have seen an erosion of public services rather than a promotion of being able to afford those services which we have been able to hitherto?

Senator P.F.C. Ozouf:

I do not know what the references and comparatives are that Deputy Tadier makes, but as I stand here at the start of 2011, which is going to be a year where we are going to have to reform our public services, we are going to have to trim government expenditure, we are going to have to deliver services less to our community; I would say that we are in a much stronger position than most other places. Deputy Tadier seems to erase almost the economic activity that has happened in this Island - that continues to happen - which funds a social welfare system, a health service, an education system to a much greater extent than most other places. My work over the next year is to maintain that, to deliver revenue for the benefit of our Island community.

5.12.4 The Deputy of St. Mary:

Other people used the phrase “race to the bottom” and I just want to ask the Minister whether, in his toolkit of policies, he has considered going to the Isle of Man and Guernsey - and possibly other jurisdictions but certainly those 2 - and talking about harmonising between us so that we can (a) be competitive (in his words) and (b) also preserve our tax base. Because it seems to me that as long as we constantly compete with the other 2 and always try to have the lowest possible tax rates we are going to be in serious difficulty.

Senator P.F.C. Ozouf:

The Deputy raises a good point in relation to competition and he is correct in saying that the competitive rate that we now trade on in Jersey is 10 per cent, and that is a lower rate than we used to have. But I am afraid that that is the competitive world of the globalised economy and we cannot change that and it would require... and I do have good communications - as the Chief Minister and I both do - with our colleagues in the Isle of Man and in Guernsey, but we will always be in a competitive position across the Crown Dependencies. But it is wider than that; the competition extends to jurisdictions outside the field of the British Isles. The overseas territories in the Caribbean, in the Middle East and Dubai, in Singapore and in Hong Kong, those are the issues of competition and as important as Jersey is I am afraid we are not strong enough in order to set minimum tax rates. I know that some supporters in this Assembly believe that we should have international minimum standards of tax, and if there are going to be normalised rules in terms of tax in the future then Jersey will comply. But I am afraid that is not the situation and we have to be realistic about competition and tax competition and the Island’s role in it.

5.12.5 Deputy G.P. Southern:

Given that it appears unlikely that the Minister will be able to solve the conundrum of the 2-tier system on zero tax rates for local and non-local companies, can the Minister inform Members how much is raised in charges and fees from the 17,600 foreign-owned, non-finance companies and how much he is prepared to raise those charges and fees by in order to raise further revenue for what is a damaged economy at the moment?

Senator P.F.C. Ozouf:

Let me just be clear that Deputy Southern is not going to write my script in terms of saying that I will not find a solution. We will find a solution to any issues which the international community put to us. We will respond to the high-level working party and any findings that they have and the Island will respond, with this Assembly’s approval, to any changes in terms of global norms. As a result of the Deputy of Grouville’s amendment to the budget, which was accepted, I will be working on trying to find ways of raising revenue from those entities in Jersey and I would refer the Deputy to the answer that I gave, that I will be looking, among other things, at the issue of whether or not we can extend the 10 per cent or 20 per cent rate while preserving the general rate of tax at zero to the Island. But I am confident that with this Assembly’s help, with the support of the Council of Ministers and officers, we will find solutions to whatever problems the international community puts to us.

5.12.6 Deputy G.P. Southern:

If I may insist that the Minister addresses the question. Will the Minister inform Members how much is currently raised from charges and fees on the 17,600 companies he refers to in his answer and how much is he prepared to target some increase in that in order to balance our budget?

Senator P.F.C. Ozouf:

That is a very wide question. Is it the direct contribution? Is it the indirect contribution? The Island provides services to entities which pay a zero rate of tax but of course there is the revenue that is provided on the services that are provided to that. That is the whole aim of what the Island

provides in terms of services and, indeed, other offshore centres as well. So, if he is more precise in his question I may well be able to attempt to answer it.

The Bailiff

I think the question was to fees and charges.

Senator P.F.C. Ozouf:

Direct fees and charges, I will have to calculate that. The Deputy is aware of the international service fee and I would have to do a quick calculation in my head in terms of the direct contribution from those entities, but I will provide that to Members later on today.

5.13 Deputy M. Tadier of the Minister for Social Security regarding eligibility for the Food Costs (or 'G.S.T.') Bonus:

As the food costs or G.S.T. (Goods and Services Tax) bonus was introduced as an alternative to removing G.S.T. from foodstuffs in an attempt to protect those on low incomes, will the Minister advise why residents who have been here less than 5 years are not eligible for this bonus?

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

Residents who have been living in Jersey for less than 5 years do not qualify to receive the G.S.T. bonus because the qualifying conditions are linked to the 5-year residency requirement under the income support scheme.

5.13.1 Deputy M. Tadier:

So, it is swings and roundabouts here. Clearly the next question has to be why is it then linked to the 5-year residency?

Deputy I.J. Gorst:

That was approved by this Assembly. The Food Costs Bonus (Jersey) Regulations 2008 and the conditions are in those regulations which this Assembly approved.

5.13.2 Deputy G.P. Southern:

Is the Minister aware of the latest research from Loughborough which suggests that in the U.K. those at the bottom end of the earnings scale and those on benefits will be 10 per cent worse off following the increase in inflationary pressures on food and essential services? In an Island which taxes essentials what measures will the Minister take to protect those at the bottom end of our society from these inflationary pressures?

The Bailiff:

I am not sure that arises out of this question, Deputy.

Deputy G.P. Southern:

The G.S.T. bonus was introduced to protect those at the bottom end from precisely these sort of pressures. It was actually called the "food bonus" and not the "G.S.T. bonus".

The Bailiff:

That is a wide-ranging question about how you can protect people generally, so, Minister, do you want ...

Deputy I.J. Gorst:

Sir, yes, I was going to correct the Deputy there. Obviously those lowest income families would be eligible for income support. The G.S.T. bonus or the food cost bonus, as the Deputy rightly referred to it, is for those who are above the income support threshold yet do not pay tax. So it is

somewhat ironic, having said that, that the Deputy should question me in this manner because as he well knows I am one of those Members who believe that we should not be charging G.S.T. on foodstuffs, but that is another debate. This Assembly does not concur with my opinion on that.

5.13.3 Deputy G.P. Southern:

Is the Minister prepared to protect those who are not currently protected at the bottom end of the scale, i.e. those with less than 5 years' residency? Will he bring something to the House to protect them?

Deputy I.J. Gorst:

I hope that this is remaining on the food cost bonus. I am not certain that it was there. Having said that, I should remind Members that when income support was brought in in 2008 the housing costs element of that support was reduced from 10 years to 5 years at that time. So, that is a relatively short period of time to see whether it is working. I personally do not believe that it should be reduced any lower and I have to say that I personally do not believe that this bonus should be introduced for those with less than 5 years residency. Having said that, they are decisions of this Assembly, this Assembly has rightly made those decisions and my department administers the law in line with those decisions.

[12:15]

5.13.4 Deputy M. Tadier:

I am glad to hear the Minister supports not having G.S.T. on food but given that it has been the decision of the Assembly and given that what one tends to call the Le Fondré proposition or proposal was a sweetener to keep G.S.T. simple while at the same time keeping the most vulnerable protected, does he acknowledge that anyone in the Island who has not been here for 5 years, if G.S.T. had not been on food then they would benefit from that, they would benefit and not have to pay G.S.T. on food? Therefore those in that position are being unfairly penalised simply by a decision of this House and that, in fact, if one is to stand by the strategic planning of greater social inclusion, protecting those in need and greater equality in the Island, we should not be on a technicality penalising those members of Jersey society simply because they have not been here for the 5 years?

Deputy I.J. Gorst:

I would not say that those individuals were being penalised. I would say that this Assembly took the decision not to extend the benefit to those who have not been here for 5 years. However, I do understand that of course those individuals will be paying G.S.T. on their food. I make what perhaps is a personal comment, it does seem to me somewhat strange that earlier this year I brought forward a proposal to remove the food cost bonus altogether as part of my C.S.R. (Comprehensive Spending Review) proposal in the belief that perhaps we could then ... **[Interruption]** The Deputy at the front says: "Shame" but that then perhaps we would remove G.S.T. from food. Members who were in favour of removing G.S.T. from food were also against me removing that bonus. Sometimes I do feel that there is not necessarily a joined-up approach in how people vote.

5.14 The Deputy of St. Martin of the Minister for Health and Social Services regarding the impact of restrictions on the duties of certain doctors:

Will the Minister inform Members of the number of doctors who, although not suspended, are not permitted to carry out their normal duties? Will she outline what impact such restrictions are having on patient care, the individual doctors and their colleagues and advise the cost to the public to date in respect of locum hire to cover the period of restriction?

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

There are currently 4 doctors working on restricted practice. Restrictions are put in place for a variety of reasons including retraining if a clinician has been absent from work for a prolonged period of illness or while concerns about skills or practice are investigated. The purpose of restricted practice is to protect patients from risk. The precise nature of restrictions varies depending on the circumstances but doctors on restricted practice can and do continue to work. They can perform certain forms of clinical duty, work under supervision or undertake office-based clinical work such as audit, teaching or observation. The impact on patients and staff is dependent upon restrictions in place but the obvious beneficial impact is the assured safety of patients. The locum cost associated with these 4 doctors during this period of their restriction is approximately £1.044 million.

5.14.1 The Deputy of St. Martin:

I am astounded to hear that it is costing the taxpayer £1 million to keep 4 doctors on restricted practices. Will the Minister inform Members what training is given to these doctors to ensure they are able to get back to their normal duties, not only for their benefit, for their professional work, but also to save the taxpayer £1 million?

The Deputy of Trinity:

As I said, there are a variety of reasons why they are on restricted periods and it is important for, and I re-emphasise, patient safety. Saying that, we all work with the doctors for different reasons and some of it can be prolonged illness and they need to come back and retrain to make sure that they are back at work or whatever as soon as possible.

5.14.2 Deputy M.R. Higgins:

I think the Minister is misleading the House with some of her answers. Basically, these doctors ...

The Bailiff:

What you mean no doubt, Deputy, is inadvertently misleading the House.

Deputy M.R. Higgins:

Inadvertently.

The Bailiff:

Well then, please say so.

Deputy M.R. Higgins:

I think the effect is basically not giving a totally correct view of what is going on. We have one doctor who is suspended who sits at his desk at home or in the hospital and does nothing else, there is no question of training, and that is the one who we were told was going to be retrained and has seen one patient since May of last year, that is all, one patient. So, they have skills which could be for the benefit of the Island, could help reduce waiting lists, and yet they are not being retrained. We have another doctor who is allowed to do private study, is allowed to go to the library and attend meetings, that is it. There is no training there either. This was also true of others. I think the hospital is being mismanaged and I do think that the Minister needs to have a look at what is being said to her about retraining and what is actually being done in retraining. Does the Minister not agree?

The Deputy of Trinity:

No, I certainly do not agree and I re-emphasise - and I am never tired of re-emphasising - that patient safety is the most important thing at this point. I will not go down to any of the individuals... because I have a duty of care to my employees, and confidentiality is important. So, we work with the restricted doctors to sort out the issues that got them into that unfortunate period as we can, but it is of a complex nature and the department provides training to clinicians, the

managers and H.R. (Human Resources) staff to make sure that these issues are managed as efficiently as possible. We do review the policy and I do get a monthly update.

5.14.3 Deputy M.R. Higgins:

Could I ask a supplementary? Will the Minister come back to the House and give us categorically the training that has been offered to these people during their suspension and why they have not undertaken any training? Have they in fact been offered any? Please come back to the House with chapter and verse.

The Deputy of Trinity:

It is very difficult and I will have to look at it. As I said, I have a duty of care to my employees and to come back with individual ways and methods of training, et cetera, I would need to check if I can. I can give an overall broad brush of how we try and deal with doctors who are on restricted practice but some of those restricted practices are due to the doctors having been on long illness.

Deputy M.R. Higgins:

If I could just repeat ...

The Bailiff:

You have asked ...

Deputy M.R. Higgins:

I am just saying she could come back anonymously, doctor A, B, C. Tell us exactly what training they have been offered and when they were offered it.

5.14.4 Senator S.C. Ferguson:

We were recently informed that these doctors were transferred to a restricted working list from being suspended or excluded at the same time as a formal notification was required of employees who were suspended or excluded. Would the Minister explain why this change in status was made and why there was no notification to the States Employment Board regarding these doctors?

The Deputy of Trinity:

No doctors are excluded. The department operates within current policy set down by the S.E.B. (States Employment Board) whereby suspensions and exclusions from work are reported but not restrictions in practice. This is currently being reviewed by the States H.R.

5.14.5 Senator S.C. Ferguson:

Does the Minister not feel that the difference between restricted working - which is not doing any clinical work effectively, not seeing patients - and being suspended or excluded, is really somewhat of a semantic problem and should that notification not have been made to the States Employment Board about doctors on restricted working?

The Deputy of Trinity:

The doctors are restricted for many different reasons and it would be inappropriate here, I think, to say what the reasons are other than being a broad brush from illness to their clinical practice. Regarding informing the States Employment Board, as I said it is being reviewed by H.R. and I take the Senator's point.

5.14.6 Senator S.C. Ferguson:

I am sorry, Sir, it really is not a good enough reply. It is a semantic difference and it is really avoiding the responsibilities of being an employer.

The Deputy of Trinity:

I am not avoiding responsibility because I take that very importantly. These doctors, who are restricted, are restricted for many different reasons and it has to go through a proper H.R. process and this is what is happening. Because at the end of the day patient safety is the most important thing.

5.14.7 Deputy A.E. Jeune:

Would the Minister agree that any staff excluded, suspended or whatever who are not carrying out their duties will have an impact on patient care, and can she advise whether there are such exclusions, suspensions, et cetera, in any other staff groups within Health and Social Services?

The Deputy of Trinity:

Regarding the last part of the Deputy's question I would have to go and check that. At the moment I just have the information that there are no doctors excluded. I am not too sure about if there are any others in other areas but I can come back to that. So, the impact, as I said, is on other colleagues and that is where locums come into practice, but it is patient safety at the end of the day. We must ensure that the doctors who are seeing patients, operating on patients, in whatever clinical field, are doing exactly what they should be doing.

Deputy A.E. Jeune:

I thank the Minister for her reply and I look forward to hearing about exclusions in other disciplines.

5.14.8 Deputy T.M. Pitman:

I must say that, like anyone listening, I am absolutely horrified at those amounts of money. Just before Christmas this House was asked to bail Health out effectively from a ring-fenced fund. We are talking about patient safety and, yes, we all support put patient safety, but where is this ultimately going, could the Minister say? Are we going to pay these people to do, effectively, nothing until they retire on nice big pensions?

The Deputy of Trinity:

All these doctors are going through the proper H.R. process. The nature of the restrictions, as I said, depends on what their circumstances are but they also perform other duties of clinical work under supervision, office-based clinical and some audits, teaching and some observation. So, they are employed in other areas.

5.14.9 The Deputy of St. John:

Would the Minister agree that she is avoiding employer's responsibilities in that over 9 months ago a doctor with responsibility for prostate cancer, where the patients require continuity, has not been replaced but 3 locums are doing his job. In fact he comes back in himself, the former doctor, to assist as a locum. When will that post be filled?

The Deputy of Trinity:

I do not have that exact information. I would have to come back to the Deputy on that specific issue.

5.14.10 The Deputy of St. John:

If I may have a supplementary? I have to ask the Minister, is she on top of her subject, on top of her Ministry, given she does not know the simple answer of when a position is to be filled? Given they have had locums in for 9 months.

The Deputy of Trinity:

It is a very complex procedure. As I have said to you before, when consultants now retire we cannot replace like with like. That is because it is set down by the Royal College of Physicians, or

whoever, that consultants now are specialising. So, when a consultant orthopaedic surgeon will retire who was a generalist he will be replaced probably by one or 2 consultants. You cannot just replace like with like immediately. That has to go through various ... Royal College of Surgeons to get their permission, for want of a better word, to employ the consultants. Also we have to factor in that we are doing the strategic road map and this is taking an opportunity to find out which way do we wish to go.

[12:30]

5.14.11 Deputy M. Tadier:

Irrespective of the nuances that may exist between suspension and restricted practice, will the Minister not accept that Senator Ferguson's point is a very valid one and give an assurance that from now on under these circumstances the S.E.B. will be notified as a matter of course so it can be up to the S.E.B. to decide whether or not there is anything that they would wish to look into? Will the Minister give that assurance now?

The Deputy of Trinity:

As I have said Senator Ferguson did bring up a good point and it is currently being reviewed by States H.R.

5.14.12 The Deputy of St. Martin:

The Minister will know that these types of questions have been asked of her now for some time. In fact the last time was in September, and the answers we are getting today are very much in line with the answers then. The Minister also seems to have a favourite catchphrase: "My concern is patient safety." If the Minister is so concerned about patient safety will she either take steps to dismiss, sack or whatever those 4 doctors or retrain them? Because by procrastination it seems totally unfair that on those doctors concerned that their integrity is being questioned and also the taxpayer is having to pay at least £1 million, and goodness knows how many million pounds, until the Minister has got on top her brief.

The Deputy of Trinity:

I fully understand the Deputy's concerns, because it does concern me, and it is going through H.R. procedure. I wish I could bring it to a swift conclusion but whatever the conclusion is it has to go through the H.R. process and those are the steps that have to be done. I wish it was as simple as that.

5.15 The Deputy of St. Mary of the Minister for Transport and Technical Services regarding air, sea and surface run-off emissions from the Energy from Waste Plant:

As the incinerator is due to start burning rubbish soon, can the Minister advise what action he proposes to take in order to be open and transparent with regard to emissions from the plant to air, sea and surface run-off?

The Connétable of St. Brelade (Minister for Transport and Technical Services):

The emissions and any exceedance will be continually monitored and regularly reported to the regulator. The discharge of cooling water from the energy-from-waste plant and the 2 surface water run-off discharges from clean areas are regulated through separate discharge permits. The run-off water from the drainage areas within the working areas of the plant will be discharged to foul sewer. In addition to the information that will be supplied to Environmental Protection my department will publish information on the emissions from the plant on the States of Jersey website. I hope this is the sort of transparency the Deputy seeks and I emphasise my willingness to be open about the whole issue.

5.15.1 The Deputy of St. Mary:

I just wanted to know whether the publication of the data of emissions to air and sea will be immediate, because ... well, I will just leave it at that for the time being.

The Connétable of St. Brelade:

I think the regulator requires us to give averaged results. I would expect there to be spikes and dips according to the function of the plant. For instance, if one of the streams has been started up or slowed down or closed down for whatever reason, or for maintenance, there will be an effect on these figures. I think it is important for the public to understand what is going on so I would expect that the regulator will demand the type of results which we will have to produce and those will be available on the website.

5.15.2 Deputy J.A. Hilton:

I understand in the past that workers at the Bellozanne plant and residents who live in the immediate area have had their blood tested just to see whether anybody was suffering from any of the effects of the pollutants out of the chimney. Can the Minister confirm whether this practice will commence at the new incinerator site for the workers there and the residents of the area? Can he also confirm whether those results will be made public?

The Connétable of St. Brelade:

No, given that a third of the plant is given over to gas cleaning I do not believe that is our plan at all.

5.15.3 The Connétable of St. Helier:

Could the Minister assure us that the only rubbish that is being burnt will be Jersey rubbish and that he has no immediate plans to import rubbish from elsewhere?

The Connétable of St. Brelade:

At the moment we have no plans, but I will have to say that from a strategic point of view, from a technical point of view and from a commercial point of view it would be extremely attractive. But clearly any decision on that would have to come to this House. I would also just throw in that the plant in fact was fired-up yesterday at about 11.00 a.m. and at this moment in time is in operation under trials.

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

I wonder if the Minister can inform the House if these tests will be carried out at different capacities of burning. I believe we have 2 cylinders that can be fired up so will all eventualities be tested instead of being left for after-commissioning?

The Connétable of St. Brelade:

Yes, during the commissioning processes both streams will be fired-up. The first was started yesterday, as I said, the second is being fired-up today. It is my department's intention to rigorously test the whole plant before we are in a position to accept it so that when it is accepted by us and the public of Jersey, it will be reliable for the next 25 years.

5.15.5 Senator J.L. Perchard:

Does the Minister share my concern after reading the annual household survey for 2010, on page 26, that 50 per cent of households do not separate tins and cans? Therefore by implication one will assume they will be sending them to the new incinerator for attempted incineration. Is the Minister aware that tins and cans do not burn and will end up in his toxic dumps on the Waterfront, and will he make it his mission during 2011 to forego the attempt to burn tins and cans in his new incinerator?

The Connétable of St. Brelade:

The Senator will be aware that most tins and cans are magnetic and those are taken out of the ash stream and in fact will be disposed of at the metal waste plant at Bellozanne. I would point out, having seen the piles of rubbish down there only yesterday, I think we have a long way to go on urging the public to recycle and it is my department's intention to work hard on that.

5.15.6 Deputy M.R. Higgins:

Just following on from the Deputy of St. Mary's earlier question, the Minister mentioned average figures will be given. Will the Minister give an undertaking to give specific temperatures as well, for example, the burn temperature in the chimney, which is vitally important for making sure that the toxins are totally destroyed and not emitted? Would the Minister also give an undertaking to the House that all historical figures from the Bellozanne chimney will be given over to Jersey Archive so if there are future health concerns those papers will be available for researchers rather than destroyed?

The Connétable of St. Brelade:

In terms of the chimney temperatures all the information which is comprehensively provided by the new technology in the new plant will be available to the regulator. In fact the regulator's waste management licence is available, 31 pages of it, and I am happy to show it to the Deputy. The regulator will stipulate which information he requires and that will be available. With regard to the destroying of old information that certainly would not be my style. I am not quite sure where it ends up but I would imagine at some point it will end up in the archive.

5.15.7 Deputy M. Tadier:

I just wanted to ask the Minister first of all if he acknowledges that a vast amount of the cans that will be dumped will be aluminium and so those that end up in the waste stream will not be magnetic. Aluminium at that temperature I imagine would fuse and essentially turn back to bauxite, which is contrary to what we are trying to achieve. On the whole, bigger picture, does the Minister acknowledge that there is a conflict on the one hand of wanting to reduce waste and increase recycling while, on the other hand, perhaps wanting to be able to fill up his incinerator as quickly as possible so that we can burn this rubbish and get a small amount of energy back from it?

The Connétable of St. Brelade:

To refer to the Deputy's first point, aluminium cans are generally the drinking cans and the ring banks throughout the Island have bins to receive those and we encourage the public to do that. In terms of the recycling target, I have set a target of 36 per cent and I think we are on about 31 per cent at the moment. We have to strive harder to achieve that in order that we do not exceed the capacity of the plant. Any Member who wishes to see the plant with its present bunker hall capacity of a significant amount will realise we do not have that spare amount of capacity and, as I have said before, we have to work on continuing our efforts towards encouraging the public to recycle further.

5.15.8 The Deputy of St. Mary:

The Minister has I think twice talked about information being reported to the regulator. He also talked about figures being averaged to smooth out the spikes and dips. The point of my question is how much reassurance does the public have... and we have heard that he does not intend, and presumably the Minister for Health and Social Services does not intend, to screen the local population or the workers. So, can the Minister assure me, the public and the Members that all complete records will be available to anyone who asks, whether pressure group or individual or States Member; not edited, not averaged, not expurgated, not redacted but complete?

The Connétable of St. Brelade:

I think it would be useful for the Deputy to look at the waste management licence and if he has concerns on that to question either me or the Minister for Planning and Environment further because it is extremely comprehensive and I do not think I can answer satisfactorily in this short period today. But my understanding is that the written management system identifies the risks and with regard to not only the operation, the maintenance, accidents and so on but also has provision for non-conformity and closure. I do recommend that the Deputy does look at that and we can perhaps discuss further should he so wish.

5.15.9 The Deputy of St. Mary:

With respect, the Minister has not answered my question. It is not about the detail of the waste management licence, it is about the data that is continually monitored by that clever control room at the top of the incinerator. All the data is there, the operators have all the data. My question is will that data be available to the public?

The Connétable of St. Brelade:

I think it has to be available through the regulator. The regulator will specify which information he wants, which I am sure will be far in excess of what the public will require. The public have appointed a regulator to oversee the operation and I think he is the repository of all the right information and will decide what and when we should publish it.

5.16 Deputy R.G. Le Hérissier of the Minister for Health and Social Services regarding revised waiting list targets:

Have current waiting lists targets for certain operations been abandoned and, if so, when does the Minister intend to publish revised targets?

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

Our waiting list targets have neither been changed nor abandoned.

5.16.1 Deputy R.G. Le Hérissier:

Could the Minister then explain why an announcement was made that the department was struggling to meet certain targets while members of the public are being informed that target times have been extended? Is she saying that targets that were set under the previous regime are being religiously followed?

[12:45]

The Deputy of Trinity:

Wherever possible the current target for outpatients' appointments is 3 months from the date we receive referral to the appointment. For elective operations the target is also 3 months from the date a patient is added to the surgery waiting list to the day of operation. These waiting list targets do not apply to urgent patients because they will be prioritised and seen quickly. They are always a challenge and will continue to be a challenge, especially when the hospital is under great pressure, as it has been recently.

5.16.2 Deputy G.P. Southern:

I think I have asked this question before but I have not seen an answer. Will the Minister inform Members what types of operation she classes as "non-essential", which may be delayed or cease altogether? In particular has she noted the developments in the U.K. which mean that many hospital trusts are not carrying out cataract operations at the moment? Can she assure Members that cataracts will still be operable in Jersey?

The Deputy of Trinity:

Yes, as far as I am concerned cataracts will still be offered. We have no plans to change that at all. Regarding the list, I think the list of waiting times came to this House a couple of months ago but I am happy to get it revised and updated.

Deputy G.P. Southern:

My question was a list of non-essential operations which are ceased or to be delayed.

The Deputy of Trinity:

Yes, I can do that.

5.16.3 Deputy A.E. Jeune:

If there are targets set, could the Minister advise why letters sent to patients from the hospital, whose doctors have referred them there, show no indication of the likely timescale whatsoever?

The Deputy of Trinity:

Is the Deputy referring to the timescales of when they will have an appointment? If it is not on the letter perhaps it is something that we should be adding.

Deputy A.E. Jeune:

Yes, that is what I was referring to.

5.16.4 Senator S.C. Ferguson:

In the *J.E.P. (Jersey Evening Post)* just before Christmas there was a letter talking about, I think it was, the Endoscopy Department and saying that the waiting list is 84 weeks for non-urgent cases. Would the Minister like to comment on that and tell us what she is doing about it?

The Deputy of Trinity:

The waiting list review group meet every week to look at the waiting lists and this is one area that is under pressure. We are looking at ways of bringing it down, and it would mean probably a new consultant, which is in the process - if I remember rightly - of going out to appointment.

5.16.5 Senator S.C. Ferguson:

Surely if it had got to 84 weeks this must have been a problem that has been building up for some time. How is it that the department missed it?

The Deputy of Trinity:

Yes, it has been building up. We have tried to find ways of bringing that waiting list down and one of the ways I think that was brought in last year, if I remember correctly, is a mobile endoscopy unit to try and clear the list. But that has a knock-on effect on the rest of the hospital because some may come in for operations. So, it is looking at helping the list, but it is not the answer to bringing down the list and if there are any urgent referrals on that they are seen as soon as possible.

5.16.6 Deputy M.R. Higgins:

I am just wondering if the Minister can just refresh my memory, was it not the endoscopy unit that she took all the money away to use for funding something else? Would she please clarify the situation? If we have so many problems in endoscopy why raid that fund?

The Deputy of Trinity:

The money that was there was slippage, because to appoint any new consultant - and we are as I said in the process of appointing a new consultant - the job description, et cetera, has to be worked-up and it has to go to the Royal College of Physicians to be approved and come back again and out to advert, et cetera, and that certainly takes time. Unfortunately we were not able to do it within the timescale last year.

5.16.7 Deputy M.R. Higgins:

The amount of money I believe was £900,000. Surely a consultant does not cost £900,000. What happened to the rest of the money?

The Deputy of Trinity:

It is not only consultants, it is the nurses that need to be there, the admin staff that need to go with it, plus the extra equipment in the endoscopy unit. It is a whole package.

5.16.8 Deputy R.G. Le Hérisier:

Would the Minister not acknowledge that the previous policy sadly lies somewhat in tatters and that we agree with her that a revised list be published so that people can get an assessment of the true position? Because it is quite clear that the 12 weeks is an ideal and by no means is it universal. Would she agree with that statement?

The Deputy of Trinity:

Yes, as I have circulated a couple of months ago there are some that we do not reach and I think about 80 per cent of the patients who are referred for appointments or, I cannot remember the exact figure, are referred to surgery are reached. But it is a difficult area and one which we are trying to get on top of, but I think within the N.H.S. (National Health Service) they have met their targets but I think over the last couple of weeks they are removing those targets because they know that they cannot be met under these financial pressures that the N.H.S. are in. There is always a risk of hitting the target but missing the point.

The Bailiff:

Very well, that brings oral questions to an end.

The Deputy of St. Martin:

I was going to ask for the adjournment, Sir, but before we adjourn could I maybe ask the Chief Minister, who is going to make a statement regarding the Order of Justice put forward by Mr. Syvret, if it is possible for that statement to be put on Members' desks at 2.15 p.m. when they return so we are able to read it before it is actually read out in the States.

Senator T.A. Le Sueur:

I will endeavour to do so.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

Very well, the adjournment is proposed. The Assembly will reconvene at 2.15 p.m.

LUNCHEON ADJOURNMENT

[14:15]

6. Questions to Ministers Without Notice - The Minister for Housing

The Deputy Bailiff:

We now come to the next item of business which is Questions to Ministers Without Notice. First up is the Minister for Housing.

6.1 Deputy P.V.F. Le Claire:

I would like to ask the Minister how he feels about the Homebuy scheme? Having heard what the media has had to say, what is his take on it?

Deputy S. Power of St. Brelade (The Minister for Housing):

My feeling on Homebuy is the same as it was a week ago, a month ago, 6 months ago and in February 2009 when I first inherited the delivery. I feel it is a good product. It was a report and proposition. It was an amendment to the housing plan that was brought by the Minister for Planning and Environment. It was a Planning Department report and proposition and the Housing Department had to deliver it and I feel we did a very good job.

6.2 Deputy A.E. Jeune:

Could the Minister advise Members please what the increase in the specification of the houses was when it was decided that they would no longer be social rented but would be available for the first-time buyers which resulted in an increase of the cost of about £50,000 I understand, given that my understanding is social rented properties are normally built to an incredibly high specification in Jersey?

Deputy S. Power:

In July 2009 when the report and proposition was brought before the Assembly ... sorry, July 2008 because I became an Assistant Minister at the end of 2008. It was July 2008. I apologise to the Assembly. The houses at that stage were not coming out of the ground. When this Assembly voted by 38 votes for and 5 against to proceed with Homebuy, the developer changed the specification on the houses. They changed from what would have been the social rented specification to the Homebuy specification; the main difference being that the final fit-out - the second fix carpentry, the second fix plumbing, the second fix whatever - were a much higher specification; kitchens, bathrooms and so on. There was no difference between the 46 houses in Homebuy and the 102 houses that were sold off to private parties. The specification with the company, Dandara, changed after the report and proposition in July 2008 to the higher specification. I cannot give the Deputy the exact changes on the difference between social rented and Homebuy but as of July 2008 they became Homebuy. They were no longer social rented. That is a misconception right across the Island. There was never any question that they would be social rented after that.

6.2.1 Deputy A.E. Jeune:

I appreciate the Minister is not able to give us exactly now but will he be able to supply that information to Members later?

Deputy S. Power:

Yes, we have 2 schemes which are social rented in Salisbury Crescent and ...

The Deputy Bailiff:

The question is whether you will give it later.

Deputy S. Power:

Yes, Sir.

6.3 Deputy M.R. Higgins:

Will the Minister give his precise reasons why he broke his promise to the residents of Pomme d'or Farm Estate to redevelop their homes which they had been promised that £7 million would be spent on that development?

Deputy S. Power:

I think the Deputy is being a bit unkind to me in terms of breaking a promise. I gave an undertaking to the residents of Pomme d'or that we would carry out effective repairs to the cost of about £6.5 million in the summer of 2009. It was within 6 months of my being elected an Assistant Minister for Housing. As the Deputy will well know, circumstances changed dramatically, both for the Island and for the Housing Department in the intervening period. The most immediate effect

that happened to me subsequently as Minister was the fact that in the capital allocations for 2011, 2012 and 2013 the Minister for Treasury took £6.5 million of funds that had been allocated to the Housing Department. That essentially was the main effect. We prioritise repairs and refurbishments on a worst scenario basis. On that basis the proposed refurbishments which start next month at Clos Gosset has kept to schedule.

6.3.1 Deputy M.R. Higgins:

A supplementary. Can I just ask the Minister why he did not inform, for example, the Deputies in the area who were being reassured up to the meeting with the First Tower Community Association that this was taking place because we would have fought to have had that money put back into the business plan?

Deputy S. Power:

The withdrawal of the £6.5 million from the Housing Department's capital budget occurred at the end of September 2010. There was very little time for me to consider what my options were. In the end the only agreement I could come to with the Minister for Treasury was for us to be allowed to roll-up and roll-over our underspends, if any, in 2011-2012. That was occurring right through to the end of October.

The Deputy Bailiff:

The question, Minister, is why you did not advise the Deputies?

Deputy S. Power:

It did not seem to me that I had time to react to much more than anything else, like I just explained.

6.4 The Deputy of St. John:

Yesterday I received correspondence from within the Housing Department re. a query I was making on behalf of one of our housing tenants. I was surprised to see the size and the grants that were given to States tenants for moving. I am thinking of grants of £400 towards the move and X towards buying new carpets, et cetera. Is this pushed out across the entire States tenancy including the housing trusts which operate within the Island and also the private sector? I know it does not go in the private sector. How much in grants is this out of your budget annually?

Deputy S. Power:

First of all we do not support tenants of the housing trusts with regards to moving. The decision by the department to help and assist a tenant is normally a discretionary one. It is not rolled-out across everyone. Normally it tends to be people who are on income support. I can give the Deputy further and better particulars. I do not have those right now but I can assure the Deputy we do not roll it out across everyone. It is very much a discretionary decision on a recommendation by the officers.

6.4.1 The Deputy of St. John:

A supplementary. If it is discretionary, of your budget what percentage of your budget annually is spent in this way?

Deputy S. Power:

I cannot answer that but I am prepared to come back to the Deputy as to what proportion of our annual, weekly, monthly rollover budget on maintenance is part of that. I cannot answer that exactly today.

6.5 Deputy G.P. Southern:

I would like to welcome back the Minister after his prolonged absence and wonder what progress he has made with the Minister for Treasury and Resources or otherwise in promoting a new scheme for the delivery of States rental housing and affordable housing in the Island?

Deputy S. Power:

I thank the Deputy for his concerns. It was not that prolonged an absence. With the roll-out of social rented housing and more affordable housing, that is very much in the area of the Housing Transformation Programme as it is now rolled-out. Part of the provision within the Housing Transformation Programme, as the Deputy will know, is for us to be self-funding. We cannot really depend on Treasury any more. As I have just explained to Deputy Higgins, we have lost £6.5 million. There are no more capital allocations to Housing so our next tranche of funding will come from within the Housing Transformation Programme and afterwards.

6.6 Deputy M. Tadier:

Does the Minister agree that there is both a perceived problem and an actual problem with the amount of taxpayers' money that we use to subsidise private landlords through what is now the rent rebate scheme or the equivalent? If so, what are the Minister's plans to address this issue in coming years?

Deputy S. Power:

I thank the Deputy for his question. It is a very relevant question. I discussed this yesterday with the Assistant Minister. There is an issue with regard to rent subsidy and rent rebate in the private rental sector. It is something that has been going on. We estimate it runs in the region of £6 million a year. As we visit and as we do work towards housing transformation it is an area that will be addressed. It is a big issue.

6.7 Senator S.C. Ferguson:

Does the Minister not consider that the Homebuy scheme should be suspended while the scheme is amended following the Comptroller and Auditor General's report and pending the results of the Public Accounts Committee report?

Deputy S. Power:

I do not believe that anything that has been examined to date on the Homebuy scheme has shown it to be in default of what it was set up to do. The Comptroller and Auditor General made no reference to the sizes of deposits. The Comptroller and Auditor General made no reference to share-transfer of flying freehold properties. There is no new product on Homebuy coming down the pipe at the moment. My own view is if it is not broken, do not fix it.

6.7.1 Senator S.C. Ferguson:

A supplementary. Originally we were promised that the details of the scheme will be brought back to the States. Why was it not brought back to the States and will the new one be brought back to the States?

Deputy S. Power:

It is up to the Minister for Planning and Environment to bring back supplementary planning guidance on Homebuy. It is up to the Minister for Planning and Environment to bring it back to the States. It is not up to the Minister for Housing. It is a Planning proposition.

6.8 Deputy J.A. Hilton:

Is the Minister able to tell the Assembly how the proposed development at Bellevue and Ann Court is coming along?

Deputy S. Power:

I find that a fairly easy question. The development of Ann Court is not coming along because the Housing Department was persuaded to play its part in the redevelopment of the North St. Helier Master Plan and allow Ann Court to be used for the T.T.S. (Transport and Technical Services) shaft

scheme and for parking for the next 2 to 3 years. The Bellevue scheme is currently under negotiation and as yet there is little progress.

6.9 Deputy A.K.F. Green:

If I could take the Minister back to Pomme d'or Farm, having visited Pomme d'or Farm last night, would the Minister agree 2 things; that the condition we ask some of our residents to live in is disgraceful and appalling and, secondly, that some of this is due to lack of maintenance and what does the Minister intend to do about it?

Deputy S. Power:

Deputy Green will be aware that both Senator Le Main, as my predecessor, and myself have inherited a £75 million backlog of maintenance that was not done in the preceding years. We are now getting on top of it. We have reduced it from £75 million to £46 million. Pomme d'or Farm is overdue for repair. It has not been done in 33 years but it is not the worst one. But I can assure the Deputy and the Deputies of St. Helier No. 3 and 4, it is high on our agenda. We are going to do the windows this year and the rest of it will be done when and if we have funds.

6.10 The Deputy of St. Mary:

That leads nicely on to my question which was the Minister for Housing lost £6 million at the end of 2009 to the Minister for Treasury and Resources for Health, he had a £75 million backlog in maintenance which he says he has now cut to £46 million, will the Minister tell the House briefly how those things arose and can he assure this House that it will not happen again this constant leeching of the money away from housing?

Deputy S. Power:

Within the parameters of answering questions without notice it would be impossible for me to explain how the department ended up in this situation between 1992 and 2008. Suffice to say that it is all related to the formation of the housing trusts and the fact that the Housing Department is committed to return £23 million a year to Treasury. I will give the Deputy a definitive answer.

6.11 Deputy J.M. Maçon of St. Saviour:

The question I wanted to ask has been answered. I look forward, as the residents do, to the refurbishment of Clos Gosset.

6.12 Deputy D.J. De Sousa:

Thank you. I thought you indicated there would not be time for me. With Pomme d'or Farm in mind and the conditions that people are living there, several of us met with yourself there and the residents yesterday evening. They have been told that they will have a certain amount of work done on their property. What guarantees can the Minister give to those residents that once that work is done if more money comes into the pot that they will continue to improve those properties and not put it on to another property that they deem more urgent because the others have been patched-up with a plaster?

[14:30]

Deputy S. Power:

I will assure the Deputy that the 4 projects of highest priority within the Housing Department are in order: Clos Gosset in St. Saviour, La Collette high rise, Jardins des Carreaux in St. Helier No. 3 and Pomme d'or Farm. Those 4 are absolutely high priority and they will be done as soon as possible. That is my undertaking to the St. Helier Deputies.

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

I did not think you were going to get to me today. The Minister will recall that for a number of years the Parish of St. Lawrence was in discussion with the Housing Department about the

purchase of the St. Lawrence Arsenal. The discussions have been concluded and the Parish no longer wishes to buy the arsenal. I believe during that time very minimum maintenance was carried out on the building. I wonder if the Minister would be able to tell me where the maintenance and repairs due on the St. Lawrence Arsenal stand in his list of priorities. I think the work has been neglected because of the discussions and I feel that the residents have suffered because of that.

Deputy S. Power:

I thank the Constable for her question and I would like to clarify the status of St. Lawrence Arsenal. A number of units in the arsenal were left void because the Parish of St. Lawrence had given us an indication that they wanted to buy the arsenal. As that is no longer the case we have now commenced discussions with the Planning Department because the building is a site of special interest. We will be proceeding with a budget and a plan to upgrade St. Lawrence Arsenal as soon as possible.

The Deputy Bailiff:

Minister, that brings your question time allocation to an end.

Deputy G.P. Southern:

On a procedural matter, may I ask the Minister to circulate widely to Members his answer that he said he would give to Deputy Higgins?

The Deputy Bailiff:

We now come to questions of the Minister for Economic Development.

The Deputy of St. Martin:

Before the adjournment I did ask if the Chief Minister could circulate the statement that he was going to make and it would be on Members desks at 2.15 p.m. It is not on my desk. I do not know if other Members have had it. But if the Chief Minister has it, I would be grateful if it could be circulated.

Senator T.A. Le Sueur:

I gave the instructions and I see now that the statement is now being circulated. I thank the Deputy for reminding me what was required.

The Deputy Bailiff:

Very well. Question time in respect of the Minister for Economic Development will now start.

7. Questions to Ministers Without Notice - The Minister for Economic Development

7.1 Deputy R.G. Le Hérisier:

Could the Minister for Economic Development inform the House whether he has assessed the degree of expenditure that occurs at the harbours and airport; he has assessed the degree which goes towards the management of those 2 particular functions? Given that he probably has done this, could he say how it compares with comparable authorities?

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

Sorry, I got interrupted in that. Yes, indeed, a significant amount of work has been undertaken at both the harbour and the airport looking at not only the organisational structures but also the financial positions of both organisations. Reviews have been undertaken by organisations such as Deloitte. On the basis of that, comparative work has been done with relevant airports and ports for that matter around the U.K. There is continuing work in order to improve the performance. What I would say is that both ports, but particularly the airport, face significant challenges over the coming

years. There is a funding gap up to 2023 of £108 million. We are working hard to put in place provisions to reduce that. If we can deliver all the savings that are identified then that will reduce to somewhere around about £60 million.

7.1.1 Deputy R.G. Le Hérissier:

A supplementary. The question was about management costs. Could the Minister inform us if he has management costs as a percentage of expenditure for both jurisdictions?

Senator A.J.H. Maclean:

I am more than happy to give the Deputy more detailed information. I will happily circulate it to him. I do not have at my fingertips the exact percentages but if he and Members would be interested I am more than happy to circulate that.

7.2 Deputy M. Tadier:

Will the Minister confirm whether there have been any changes taking place to the free public WiFi access at the airports and, if so, what they are and if this also applies to Jersey Harbours?

Senator A.J.H. Maclean:

I believe that Jersey Telecom is going to be installing a system there at the airport which will be available for passengers who are moving through the airport.

7.2.1 Deputy M. Tadier:

A supplementary. My understanding - and I appreciate the Minister may not have the full details - was that up until now there has been free public access but it seems to me that this has either been stopped or requires some kind of registration process. Maybe if the Minister can provide details because I think that is a value-added service which has been operating up until now for both tourists and residents and it would be a shame to lose that.

Senator A.J.H. Maclean:

Indeed.

7.3 Senator F. du H. Le Gresley:

Would the Minister agree with me that for the last 25 years the Jersey Business Venture has been providing a very important service to small businesses and budding entrepreneurs and that they offer excellent value for money for their grant of £130,000 from his department?

Senator A.J.H. Maclean:

I do agree entirely with the Senator. What I can tell Members is that there have been discussions ongoing for some considerable time between my department and Jersey Business Venture with a view to the way in which we deliver support and services to the business community. There is every possibility that both Jersey Business Venture and Jersey Enterprise will enter into a joint facility which will be more cost effective and deliver, I believe - and I believe the board of Jersey Business Venture believe as indeed my department does - a far better and more rounded service at a more cost effective rate to local businesses.

7.3.1 Senator F. du H. Le Gresley:

A supplementary, very quickly. Would the Minister, therefore, confirm that it is not his intention to wind-up the Jersey Business Venture?

Senator A.J.H. Maclean:

That is not what I was saying. What I was saying was that discussions have been ongoing - constructive discussions - and it is my understanding the board of Jersey Business Venture and officers from my department are close to an agreement where the 2 entities will effectively merge

and deliver services from one single point which I believe will be to the interest and benefit of local businesses.

7.4 Deputy P.V.F. Le Claire:

Could the Minister confirm or deny that the master of the Duke of Normandy has tendered his registration and the current master has no residential qualifications?

Senator A.J.H. Maclean:

I can confirm that the master has tendered his resignation and currently there is a contract relief master in charge of the vessel and the position is being reviewed on an ongoing basis while a recruitment process is undertaken in order to find a full-time and permanent replacement.

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

Could the Minister confirm whether or not any decision has been made in respect of our much valued lifeguard service? In particular, will he guarantee that the level of individual experience offered by any new provider will be the same as that already enjoyed by our many beach users?

Senator A.J.H. Maclean:

I can already sense the good news of the Deputy moving to the other side of the House. Yes, first of all I have stated on several occasions so far this year that the beach lifeguard service, highly valued as it is, is under review. It is a review. It is nothing more than that. We are considering and are in discussion with organisations such as the R.N.L.I. (Royal National Lifeboat Institution) in order to deliver if they were selected or whoever is selected to run the service. It could well remain as it is but if it happens to be the R.N.L.I. or anybody else, that an equivalent level of service will be delivered to ensure the safety of members of the public on our beaches. Safety is of paramount importance. It will remain this case. I have been surprised by the comments in the media about the R.N.L.I. Members might be interested to know they cover 147 or more beaches in the U.K. They are an extremely professional organisation and, as I say, ongoing discussions with them about possibly providing a service but it will be an excellent service that will be maintained on the beaches at a similar level to is currently the case.

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

Would the Minister please update us on where we are with the Sea Routes Green Paper and the results and where we are going to go, the timescale of making the improvements that we are all seeking to achieve and the safety obviously?

Senator A.J.H. Maclean:

Yes, indeed. The consultation has concluded as the Deputy knows. We have sought Condor's response to the issues raised in the Green Paper. We are in discussions with Guernsey who the consultation was jointly held with. I have a political meeting which is being drafted for next month, February, with Guernsey in that matter. I intend to come to the Assembly so that Members can have the benefit of a statement as to the position when it is clarified following those discussions.

7.7 Deputy D.J. De Sousa:

My original question was asked by my colleague, Deputy Le Fondré, but I will ask a question about Jersey Business Venture. Can the Minister assure me that the people that are employed at Jersey Business Venture will not be made redundant; that jobs will be found for them within Jersey Enterprise if the 2 are going to join? They have a wealth of experience and knowledge. It would be a shame for them to be made redundant.

Senator A.J.H. Maclean:

There is no intention to look to redundancy with regard to staff of Jersey Business Venture. Indeed it will be up to them to decide whether or not if indeed the 2 entities do merge they want to come across. But I do agree with the Deputy there is a wealth of experience there. The Jersey Business Venture has built up over the years a very good reputation. I think if the merger were to go ahead it would add significantly to the delivery of support for local businesses.

7.8 Deputy G.P. Southern:

In the light of ever-increasing unemployment figures, can the Minister point to any sector of the economy where recovery has been established and jobs are being created?

Senator A.J.H. Maclean:

Indeed. I can point in the latest figures the agricultural sectors saw the G.V.A. (Gross Value Added) increase. It was the one sector that interestingly did buck the trend, as the Deputy said. Indeed jobs as well are being created in that particular area. But it is not the only one. There are other areas of the economy which are beginning to show signs. The latest business tendency survey that came out, looking forward 3 months, showed increased confidence in the financial services industry which is an encouraging sign. I hope we can see it permeating out into other areas of the economy as the year progresses.

7.8.1 Deputy G.P. Southern:

If I may a supplementary. Does he recommend then that civil servants sacked over the coming 2 years take up jobs in agriculture?

Senator A.J.H. Maclean:

I barely think that is a question worth answering. There is a level of change required in the public sector. The Deputy should be well aware of that. This is not unique to Jersey what we are seeing at the moment. We do need to ensure that we provide the best quality, best value services we possibly can and that will unfortunately, in the future, require change.

7.9 Deputy A.K.F. Green:

I just wonder if the Minister could explain to the Assembly his plans to change legislation or regulations which will allow U.K. and Jersey companies to merge and whether this is likely to have an effect on our income in terms of taxation?

Senator A.J.H. Maclean:

Yes, the proposal effectively is another tool for the financial services industry. It allows the opportunity for more financial services businesses to be driven by the mergers which currently are not allowed under the legislation. It is an improvement effectively in the companies' law. We have one of the most modern companies law, as the Deputy I am sure is aware, but we do need to continue to update it. This is merely an updating process to ensure we are competitive with other jurisdictions.

7.9.1 Deputy A.K.F. Green:

Is the Minister saying that this regulation will apply only to the financial services industry or will it apply to retail and other similar services?

Senator A.J.H. Maclean:

No, I am not. It will apply elsewhere. But what I was pointing out to the Deputy was the fact he asked the question about tax revenues. The greatest financial return is likely to come from that sector, hence, my focus if you like on that particular point.

7.10 Deputy M.R. Higgins:

Following on from Deputy Le Hérissier's earlier question on airport costs, does the Minister think that it is appropriate for the management of the airport to host and fund a dinner at the Radisson Hotel on, I believe, the 28th January, to thank those responsible for bringing in the new traffic control centre when they were, first of all, just doing their job and, secondly, air traffic control assistants are going to be made redundant by it? Secondly, can he tell us what the cost of this function is going to be?

Senator A.J.H. Maclean:

In reverse order, with regard to the cost the detail of the cost fell within budget. I have not got the exact detail but I am more than happy to let the Deputy have that detail if he wishes. Do I think indeed that a dinner should have occurred? Yes, I do. I think those that were involved in delivering that project deserve to be rewarded and it was absolutely right they were recognised for doing the good work that they did. I would point out that the airport has a significant amount of challenges ahead with regard to its finances running into tens of millions of pounds. I pointed out earlier on a funding shortfall for 2023 of £108 million. I really feel the Deputy is in the weeds if he is worrying about a few hundred pounds.

7.10.1 Deputy M.R. Higgins:

A supplementary. Following on, first of all, a number of the air traffic controllers were paid £500 a day additional to their salaries to come in for training. That happened on more than one occasion. He still has not answered the question is it appropriate when they are making air traffic control assistants redundant? Is that a slap in the face for them as well?

[14:45]

Senator A.J.H. Maclean:

No, it is not. It is an entirely different matter. As far as I am concerned this is rewarding those that were involved in a very important project, that delivered this important project and they delivered it in a way that, I think, the whole Assembly should be proud of. We are by delivering that project maintaining an income stream for the C.I.C.Z. (Channel Islands Control Zone), the control zone. We get around about £5 million a year for that. It is absolutely right and proper these people were rewarded in the way that they were. It was a buffet affair. It was not of significant cost and I really think it is not worthy of discussion any further.

7.11 The Deputy of St. John:

I am astounded at what I have just heard. Sea routes. Given the current operator has been giving a very poor service on the north and south sea routes over recent months with engine failures and other problems, which seem to go on for ever, and the general public are getting really tired of the entire problems which we had - this is a repetition of what happened a number of years ago when we put the entire route out to tender - is it the Minister for Economic Development's intention when the route comes up for review to put the route out to tender for the north and on the south route to have more than one operator tendering?

Senator A.J.H. Maclean:

There is no decision taken on that particular point yet. The tender if it were to happen relates to the period at the end of 2013. December 2013 is when the contract comes up. Clearly there will be a lead-back before that. So it is a little bit early to be saying what we are intending to do. That is an option that could be considered, however, we would do that in conjunction with Guernsey who we undertook the consultation with. I am disappointed. I am as disappointed as the Deputy with the service that was delivered last summer. Condor had a lot of difficulties. Prior to that, following the purchase by Macquarie of the Condor business, I had seen - and I think the public had seen - a significant improvement. I hope we are going to see a return to that level of service during the course of this summer.

7.11.1 The Deputy of St. John:

A supplementary. Given that the Minister mentions working with Guernsey. Given the previous time we worked with Guernsey on that route on that tendering process, both Islands agreed to have a different operator and Guernsey reneged on that deal so we finished up with the operators we have today, should the Island not be doing its own thing, Minister, and making sure the people of Jersey are looked after not the people from other Islands?

Senator A.J.H. Maclean:

The people of Jersey will be looked after. It is certainly my intention that although we work with Guernsey, we do not forget that we have a far greater interest, for example, in the southern route than perhaps Guernsey does. But it is absolutely right that we have discussions with them at the moment. The consultation jointly held with Guernsey was the right thing to do. It was interesting looking at the consultation results. I will pick on one which is relating to fares. Two-thirds of Guernsey respondents were satisfied with fares; two-thirds of Jersey respondents were not. By using that illustration I agree with the Deputy. Yes, we must look after the interests of residents of Jersey and we will do.

The Deputy Bailiff:

I am afraid the time for questions without notice has now reached its 15 minutes for the second session or just over that and time is now up. We come to matters under J. There is a personal statement to be made by Deputy Le Fondré.

PERSONAL STATEMENTS

8. Personal Statement by Deputy J.A.N. Le Fondré on his removal as Assistant Minister

8.1 Deputy J.A.N. Le Fondré:

I think this statement is going to be circulated. I am making this statement concerning my removal as an Assistant Minister. It was an honour to be elected by the parishioners of St. Lawrence to represent them in this Assembly. I have always tried to stick to my electoral commitments and responsibilities to them and to act with the integrity they would expect from someone of my professional background. I would like to thank Senator Le Sueur and the former Senator Walker for the opportunities of working with them and I have enjoyed working under their leadership. I also express my thanks for the offer of a post as an additional Assistant Minister to Planning and Environment which I have chosen to decline. My primary role in Treasury over the last 5 years was for States property. I have worked closely with the professionals in the department and consider that I have contributed significantly to its role. I am obviously disappointed at the turn of events that has resulted in my removal from that post in the last few days. However, I do not wish to dwell on that as an issue. Despite some negative media comment, of which Members may be aware, I have been very impressed with the overall level of professionalism and performance in the Property team. The results they have achieved are significant, particularly under what can at times be quite trying circumstances. Prior to my appointment, the estate had been allowed to deteriorate through lack of investment. The estate was not statutorily compliant and 3 years ago less than 50 per cent of the requisite tests and inspections required to comply with our own laws were being carried out. Now it is approaching 90 per cent. It is critical to have a proper base of information from which to operate the estate and that is now in place. The first full property valuation was delivered in 2008 and a further interim valuation was completed this month. Equally a condition survey that was completed in 2008 identified over £125 million of backlog works which need to be done. None of this generates headlines, does not win votes but is necessary and in the interest of the public that we represent. All of this we delivered in the context of a 37 per cent cut in the base budget of the department. Other achievements I have delivered during my time of a very wide remit include roughly £12 million to £13 million worth of disposals and there are some sizeable

disposals in the pipeline. The estate is now statutorily compliant. The new dairy opened last year at Howard Davis Farm. Securing this site has been an intricate jigsaw involving a number of different parties often with mutually exclusive views. I brought to this Assembly 3 changes to the law in order to achieve the result that we now have. I know this is of significant benefit to this Island. I have obtained the support of the T.B. Davis family and have rejuvenated our links with them. I will just pause a minute. As part of these achievements, issues surrounding the J.S.P.C.A. (Jersey Society for Prevention of Cruelty to Animals) Pet Cremator and the Acorn site have been resolved with the latter benefiting from an investment of more than £1 million in their facilities as a result. There are numerous other examples of completed projects but I will just cite the refurbishment of the Central Market roof and also, oddly enough, the new airport control tower which was both designed and project managed by parts of the department. In the last 2 years alone I have closely considered and signed over 200 Ministerial Decisions. Again in the last 2 years with the assistance of Deputy Pryke and her team at Health, we have commenced the establishment of a strategy for the health portfolio. I am responsible for at least one property initiative that I hope will be emerging from that area in the next few months. It has the potential to save several hundreds of thousands of pounds per annum. More significant schemes in that same area are presently progressing which should generate desperately needed funds for that department to replace hugely outmoded facilities with hopefully no requirement to provide any further States funds. The J.C.G. (Jersey College for Girls) site has been another complicated jigsaw. I know there has been some public comment as to what is happening there but often commercial confidentiality dictates what can and cannot be said. Good progress has been made. The move of Centre Point to share the facilities with the St. Helier Community Centre at La Pouquelaye has added significant development value to the site. It is roughly 60 per cent bigger than the previous scheme as a result. The 18 months of negotiation were finalised in February 2010. Initial planning proposals were presented to the Minister for Planning and Environment in October for an exciting scheme which has the potential to stimulate regeneration in the area. He has made some recommendations and I would hope that we will see a formal planning application in April or May this year with a view to then selling the site once planning permission has been obtained. I do need to touch on the office strategy which has absorbed a significant amount of my time over the last year. This matter has been hugely frustrating for both myself and the department. However, the initial phase was at the time of my removal close to being capable of implementation as has previously been reported. It offers the first step of achieving significant savings that exist in the property portfolio. I will not dwell too much on the details as it is still under review but it unlocks a scheme that has been stalled for 10 years, delivers annual savings of between £600,000 and £700,000 per year, avoids many millions of pounds of costs that we will otherwise have to spend on existing building and does not require any additional funding from existing cash resources. It starts to reduce the estate, provides space and of course reductions for a number of other departments while applying the principles that I think Members have long awaited in terms of new office accommodation, spatial standards and the associated cost savings and cultural changes that arise. The political direction of Property Holdings is not an easy job and requires an understanding of a number of technical and legal issues that can arise from even the most apparently straightforward situation. I consider that I have brought the requisite skills and clarity to the decisions I have made and the negotiations I have been involved in. I have no problem with criticism and where it has arisen I have always tried to examine the circumstances in an objective manner. To assume one gets everything right all of the time would in my view hint at a certain level of arrogance and I have always tried to recognise and learn from my mistakes. But I will ask that before Members leap to any conclusion on something that they speak to the department and get the facts direct from them first. As with many issues sometimes all is not what it seems at first glance. The recent report of the Comptroller and Auditor General into the disposal of States property assets is very positive in respect of Property Holdings. It effectively endorses the role of the department and the method in which it operates. What it also recommends is that the arrangements for the central oversight of States property transactions should be reinforced. When dealing with property that is potentially worth many millions of

pounds it is critical that there is robust, objective and transparent oversight handled by experienced professionals tasked to do that job by this Assembly. That is not an excuse for delay, prevarication or second guessing. But let us learn from the past. Much time is spent unravelling issues from previous less well thought through decisions and trying to ensure that those same mistakes are not repeated in the future. Failure to require robust financial analysis of such transactions is failing ourselves and failing the wider public. Before concluding I do want to make direct reference to the team in Property Holdings. I have built a strong relationship with them over the past 5 years. I commend their professionalism and dedication to the roles that they perform. It has been a privilege to work with the officers and with the former and current heads of that department. However, I do wish to pay particular tribute to the present director of Property Holdings. In my opinion he is a most professional and objective individual by whom the Island is exceptionally well served. His experience is significant and his dedication is exemplary. He is committed to driving change often against the odds. While not everyone will agree with everything that has been done, I trust that Members do recognise that the Director of Property Holdings has a level of professionalism and property knowledge that is second to none. I thank him for his support during my term **[Approbation]**. I wish to thank colleagues and the other individuals who have provided both advice and support during my time as an Assistant Minister and also more recently. Finally, it just leaves me to wish the new Assistant Minister- the Connétable of St. Peter - well in his new role. I consider he has a significant and experienced team within the Department of Property Holdings and I trust he will come in with an open mind, will get involved, will listen and will learn from them in the same way that I have done in the limited time remaining. Thank you. **[Approbation]**

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

9. Statement by the Chief Minister statement regarding the Order of Justice put forward by Mr. S. Syvret

The Deputy Bailiff:

The Chief Minister will make a statement regarding the Order of Justice put forward by Mr. Syvret.

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

As Members may be aware proceedings have been commenced in the Royal Court by Mr. Stuart Syvret against a number of parties arising out of the dismissal of Mr. Syvret while a Member of the States of Jersey from the office of Minister for Health and Social Services. I, among others, am named as a defendant in Mr. Syvret's proceedings in my capacity as Chief Minister, as is the States Employment Board of which I am Chairman. Those proceedings also seek to name the States of Jersey as a party, alleging that the States of Jersey was at fault. In respect of a pleaded case against the States of Jersey it is alleged that (a) the Council of Ministers obstructed Mr. Syvret in the course of his Ministerial duties and joined a criminal conspiracy to have him removed as Minister; and (b) the States of Jersey as a whole did not protect Mr. Syvret by failing to introduce relevant safeguards to protect him from the alleged criminal conspiracy. The claim is made against the Assembly as a whole and no claim is made against individual Members at this stage. It is possible that the claim might be amended so as to name individual Ministers rather than the States of Jersey, given the nature of the allegations made. In that event each Minister would be sued as a corporation sole.

[15:00]

Advice has been taken from the Solicitor General who has advised that the case against all of the named defendants should be struck out and proceed no further. He also advises, in particular, that the case against the States of Jersey is misconceived and that the States of Jersey should not be a party to the proceedings and it would not be appropriate for the proceedings against the States of Jersey to continue. A hearing before the Royal Court will take place tomorrow in which the court

will be asked to give directions for the further conduct of the proceedings and the timing of a hearing of an application to strike the proceedings out. In the light of the unambiguous legal advice received from the Solicitor General I have, through the Greffier of the States, instructed the Solicitor General to make an application to strike out the proceedings as against the States of Jersey as well as against me as Chief Minister and against the States Employment Board. I understand that the other named defendants have similarly instructed the Solicitor General who will accordingly make such an application on behalf of all named defendants. The ability to strike out proceedings is a mechanism to enable the early stopping of proceedings which have no real legal prospect of success. It is a decision generally taken on the documentation before the court and is only ordered in plain and obvious cases. I am advised by the Solicitor General that this is such a case. If the court orders the case to be struck out as against the States of Jersey then, subject to any rights of appeal, as far as the States of Jersey is concerned the litigation will be at an end. I am advising Members at this time of the steps that I have taken. I have notified the Chairman of the Privileges and Procedures Committee of the position and I will consult with and keep the Chairman of the Privileges and Procedures Committee apprised of any developments.

The Deputy Bailiff:

In accordance with Standing Orders, do any Members have questions to put to the Chief Minister? Very well, no questions. We now come on to Public Business.

PUBLIC BUSINESS

10. Proposition to alter the order of debate

10.1 Senator F.E. Cohen:

Before we commence with other matters, is this an appropriate time to raise whether I can request leave of the House to debate P.198, Composition of the States: reduction in number of Senators - referendum)?

The Deputy Bailiff:

Yes, that has been added to the agenda in accordance with the Standing Orders. There is nothing preventing you from seeking to have it taken first. At which point do you wish to have it taken? Is this after the Canons of the Church of England in Jersey?

Senator F.E. Cohen:

Yes, Sir.

The Deputy Bailiff:

Is that proposition seconded? Are Members content to move the debate on P.198 so that it takes place immediately after the debate on P.179, the Canons of the Church of England?

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

We have not even decided whether we are going to have the debate yet.

The Deputy Bailiff:

I am not sure what that means. It is on the agenda, Deputy. Very well. The appel is called for. I invite Members to return to their seats. The vote is on whether to take P.198 immediately after P.179 so that it would be debated, as I say, immediately after P.179. If all Members have had the opportunity ...

10.3 The Connétable of St. Mary:

Sir, I just wonder could you clarify. I think Deputy Martin has raised a point. Do we not have to agree to take it as it was not listed on the last Order Paper, Sir?

The Deputy Bailiff:

One moment, sorry. Chairman, Deputy Martin, I apologise. Thank you for pointing that out to me. Standing Order 32 requires that a Member of the States who wishes to propose during the meeting that the States debate a proposition must give notice and the States, therefore, should be invited to agree that we do indeed debate it. Do you wish to speak, Senator Cohen, on that?

10.4 Senator F.E. Cohen:

Sir, I think that the points have been made quite clearly in my comments. My view is that the current proposals are undemocratic, that reform of this type should go to the electorate, that we are fundamentally changing ancient principles.

The Deputy Bailiff:

We are only having a discussion as to whether it is debated.

Senator F.E. Cohen:

Yes, and I think it is important that it should be debated. If it is not debated then clearly we do not have the opportunity of considering those important issues.

The Deputy Bailiff:

Does any Member wish to speak on whether to debate it today? The proposition has been seconded I think.

10.5 Deputy R.G. Le Hérissier:

My only point is we have got other propositions that address the issue of referendum. We are going to make total fools of ourselves. The sooner this is dropped by the Senator, the better [Approval].

The Deputy Bailiff:

That is not on whether to debate it today. I am not going to permit Members to address the merits of this issue. The only question is whether or not is to be debated.

10.6 The Deputy of St. Mary:

Yes, I will indeed stick exactly to that. If a Member brings a proposition and in this case he brought it at the end of December, it is really almost like a technical point that it was not on the Order Paper of the last sitting. The fact is he brought it in good faith, it is an important issue and to deny someone - even a Minister - the right to bring a proposition and have it discussed by this House ... we can throw it out. We can say it is a load of tosh as some people think or we can have other views on it. But I think we are in danger of doing exactly what Deputy Le Hérissier said in denying someone the right to bring this. He cannot bring it later because of course P.176, if we were to agree that, would obviously make P.198 redundant. So if we want to uphold the tradition of debating things that people bring to this House then for goodness sake we have to allow this to be debated.

The Deputy Bailiff:

Deputy, if I may say so, and to Deputy Le Hérissier, it does seem to me to be clear that if P.198 is to be taken today then P.2 should also be taken today and presumably immediately after P.198.

10.7 Deputy T.M. Pitman:

I just want to echo Deputy Le Hérissier in saying really if we want to keep up the good history of complete and utter shambles then we should hear this today because obviously Standing Orders mean absolutely nothing. I do not think we should hear it today. The Minister is hardly an oppressed Member of the States. He has ample time. Really we should not be wasting time with

this just because someone thinks they might come in the top 6 but not the top 4. Vested interest should be put aside.

Senator F.E. Cohen:

That is unfair and it should be withdrawn.

The Deputy Bailiff:

Chairman, do you wish to say anything?

10.8 The Connétable of St. Mary:

Sorry, Sir, I would just like to point out - it has been mentioned twice by speakers - Senator Cohen has brought this proposition in his own name. I think it is completely misleading of Members to refer to it as a Ministerial proposition. Sir, this is in his own private name.

The Deputy of St. Mary:

I did not mean that he was bringing it in his role as a Minister. I was pointing out that he was a Minister and even Ministers are Members of the House and have rights to bring propositions.

The Deputy Bailiff:

I call on Deputy Martin and then the Deputy of St. John and then I will not invite any other Member to speak. We are going to decide.

10.9 Deputy J.A. Martin:

Sorry, Sir, and thank you for revisiting Standing Orders to see exactly where we are and just to point out that we are not just agreeing to Senator Cohen's, we are also - and they have not asked us - as you say yourself, Sir, to debate P.2 and put everything out of order that is what was lodged on the first week in December last year. I think I am well within my rights to not vote for this and not to discuss it today and not to put all the other business before the things that I have been preparing to speak on for the last how many weeks? At least 6 weeks. I am very sorry, I see the proposition can be brought at any time as it seems to appear that anybody can do anything to rescind decisions in this Parliament.

10.10 The Deputy of St. John:

In the order of good government, Sir, could we go to the vote on Standing Orders?

The Deputy Bailiff:

The appel was called for earlier. I take it that is still maintained. I invite Members to return to their seats if they have not done so already. The vote is on whether to take P.198 immediately after P.179. I ask the Greffier to open the voting.

10.11 Deputy M. Tadier:

I intend to vote to take it today but not to move the order. Can we have 2 separate votes because, as I said, I would like this to be ... I think that is a valid position. I think it is important that democratically it is taken today but I do not want it to be out of order because, as Deputy Martin has said, people have prepared and they have got speeches which they have anticipated. Now they may not have had time to write a speech for Senator Cohen's, either to support it or not to support it. I think it is important that the order is kept but, in my opinion, that it does get debated.

The Deputy Bailiff:

There is nothing preventing the proposition being put after this vote has been taken to debate it at some different point in the Order Paper. That would not be a rescinded motion. The proposition is to take P.198 immediately after the Canons of the Church of England. That is the proposition which I understood Senator Cohen to have made.

Senator F.E. Cohen:

Sir, I think I misrepresented what I wish to do. I really only wish to seek leave of the Assembly to debate P.198. We then in error moved on to the principle of moving it forward. I am perfectly happy to debate P.198 at any time, Sir.

The Deputy Bailiff:

Very well, thank you. The proposition in that form is put to Members. The vote is on whether to debate at this sitting P.198. At this sitting. I ask the Greffier to open the voting.

| POUR: 40 | | CONTRE: 8 | | ABSTAIN: 1 |
|-----------------------------|--|--------------------------|--|--------------------------|
| Senator T.A. Le Sueur | | Connétable of St. Mary | | Deputy D.J. De Sousa (H) |
| Senator P.F.C. Ozouf | | Deputy J.A. Martin (H) | | |
| Senator T.J. Le Main | | Deputy G.P. Southern (H) | | |
| Senator B.E. Shenton | | Deputy S. Pitman (H) | | |
| Senator F.E. Cohen | | Deputy T.M. Pitman (H) | | |
| Senator J.L. Perchard | | Deputy M.R. Higgins (H) | | |
| Senator A. Breckon | | Deputy A.K.F. Green (H) | | |
| Senator S.C. Ferguson | | Deputy J.M. Maçon (S) | | |
| Senator A.J.H. Maclean | | | | |
| Senator B.I. Le Marquand | | | | |
| Senator F. du H. Le Gresley | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. Helier | | | | |
| Connétable of Trinity | | | | |
| Connétable of Grouville | | | | |
| Connétable of St. Brelade | | | | |
| Connétable of St. John | | | | |
| Connétable of St. Saviour | | | | |
| Connétable of St. Clement | | | | |
| Connétable of St. Peter | | | | |
| Connétable of St. Lawrence | | | | |
| Deputy R.C. Duhamel (S) | | | | |

| | | | | |
|-------------------------------|--|--|--|--|
| Deputy of St. Martin | | | | |
| Deputy R.G. Le Hérisssier (S) | | | | |
| Deputy J.B. Fox (H) | | | | |
| Deputy of St. Ouen | | | | |
| Deputy J.A. Hilton (H) | | | | |
| Deputy P.V.F. Le Claire (H) | | | | |
| Deputy J.A.N. Le Fondré (L) | | | | |
| Deputy of Trinity | | | | |
| Deputy S.S.P.A. Power (B) | | | | |
| Deputy K.C. Lewis (S) | | | | |
| Deputy I.J. Gorst (C) | | | | |
| Deputy of St. John | | | | |
| Deputy M. Tadier (B) | | | | |
| Deputy A.E. Jeune (B) | | | | |
| Deputy of St. Mary | | | | |
| Deputy A.T. Dupré (C) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy T.A. Vallois (S) | | | | |

10.12 Deputy E.J. Noel of St. Lawrence:

Sir, if I may ask Members if I can take my P.2 at this sitting but I would like to move it above the Order Paper to come just before P.176 because what I am asking is for Members to back an amendment of mine to P.176?

The Deputy Bailiff:

From past experience we will take that in 2 bites. The first proposition is to take P.2 at this session. Members in favour, please show. Those against? The appel is called for. I ask the Greffier to open the voting.

| POUR: 37 | | CONTRE: 12 | | ABSTAIN: 0 |
|-----------------------|--|-----------------------------|--|-------------------|
| Senator T.A. Le Sueur | | Senator F. du H. Le Gresley | | |
| Senator P.F.C. Ozouf | | Connétable of Trinity | | |
| Senator T.J. Le Main | | Connétable of St. John | | |

| | | | | |
|-----------------------------|--|--------------------------|--|--|
| Senator B.E. Shenton | | Connétable of St. Mary | | |
| Senator F.E. Cohen | | Deputy J.A. Martin (H) | | |
| Senator J.L. Perchard | | Deputy G.P. Southern (H) | | |
| Senator A. Breckon | | Deputy S. Pitman (H) | | |
| Senator S.C. Ferguson | | Deputy T.M. Pitman (H) | | |
| Senator A.J.H. Maclean | | Deputy M.R. Higgins (H) | | |
| Senator B.I. Le Marquand | | Deputy A.K.F. Green (H) | | |
| Connétable of St. Ouen | | Deputy D.J. De Sousa (H) | | |
| Connétable of St. Helier | | Deputy J.M. Maçon (S) | | |
| Connétable of Grouville | | | | |
| Connétable of St. Brelade | | | | |
| Connétable of St. Saviour | | | | |
| Connétable of St. Clement | | | | |
| Connétable of St. Peter | | | | |
| Connétable of St. Lawrence | | | | |
| Deputy R.C. Duhamel (S) | | | | |
| Deputy of St. Martin | | | | |
| Deputy R.G. Le Hérisier (S) | | | | |
| Deputy J.B. Fox (H) | | | | |
| Deputy of St. Ouen | | | | |
| Deputy J.A. Hilton (H) | | | | |
| Deputy P.V.F. Le Claire (H) | | | | |
| Deputy J.A.N. Le Fondré (L) | | | | |
| Deputy of Trinity | | | | |
| Deputy S.S.P.A. Power (B) | | | | |
| Deputy K.C. Lewis (S) | | | | |
| Deputy I.J. Gorst (C) | | | | |
| Deputy of St. John | | | | |

| | | | | |
|-------------------------|--|--|--|--|
| Deputy M. Tadier (B) | | | | |
| Deputy A.E. Jeune (B) | | | | |
| Deputy of St. Mary | | | | |
| Deputy A.T. Dupré (C) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy T.A. Vallois (S) | | | | |

The Deputy Bailiff:

The order of taking the debate is on the Consolidated Order Paper. Unless there is any proposition to move the order of debate, we will then turn straight away to the first item which is P.176.

Deputy E.J. Noel:

Sir, I did request that my P.2 could be debated before P.176.

The Deputy Bailiff:

Is the proposition seconded? It does not seem to be seconded. Deputy Tadier, it is seconded. **[Seconded]** Chairman, do you wish to say anything?

10.13 The Connétable of St. Mary:

It is just that if the Assembly is going to vote to change the order if it does take the order, I think it would be from an administrative point of view much better if we had the debate on this at some distance before P.176 because there could be a large number of resulting changes to P.176. We would then be able to hopefully salvage some semblance of order from what could otherwise be chaos. I make the observation, Sir, because we just had chaos in voting whether to take it or not.

The Deputy Bailiff:

Given that we are now taking both P.2 and Senator Cohen's proposition, P.198, at this sitting, would it be convenient, Chairman, to take both items at any particular point in the agenda as far as you are concerned?

The Connétable of St. Mary:

From my point of view, Sir, if we are going to change the order at all I would prefer to see them immediately after the Canons.

The Deputy Bailiff:

Do you wish to make that proposition? Deputy Noel, would you wish to make that proposition?

[15:15]

Deputy E.J. Noel:

Sir, all I wish is that for P.2 to be taken at some point before P.176. I leave it up to the House to decide.

Senator F.E. Cohen:

Sir, sorry to confuse matters but Members have expressed a clear wish to have some time to prepare for P.198. Therefore, I would like P.198 before P.176 but not much before.

10.14 Deputy P.V.F. Le Claire:

Sir, may I ...

The Deputy Bailiff:

No, you may not. Deputy.

Deputy P.V.F. Le Claire:

I was going to ask if I could seek your direction. Obviously on the Order Paper today we have a number of items and amendments that need the States to agree to taking because of the fact that they need to be in accordance with Standing Order 32. Would it not just be more sensible or has it already occurred and I have missed it for us to agree that all of them are going to be taken and then we can decide which order they are going to be in?

The Deputy Bailiff:

We have already decided. We are going to take certainly P.2 and Senator Cohen's proposition, P.198, at this sitting. At the moment they are on the agenda in the order in which they appear. There is a proposition from Deputy Martin to move the debate on P.2. You must I think say, Deputy Martin, where you want it to go to. Is it immediately before P.176, Deputy Noel? **[Interruption]** Just one moment, Deputy, I wish to clarify exactly.

Deputy E.J. Noel:

Sir, I would be happy for it to go immediately before P.176.

The Deputy Bailiff:

That is your proposal. Is that seconded? **[Seconded]** Very well. That is the proposal that is before Members. It is for Members to decide the order in which they wish to take these debates. That is the proposition. Are Members in favour? Deputy, do you wish to say something?

Deputy P.V.F. Le Claire:

Sir, I am just trying to make the point that obviously if other matters are then included in the Order Paper, there may be a consideration about where this may fit.

The Deputy Bailiff:

It is quite clear on Standing Order 87 that a Member of the States may propose without notice that the order in which propositions are to be debated is altered. That is what we have before us at the moment, a proposition to alter the order of debate. It should not take much debate it seems to me to decide on the order of debate.

10.15 Deputy M. Tadier:

Yes, very quickly, Sir. I just do not see any benefit. I mean all these items have to be taken at some point or another. We have agreed that they be taken today. As I have said, I cannot support this either because it is not fair on those who are either still preparing or have prepared speeches. I would say just leave it as it is and we will get through the workload one way or the other. Unless the proposers can give us demonstrable evidence that moving the order around is going to be beneficial and have consequences then I do not see why we are just wasting time here.

The Deputy Bailiff:

If I may say to all Members, P.2 is a debate in principle on one of the amendments to P.176. So it does seem to me to be obvious that P.2 has to be debated before P.176. It is only a question of whether it should be debated immediately before or at some earlier point. The Chairman of Privileges and Procedures has said she would prefer to have it debated at an earlier point because it may, if adopted, have consequential effects on the way in which P.176 is proposed. Members will no doubt want to take that into account in deciding whether they wish to move P.2 up the agenda and, if so, to what position.

10.16 Deputy I.J. Gorst:

It might help Members. I am one of those with a proposition in advance. I would be quite satisfied for my P.142 to go prior to P.143. I know that there is a health proposition before that. I am not sure whether the Minister for Health and Social Services would concur. That might help Members decide where they would like to consider P.2.

10.17 The Deputy of Trinity:

I have no problem whatever the House decides. I am very flexible.

10.18 Deputy T.M. Pitman:

I was just going to say if we leave P.176 until after it might solve everything. It is logic so we will throw it out I expect.

10.19 Senator B.I. Le Marquand:

At the risk of causing further confusion I think the most logical order is P.198 first because if P.198 succeeds then absolutely nothing else happens so it seems logical to deal with the thing which causes the maximum disruption first. Then P.2 next for the reasons just raised, then to go on to P.176. Purely because if we debate P.198 later on, having already discussed other things, it wrecks everything else.

The Deputy Bailiff:

We have a proposition so far before Members to take P.2 immediately before P.176. Members in favour of that proposition, kindly show. The appel is called for. I ask the Greffier to open the voting.

| POUR: 36 | | CONTRE: 9 | | ABSTAIN: 0 |
|-----------------------------|--|-----------------------------|--|-------------------|
| Senator T.A. Le Sueur | | Connétable of St. John | | |
| Senator P.F.C. Ozouf | | Connétable of St. Lawrence | | |
| Senator T.J. Le Main | | Connétable of St. Mary | | |
| Senator B.E. Shenton | | Deputy J.A. Martin (H) | | |
| Senator F.E. Cohen | | Deputy G.P. Southern (H) | | |
| Senator J.L. Perchard | | Deputy P.V.F. Le Claire (H) | | |
| Senator A. Breckon | | Deputy T.M. Pitman (H) | | |
| Senator S.C. Ferguson | | Deputy M.R. Higgins (H) | | |
| Senator A.J.H. Maclean | | Deputy J.M. Maçon (S) | | |
| Senator B.I. Le Marquand | | | | |
| Senator F. du H. Le Gresley | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. Helier | | | | |
| Connétable of Trinity | | | | |

| | | | | |
|-----------------------------|--|--|--|--|
| Connétable of Grouville | | | | |
| Connétable of St. Brelade | | | | |
| Connétable of St. Saviour | | | | |
| Connétable of St. Clement | | | | |
| Connétable of St. Peter | | | | |
| Deputy R.C. Duhamel (S) | | | | |
| Deputy of St. Martin | | | | |
| Deputy R.G. Le Hérisier (S) | | | | |
| Deputy of St. Ouen | | | | |
| 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 of St. John | | | | |
| Deputy M. Tadier (B) | | | | |
| Deputy A.E. Jeune (B) | | | | |
| Deputy of St. Mary | | | | |
| Deputy A.T. Dupré (C) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy T.A. Vallois (S) | | | | |
| Deputy A.K.F. Green (H) | | | | |

The Deputy Bailiff:

P.2 is, therefore, to be taken immediately before P.176.

Senator B.I. Le Marquand:

To follow on from my previous comment, I, therefore, want to propose that P.198 be taken immediately before P.2 because I think that is the logical order.

The Deputy Bailiff:

It is proposed that P.198 is taken immediately before P.2. Is that seconded? **[Seconded]** Is the appel called for again? The appel is called for. I ask the Greffier to reset the voting and to open the voting.

| POUR: 41 | | CONTRE: 6 | | ABSTAIN: 0 |
|------------------------------|--|--------------------------|--|-------------------|
| Senator T.A. Le Sueur | | Deputy J.A. Martin (H) | | |
| Senator P.F.C. Ozouf | | Deputy G.P. Southern (H) | | |
| Senator T.J. Le Main | | Deputy T.M. Pitman (H) | | |
| Senator B.E. Shenton | | Deputy M.R. Higgins (H) | | |
| Senator F.E. Cohen | | Deputy D.J. De Sousa (H) | | |
| Senator J.L. Perchard | | Deputy J.M. Maçon (S) | | |
| Senator A. Breckon | | | | |
| Senator S.C. Ferguson | | | | |
| Senator A.J.H. Maclean | | | | |
| Senator B.I. Le Marquand | | | | |
| Senator F. du H. Le Gresley | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. Helier | | | | |
| Connétable of Trinity | | | | |
| Connétable of Grouville | | | | |
| Connétable of St. Brelade | | | | |
| Connétable of St. John | | | | |
| Connétable of St. Saviour | | | | |
| Connétable of St. Clement | | | | |
| Connétable of St. Peter | | | | |
| Connétable of St. Lawrence | | | | |
| Connétable of St. Mary | | | | |
| Deputy R.C. Duhamel (S) | | | | |
| Deputy of St. Martin | | | | |
| Deputy R.G. Le Hérissier (S) | | | | |

| | | | | |
|-----------------------------|--|--|--|--|
| Deputy of St. Ouen | | | | |
| Deputy J.A. Hilton (H) | | | | |
| Deputy P.V.F. Le Claire (H) | | | | |
| Deputy J.A.N. Le Fondré (L) | | | | |
| Deputy of Trinity | | | | |
| Deputy S.S.P.A. Power (B) | | | | |
| Deputy K.C. Lewis (S) | | | | |
| Deputy I.J. Gorst (C) | | | | |
| Deputy of St. John | | | | |
| Deputy M. Tadier (B) | | | | |
| Deputy A.E. Jeune (B) | | | | |
| Deputy of St. Mary | | | | |
| Deputy A.T. Dupré (C) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy T.A. Vallois (S) | | | | |
| Deputy A.K.F. Green (H) | | | | |

Senator B.E. Shenton:

Senator Le Marquand is on P.P.C. Can I suggest that P.P.C. sort this out before we sit in future and show a little bit of leadership and if things need to be changed, they change things? I mean it is utterly ridiculous that we have to undertake this farce every single sitting [**Approbation**].

11. Canons of the Church of England in Jersey (P.179/2010)

The Deputy Bailiff:

Very well. We now come to P.179 lodged by the Chief Minister. I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they of opinion to endorse the amended Canons of the Church of England...

The Deputy Bailiff:

Can I ask Members to be quiet while the Greffier reads the proposition?

The Deputy Greffier of the States:

To endorse the amended Canons of the Church of England in Jersey as set out in the Appendix to the report of the Chief Minister dated 6th December 2010 and as approved by the Right Reverend the Bishop of Winchester, the Dean of Jersey, the Ecclesiastical Court and the Deanery Synod of the Island so that the draft Canons may be submitted to Her Majesty with a request that an Order in Council be issued bringing them into force in Jersey.

11.1 Senator T.A. Le Sueur:

It may seem ironic to some people that a Chief Minister who is Roman Catholic is tasked with the job of bringing to the Assembly changes to the rules of the church set up at the time of the reformation and with which the Catholic Church has not always seen eye to eye. I am happy to be bringing this proposition because it might be seen as a mark of the way in which both those established churches have changed with the times and have proposed changes as and when they were considered necessary. Cynics may say that the changes appear to come somewhat slowly and infrequently but, indeed, perhaps there is also something in common there with the attitude of many Jersey people who like to see change happen gradually. There will also I am sure be those who question why a change in church law should need to be sanctioned by a political body such as the States rather than a religious body such as an Ecclesiastical Assembly or Court. To them I would answer that this is not a matter which simply requires the consideration of this Assembly. It also has to go through whatever diocesan procedures may also be needed. Indeed, it has spent something like 15 years going through those procedures so they certainly have not come forward on a whim. But the relationship between the States and the established church has existed for many years and, indeed, is part of Jersey's historic traditions of which we could be proud. Jersey has a history of which we can rightly be proud and the traditions which have served the Island well over the centuries should not be changed lightly and without good reason. The historic background to these changes and to the relationship between the State and the church is set out in the introductory notes to this proposition. I do not think that I can give any better explanation than what is contained there. In particular, I think it worth noting that as well as setting out a procedure for dealing with disciplinary matters in an up to date way including Human Rights compliance, the proposition also as a separate matter addresses the unique link which exists between the Church of England in Jersey and our own Parish system. Furthermore, it enshrines or clarifies the enhanced role of the Dean in Jersey to act in the absence of the Bishop in certain respects. These proposed changes come to the States only after tremendous scrutiny and approval from a variety of quarters, religious and secular. In that sense, I claim no part whatsoever in their construction but as Chief Minister I am happy to present them to the Assembly for consideration and hopefully for adoption. Members I am sure, like me, will be grateful for the fact that the Dean, Reverend Key, is in the Chamber today and he can hopefully deal with any concerns which Members may have about the interpretation of these ecclesiastical matters. I shall be guided by the Chair or by you, Sir, as to whether the Dean should effectively wait to speak until other Members have spoken and answer their questions or whether it would be preferable for him to respond in the same way as Law Officers customarily do to answer questions from Members as and when they arise. That is a matter of procedure. Standing Orders equally require that I shall sum up but I shall sum up of course from a purely layman's point of view once all those other discussions, if we have any, have been dealt with. In the meantime I am pleased to propose these Canons and propose their adoption by the States.

The Deputy Bailiff:

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

11.1.1 The Deputy of St. John:

In standing to support the Canons I have to declare that although being a Christian, I was christened Church of England, brought up Methodist, got married in a Methodist Church that became a synagogue. My own Methodist Church was closed down and I am now on the fringes of

Methodism and Church of England. But that said it is a pleasure that the Catholic Chief Minister has brought these Canons as we see the church getting closer in all areas; whether it is Methodism, the Catholic Church or the Church of England. To be part of history, after 400 years to be able to stand up and say, yes, I am supporting the Church of England with their Canons, it is from the outside possibly more so than on the inside, given my background, but it is a pleasure to see that the Christian religion is strong and well within our society; a society in this part of Europe which is Christian. Yes, we have other religions among us and we all live as one. But it is a pleasure to be able to say a few words in support of these Canons.

11.1.2 Deputy T.M. Pitman:

I am not going to bore everyone with my history of what I was christened. I was, to many people's surprise. It was C. of E. (Church of England). I stand here every time we come respectfully and I am here for prayers and I believe that people should be able to respect other people's religions. If we were not all fighting in the world over it, the world would be a much better place.

[15:30]

I will throw in that my wife and I had the first Humanist wedding ever in Sark. My little claim to fame, if nothing else. Still, hopefully I will pass through the eye of a needle and get to Heaven one day; who knows? But what I do find is a problem with this is that we as a government are being asked to endorse something that says no women can be sworn in, if that is the right term, ordained, as a bishop. Now I have real problems with that, with due respect, and I fully respect everyone who holds the Christian religion. Can it be right that we are going to be doing something which, to me and many people, will be totally going against equality and fairness? I am sorry, but I cannot see in this world that women are less than men and I will never agree to that. I think there is a big problem there for anyone to support that, with due respect, and I do think it is totally inappropriate. That is all I am going to say. I do not mean any disrespect to anyone but that is a big problem and it should not be just swept under the carpet. Thank you.

11.1.3 The Connétable of St. Helier:

Deputy Trevor Pitman has highlighted one part of the Canons that I too have a problem with and I look forward to hearing why this is not ... I imagine it is perhaps the same situation in the Church of England, but I too will have trouble supporting a Canon which seems to me discriminatory. The other point that I would like clarification about is the matter in E15 "of Plays, Concerts and Exhibitions" on page 52 of the Canons. The Parish of St. Helier will have expended - the Dean has the exact amount - but it is a matter of millions of pounds on putting to right our fine, our greatest building in the Parish, if one excludes the castle. I think it is important that that space is available to be used without any playwright or composer or film director having his or her work scrutinised as we used to in the bad old days before we could stage a play in the Arts Centre. So I would like some clarification about whether a play, for example, which suggests something contrary to Church of England doctrine, would be denied a licence to be performed because I think that would be a great shame and would be a kind of censorship that would not apply to other performance spaces within the Parish. So I would like some explanation of both of those detailed points when the Chief Minister sums up.

11.1.4 Connétable K.P. Vibert of St. Ouen:

I was born Church of England and I remain Church of England, very proud of it, and not in any way shy of declaring such. But one point which has been raised with me just this morning, in fact, is that contained in E13 which is the Care and Repair of Churches. I am wondering whether this is a movement away from what was in that particular Canon before, or whether this retains something which was there. Obviously there is a responsibility of the Parish to maintain, as far as I knew, the fabric of the church but this says: "... and all things therein" and I am wondering whether it is that

the church is responsible for that or whether that is heading in the responsibility of the parochial municipality.

11.1.5 The Deputy of St. Martin:

I would just like to pick up a bit on what the Connétable of St. Helier and also Deputy Trevor Pitmen were on. I do note on page 3 that the amended Canons as being considered by the Attorney General have to be confirmed as being human rights compliant. Indeed, it is not a law so no doubt there does not need to be a statement of compatibility. But just on that line, I am asking how it can be human rights compliant if indeed it is discriminatory. The Chief Minister or the Attorney General may be able to answer the question: if we have a discriminatory piece of legislation which denies the right of a female to be a bishop how it can be human rights compliant. Maybe in the summing-up I might get an answer.

The Bailiff:

Perhaps as that is a legal point, Deputy, it would be convenient to ask the Attorney General to deal with it.

The Deputy of St. Martin:

Well if it is convenient to ask the Attorney General, I will do so now.

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

The position is that the Church of England is primarily a religious body; courts have considered its status in the past. It is not primarily a public body and therefore there is no requirement on it to be human rights compliant. Therefore, if a certificate had been needed, a certificate could have been given because there would have been no infringement of the European Convention of Human Rights and Fundamental Freedoms. The respect in which there is a difference, because what is technically known, I believe, as a hybrid body, for certain purposes it does have to be human rights compliant. But in this case those purposes are limited to matters of clergy discipline which must comply with Article 6.

11.1.6 Deputy M. Tadier:

Is it fair to say the reason that this is being considered human rights compliant is not so much that it complies with the spirit of the Human Rights Law but rather that it does not need to be human rights compliant. Is that what I have understood from the Attorney General?

The Attorney General:

Yes, I cannot go any further than to say obviously our role is to consider whether there is any potential infringement of the European Convention of Human Rights. Of course, because the Church of England is not a public body, and only public bodies are subject to the European Convention of Human Rights, then issues of human rights do not arise.

11.1.7 The Deputy of St. Mary:

I am still pondering on that ruling. Yes, just a few points. I do think that the role of Christian tradition, if you like, or Christian belief, has been fundamental in setting the way that we think in many respects: politics, society and so on. It is true that the church has a fundamental place in our society but I do find it a bit puzzling when this arrived on my desk and I started to plough through it. I got as far as who could and could not take Holy Communion and then I realised that this was not really something for the States to decide. Then there comes the question: yes, but we are; we have to; we are stuck with it. We are one of the bodies that has to approve these Canons for them to become enacted and it falls to us to do the job. I find that whole package does not really make sense. So I do find myself torn between knowing how fundamental that the Christian faith has been to the development of our society and then finding myself being forced to worry about who can and cannot take communion in an Anglican church in Jersey. There are just 2 examples that fall out of

this document. One is on the very first page of the report: “The Christian faith remains unchanged so ...” and then the sentence carries on. Well, one could discuss that for many an hour: “The Christian faith remains unchanged.” I will not discuss it for many an hour but the point is it is a huge, huge area all on its own. Then on page 7 is the even more remarkable: “The Queen’s excellent Majesty, acting according to the laws of the Island, is the highest power under God in this Island.” Well she is the highest power as long as she acts according to the laws of the Island. So, interesting, and it carries on like that. So, really, we have to approve this, do we not, even though there are these strange animals living within it? So maybe a comment on that area would not come amiss from the Dean. The second point I want to make, but much more important, is that in Germany the position is that the established church there which is the Evangelischen Kirche has a tax levied by the State and handed over to the church which you can opt out of. As a citizen you can refuse to pay your Kirchensteuer. That Kirchensteuer pays for a wealth of things that the church provides that society, not only theological reflection but also community work, innovative projects, and community projects of all kinds. In the light of that I just wonder what the position here in Jersey is where the established church receives substantial support from Parishes and probably from the States - I have not looked into that - as well. I would like the Dean maybe to speak to that a little bit about how the church delivers that mandate of involvement in society, given that there is quite a flow of support and financial support in the other direction, bearing in mind the very large staffing resource that is available to the church in Jersey. An astonishing one per Parish, some of the Parishes are quite small, and staffing over and above that as well because it is not just one minister per Parish. The third point I want to throw in the direction of the Dean is, what happens when these Canons are amended as presumably they are occasionally? Maybe the Church of England will decide that women bishops are all right after all. Then, does that come to the Assembly as something that we have to approve or is that within the gift of the Church of England itself and so on? So what is the position as regards the evolution of these Canons? I gather it took 15 years to get them to this point, but presumably they do evolve and will change, and what is the position then? Thank you.

11.1.8 The Connétable of St. Brelade:

First of all, I would like to commend the Chief Minister and the Dean on the presentation of these amended Canons. I am aware during my 5 years in office there has been a degree of wooliness surrounding arrangements, particularly between the Parish and the Church. Notwithstanding that, there is no difficulty, but I note that if I can refer to D4, there are still some areas in what I might describe as the “too difficult drawer”. I think the Connétable of St. Ouen has referred to one in respect to the maintenance of the church. Things like the employment of a Parish Clerk concerns me. I am assuming that means the English-type Parish rather than the ancient Parish which is referred to in the rest of the Canon. I am not sure how many churches in the Island which have a Parish Clerk, for instance. I am still not certain exactly of the duties of a sexton or a verger, which I am trying to employ at the moment. In situations where the Parish pay these people, there is a degree of wooliness and I would ask the Dean perhaps in his comments just to enlighten me a little on that if he could. Thank you.

11.1.9 Senator S.C. Ferguson:

Yes, it is very nice to hear everybody getting up on behalf of the females. As a matter of fact, female bishops are a problem, which the Archbishop of Canterbury is already finding out. It has always surprised me that a church which accepts the Queen as supreme governor finds the gender issue regarding bishops a problem. If it has taken 15 years just to produce this, I think the female bishops will come but perhaps slowly. I noticed on the Care and Repair of Churches, there seems to be a distinction between ancient Parish churches and district churches. Does that mean the Parish does not pay for the Church of England churches which are not Parish churches, I wonder. There seemed to be some confusion about why this came to us. Well, perhaps the Dean can just elucidate on that. I just got the impression that we are obviously, as the Deputy of St. Mary said, a

culture based on Judeo-Christian principles and this will come to us because we are directly responsible to the Crown. But perhaps the Dean will be able to comment.

11.1.10 Deputy A.E. Jeune:

I stand as a Catholic. Having said that, I am looking at page 4 and it says: "The Parish system is the foundation of so much of our unique way of life." But it goes on to say there should be a rector in every Parish. I have some anxiety about that inasmuch as certainly, as seen in the Catholic Church, there are not enough priests to go around, is the Church of England very secure that they will have enough rectors to be in every Parish?

[15:45]

I am not sure whether the answer will come from the Attorney General, the Chief Minister or the comments of the Dean. But what is the backlash; what are the repercussions if a Parish does not have a rector? Thank you.

11.1.11 Deputy P.V.F. Le Claire:

I wonder if they will find themselves in the Royal Court being charged by the Attorney General as to failing to supply the right amount as they do with the Honorary Police. I have been cautioned by you before not to use the phrase "God knows" because you thought it was unparliamentary, and I was rightly chastised, but I am going to say some things here that may not go down that well. But I know looking across the Assembly to the Dean that he and I both believe in the "big boss" and we are all ultimately responsible to Him and we both share the same Christian beliefs although we are of different denominations. There are 3 things that I would like to point out. Unlike in England, the Anglican Church is a minority religion in Jersey: Anglicans make up a third; Non-conformists make up a third and Catholics make up a third. The second point I would like to make is the Anglican Church in Ireland and Wales was disestablished because it was no longer in the majority. The third point I would like to make is the Dean brings a very clerical view of the church to the States Assembly and where that is certainly schooled; it should be, in my view, the job of lay people to bring Christianity to the table in this Assembly. It is interesting to note within the proposition - and I was as surprised as some other people were to see it land on our desks - but on page 73 I see: "It shall be the duty of the Jersey Deanery Synod to ensure that it elects such representatives to the Diocesan ...". It is an interesting concept, elections, and I would wonder how they go about doing that because the Dean is in a minority in Jersey in his religion. He comes to the Assembly ... and previously no Dean has been able to sway me. This current Dean is a very powerful speaker; a very likeable man; a very intelligent man. He has, I must confess - I have come to the confessional - swayed me in one of the debates most recently and made me change the way I was intending to vote. It helped me because I was in conflict, but at the same time one does question whether or not it is right that - and this has been raised time and time again - an unelected member is able to influence elected representatives. While I do believe personally that the views of the Dean, many of which I share, are nice to hear, the process is that people get sent here on the numbers of people that share their views. That is how we are able to put across our views and how I am able to currently stand up and say what I am saying. Because enough people believed generally what I was saying was worth sending me here for. I personally believe what we are doing today by endorsing this is we are inextricably weaving more fabric into society in Jersey of the relationship of the constitution between ourselves and the Dean. I do not mean to be disrespectful to him, but I certainly believe the future needs to consider the position of the Dean as it has recently considered your position, Sir. I have been in 2 minds for a number of years about that issue but I am constantly approached by people, and it is not a month that goes by where somebody says to me: "We are going to have a long series of debates on this." Inevitably during the course of these conversations that occur about the constitution representation, we get to topics such as your position, Sir, the Lieutenant Governor's on some instances, but normally the Constables and the Dean do always appear. So, I hope the Dean will forgive me. The church normally advocates

abstaining from alcohol, which I have managed to do since New Year, abstaining from cigarettes and abstaining from many things. On this occasion I am going to take the Church's advice and I am going to abstain on this proposition and I hope he will forgive some rather plain speaking from my perspective - and it is not meant to be offensive - to what he brings to the position he is currently holding.

11.1.12 The Connétable of Grouville:

I note that on the page 4 previously referred to, the Canon Law prescribes that a rector should only have one Parish. It does not say whether a rector should be male or female and could I ask the Dean in his summing-up to remind us whether in fact there is any movement in order to appoint a female rector in Jersey as well as the male rectors?

The Bailiff:

Does any other Member wish to speak? Deputy Tadier.

11.1.13 Deputy M. Tadier:

I do not think Deputy Le Claire was that plain speaking at all, but nor will I be, because one has to remember and be sensitive to various beliefs, even if one shares them or not. I think the issue with the human rights compliancy is that, on the one hand, it is quite correct technically to state that these are human rights compliant with the law because the law does not have any requirement for these Canons to be human rights compliant. So that is, in that sense, a complete nonsense. You could have a private club which is set up on the basis of being anti-human rights and that club would be human rights compliant because there is no requirement for that club to be human rights compliant. So a club, on that basis, would comply with the law, although everything contained within the ethos of that club would be contrary to the Human Rights Law. Do not let those words fool you. It is a little bit like having a green label on something as monstrously unenvironmentally friendly as an energy from waste plant. Just because it has something on the label, it does not mean that is what you get with it. There are a couple of issues irrespective of the fact that I do not think, for the record, that the States has any place whatsoever in dealing with these kinds of issues. There is nothing wrong with people having their own beliefs or indeed the church existing in society. But I firmly believe that it is a premise of a grown-up democracy that one has a separation between Church and States, or between religion and States, and that equally every Member within the Government and within the society has the right to choose which religion or not they wish to pursue. I think hopefully that is what we all believe deep down in our hearts. There has been some comment made of page 31. Now, I find this remarkable because we have already had the comments about the fact that females cannot be ordained as bishops. I am sure those who believe will have strong views perhaps one way or the other or maybe not so strong views. But the juxtapositioning of Parts 4 and 5 under C2 of The Consecration of Bishops is remarkable because we have number 4 which seems to be a remarkably liberal statement which says: "No person shall be refused consecration as a bishop on the grounds that he was born out of lawful wedlock" because it is recognised that somebody cannot help whether or not they were born at a time when their parents were not married. It is not right that a baby should have to suffer. So it is even more confusing then that Part 5 follows which says females cannot be ordained as bishops. Because, again, the argument is surely a female did not choose to be born a female any more than a male chose to be born a male. It will be interesting to see what would happen if in fact a female was born out of wedlock, would she be allowed to be ordained as a bishop? Because it says that no person who is consecrated as a bishop may be refused consecration on the grounds that he was born out of wedlock. Of course, it must not be on those grounds. It does not say that somebody who was born out of wedlock could not be ordained, so obviously that answers itself, but it does make one think. I think Senator Ferguson raised the issue, even though the Queen may be female, she is still not allowed to be a bishop so I am sure that if she had plans for her retirement, and certainly being a bishop would not be one of those even though she would get to live in a palace. But I guess

she does not need to live in a palace because she already does. We turn the page. We see another remarkable - certainly to my eyes - set of instructions that somebody who has been re-married may not be ordained as a deacon or a priest if their previous partner is still alive. Similarly, they may not be ordained as a deacon or a priest if their spouse was previously married and their former spouse is still alive. Now you could argue that this is just to stop situations getting messy. It may well be that priests or deacons may not be wise if there are still - what shall we say? - bitter spouses that have been on the scene. But surely one is reminded of the words of Corinthians that when one is in Christ, one is a new creation; the old is gone and the new has come and surely that should all be forgotten. So it is open to the argument of being slightly bigoted, although I can understand that maybe the Dean would suggest that there are other valid reasons for why that should be kept as it is. Lastly, I think the point has been made, perhaps slightly whimsically, but one has to question where does the oath of priorities come in? So, on the one hand, when one takes the Oath of Allegiance, one has to swear true allegiance to Her Majesty Queen Elizabeth II, indeed in a similar way to which States Members do when they take their oaths, so help me God. The question I would ask, even though it is probably a theoretical one, what happens if there is a conflict between a priest or a deacon or a bishop carrying out their duties between the Queen and between God? What if, in theory, the Queen was asking you to perhaps do something, or your allegiance to your country or your Island or your monarch was in conflict to what you believed on your conscience to be the word of God, which one would you choose to do, or does the Dean believe that that situation would never happen? At least, I guess, the Catholics have it right because the Pope is infallible so he can never be wrong. But I do not know if that is true in this case. So I hope that I have highlighted a few of the inconsistencies, not least to do with the stance on women, why I cannot support this. I am not going to vote against it. I think that is a meaningless thing to do. I will be abstaining simply as I do not think it is our job as parliamentarians to be passing this, although I do accept that other individuals have very strong views on the subject.

11.1.14 Senator B.I. Le Marquand:

I had not intended to speak this afternoon, although I am in fact an Anglican reader. But I think I need to clarify the concerns that some Members have expressed in relation to C2.5 so that Members understand what this is saying: that the current position is that the general Synod of the Church of England has agreed in principle to move towards the appointment of women bishops but has not arrived at the point of the necessary legislation. It therefore would be impossible for the Canons of the Church of England in Jersey to say something which went ahead of what the whole of the Church of England was saying. So all that paragraph 5 is saying is that this Canon does not make it lawful for women to be consecrated to the office of Bishop. It is not saying that this Canon prevents that; it is just saying it does not do it. It could not do it at this point for the reasons I have said because the whole of the Church of England has not yet moved. So I do not think it is necessary for people to abstain or vote against on this point because it is not forbidding something. I hope that clarifies things.

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

I hope that Members questions will not have doubled the length of what I was going to say but I am immensely grateful to all those Members of the House who have taken the trouble to digest this document so long in the gestation and to ask intelligent questions on it. I wonder if I could do the introduction I had prepared first and then deal with the questions. We are here, at least in part, because of the monarchy. King James 400 years ago gave us the authorised version and just a few years later the same monarch gave Jersey its Canon Law. In the 1623 process both the Church and the State were involved. In fact, the story goes that there were 2 separate boats went to England because 2 sides in the question did not trust each other to represent the entirety of the views. When they arrived there the Crown got them and the Archbishop and locked them in a room somewhere, at least metaphorically, wet towels around their heads, until they had agreed the Canons and that is what 1623 gave us. What we are doing now is to fulfil the Royal preface to the 1623 Canons which

says: “You cannot renew those Canons or amend them without the consent of ...” and it lists some people. The people it lists are the ecclesiastical lawmakers, the Bishop and the Dean, and the guardians of the inheritance and heritage of Jersey.

[16:00]

Then the Jurats; that has changed. The Assembly has that legislative function and so it comes to the States, not for theological consideration particularly, but as the guardians of Jersey’s heritage and tradition and freedom to think and act independently. As I said in the report, if 1204 is the great date that we look back to as an Island for our right to self-determination, well 1623 is the ecclesiastical equivalent of that. In these renewed Canons the same principles have applied: the loyalty to the Crown as the supreme governor of the Church of England and the uniqueness of Jersey as being something different from the United Kingdom. Why has it been so long in coming? Well, because the original Canons put down this principle: that the Jersey Canons should follow England as far as possible but wherever Jersey’s freedom, heritage, customs and traditions were over against English practice, Jersey’s should take precedence. There were 2 issues which had let this process run into the sand in the last 10 years or so. The first has already been alluded to which is one rector per Parish. The Parish system it seems to me is foundational to Jersey life and I did in my first meeting with the Committee of Constables ask them what they thought of the idea of 2 Parishes sharing one rector. It is the shortest discussion I have ever had **[Laughter]** with a Committee of Constables. I am very grateful to the Deputy for raising the question about shortage of clergy. In fact, we do not have any problem at the moment attracting good clergy to Jersey. Just before Christmas I inducted a new rector to St. Ouen and this evening I have the privilege of inducting a new vicar to All Saints. It is a great pleasure to put a full-time stipendiary priest back into what is not the richest area of St. Helier. It is a great pleasure to be able to that which perhaps helps a little bit with what the Deputy of St. Mary was saying about: “So what does the church give back?” Well, the area of All Saints cannot sustain at the moment a stipendiary minister from its own resources, so it is the rest of the churches in Jersey who club together to keep that on the road. Quickly, to take you through the document. Section A is the foundations. Section B is about church worship; everything from Sunday services to weddings and funerals, from music to the legal registration of marriages. Section C is about the clergy: who they are, what they do and how they should behave, and particularly what we have that England does not have is Section C17 which is all about the Dean. Now I do not mean the Dean: “Is the Dean not a fantastic chap?” I simply take that for granted. **[Laughter]** No, what I do mean is the episcopacy in terms of the Bishop is the Bishop of Winchester. *Episcopate*, to use the Greek word in terms of leadership, is provided by whoever holds the office of the Dean. Or as the Bishop of Winchester said on the radio on Sunday morning when asked: “So did he provide oversight from Winchester?” he said: “I do not think Jersey takes oversight from anywhere in England, do you?” So there is a pastoral relationship with the Bishop of Winchester. It was annexed to Winchester many years ago but it is not fully a part of that English diocese. Section D talks about lay involvement in the leadership and the life of the church and Section E about buildings; the fabrics and furnishings, and I will come back to the Constable of St. Ouen’s points in a minute, and the heritage of the Island. I need to spend slightly longer on this next part because this is the second great area of controversy. The Bishop gave way very magnanimously on one rector per Parish. Not all of those rectors are stipendiary; one or 2 of those are house-for-duty. Not all of them have to be male; as many as can be can be female. I have not had one apply for that yet. I long to appoint such a person as soon as the right candidate for the right post can be found. The Ecclesiastical Court is one of the courts of the legal system of this Island. You will sometimes notice if you are in the Royal Court for swearings in that alongside the Magistrate and the Commissioners of the Royal Court, on the back row there sits one figure, not in scarlet, but in a mixture of black and purple; that is to say the Dean. I am not there as chaplain of the Royal Court; I am there because I am the judge in the Ecclesiastical Court and it is part of the legal framework and fabric of the Island. The Ecclesiastical Court will henceforth have 2 divisions. The first is the ordinary division. That deals with faculties, permissions for works to be done in

churches, swearing-in of church officers, swearing-in of notaries public. The Archbishop of Canterbury does it in England; the Dean's court does it here. But the second - and I think this is a real issue for Members in which you need to have confidence - is the clergy discipline division. In England there is a thing called the Clergy Discipline Measure which has proved to be extremely expensive to operate. We have tried to take some of the best of that but "Jerseyfy" it in some gloriously different important aspects and to make this, in answer to one or 2 Deputies who have asked, fully human rights compliant. The first is that it is different in cost. In England at the moment there are not nearly as many tribunals as there might be because of the cost of lawyers. Jersey has this wonderful honorary tradition. My court has 3 lawyers, a proctor, an advocate, and a Greffier, all of whom give their services free. Were there ever to be a tribunal, which hopefully Heaven may forbid, the prosecution of that would be handled by the proctor and there would be 2 other advocates who would act for, if you like, the defendant - the person accused of misconduct - all without charge. That seems to me to be an immense vote of confidence for our honorary system. The second difference is in England the early stages where you try for a conciliation, or perhaps if someone admits an offence, a penalty by consent, is dealt with by the Bishop. But the person in Jersey who has day to day contact with the clergy is the Dean and so here that is the Dean and the Bishop acting together. If we have a tribunal then it would not be human rights compliant for me to sit in judgment on those clergy that I supervise. Therefore, I shall appoint a vice-president. I already have a very senior and eminent lawyer from Jersey who has agreed to take this role on if Her Majesty grants these Canons after the States - if they do - approve them, and the clergy assessors would be drawn from the Crown Dependencies and the laity from Jersey. We are told that would be human rights compliant. Jersey clergy are reckoned to be too close to it and so they would be drawn from the other Crown Dependencies. Fourth difference in scope: misconduct, clearly. What do you do if somebody is charged with running off with half the collection? What do you do if somebody is charged with sexual misconduct? There has to be a procedure for that that is fair and just, both to the minister and to the complainant. But also, which England does not have, we have introduced - and it is Canon F3, subsection 5(c) on page 59 - that sometimes things just go horrendously wrong. It may not be anybody's fault but you can have a church, let us call it St. Ethelberger's, where the minister and the congregation are simply at war. Nothing is going anywhere, the congregation is dwindling away and you could build an emotional brick wall at the chancel step between congregation and priest. That is a situation of pastoral breakdown and it should not be allowed simply to go rumbling on and on and on, as it sometimes does, certainly in the United Kingdom. So this will be a procedure that can stop that happening. The fifth great difference, and this is the last one, is in appeals. In England after the tribunal it can go as far as the Court of Archers which is the senior Ecclesiastical Court and, again, part of the court system of the U.K. It clearly would not be acceptable for an appeal from a Jersey court to be heard by an English court. Therefore, the appellate authority will be the inferior number of the Royal Court so that the whole thing is within Jersey. Very lastly on my little bit, Section G at the very back of this paper; most importantly, number 3, the last paragraph on the last page: "Nothing in these Canons shall derogate from the rights, privileges and customs of the Church of England in, and the people of, Jersey so far as concerns church legislation." If I may take some pride, not I think in the simple sense of the word but in the sense of being very pleased about this, it is that at least during my time as Dean of Jersey I have attempted so far to keep the oath I took that the rights and privileges of the people of Jersey would be upheld by my ancient office. This last paragraph is the fulfilment of that oath in Jersey Canon Law. Very, very briefly, those comments that were made that I might not have dealt with. The use of buildings, the Constable is quite right, the partnership between Parishes and the Church in the use of buildings is a tremendous thing in this Island. It both guards our heritage and it builds our communities. I am sure he will have noticed as he read to the end of that section that it is the Dean that has the final authority in saying: "Yes, you can have ..." whatever film or play or whatever and that, of course, is to be used in the most liberal possible jurisdiction. Fabric and furnishings, the Constable of St. Ouen asked me to comment on. There is no change. This says they have to be looked after; it is other things in Jersey Law that says who does what.

The Deputy of St. Mary raised who can and cannot take communion and I think he was absolutely right to work out that that is not a subject on which we were particularly expecting his expertise but it was on whether or not the Canons fulfil the heritage of our Island. The employment of vergers and so on: what tends to happen in Jersey is the Constable rings up and says: "Mr. Dean, we are thinking of employing a verger, will you come and look over the job description?" One goes and does that in the Parish Hall, and in the case of St. Brelade they give you a nice lunch afterwards and on you go, and it works very well. **[Laughter]** In fact, if anybody else would like to think of appointing a verger, I would be delighted to hear from them. **[Laughter]** There is a distinction between Parish and District; the Senator is quite right. There is no financial support of district churches in the Law of Jersey. Is it sustainable for there to be a rector in each Parish? Yes, it is. We have our figures for the next 10 years and there is no reason why that is not sustainable. It will also be the case though that not all of them are full-time stipendiaries. It may be in the future that, for example, a sector ministry, a chaplain perhaps in one of the hospitals or the prison or something, could be allied with a rector's post in a small country Parish. The re-marriage dispensation, of course, the paragraph that was read out is succeeded by another paragraph which indeed takes the Corinthian injunction most seriously and says that the Archbishop can - and I have to say regularly does - give such dispensation to allow people who have been through the trauma of divorce to be able to exercise a priestly ministry. Who does one go with? Well, it seems to me that when Her Majesty is crowned it is made abundantly plain in the oath that she takes, and the words said to her, and even the cross on top of the crown placed on her head, that she herself is under the Almighty.

[16:15]

I have no doubt that she believes that and certainly that is a Christian example of statesmanship I would want to follow. I am sure Members would want me to thank all those who have worked so hard down the years to make these Canons possible. I am sorry that the church sometimes moves incredibly slowly but at least in this Assembly I know in that regard I am among friends. **[Laughter]** **[Approbation]** My thanks, Sir, to your esteemed Deputy who in another office was instrumental in so much of the early stages of this, to the Legislation Committee and a former Member of this Assembly, Geoffrey Grime, to the former rector of St. Martin who is present in the gallery and other members of that committee, and to the Bishop of Winchester who decided to tell me when I arrived: "Get this job done, Bob" and then before he retired to make sure that we sat down with the equivalent of wet towels until the sticking points had been unstuck and a way forward, fair, equitable, just to England and preserving the liberties of Jersey was found. I commend these Canons to the consideration of the Assembly. **[Approbation]**

Deputy A.E. Jeune:

May I just ask a point of clarification. I did ask that somebody would answer perhaps ... While I accept the Dean has very kindly told us they anticipate 10 years of coverage for their Parishes, what happens in the event that there are not enough people? Thank you.

The Dean of Jersey:

If in theory there were not enough people, this would have to be revisited. But at the moment this Island is producing a goodly number of self-supporting ministers who are well able in future years if necessary to run Parishes in their own rights. As I say, there is no requirement here that the rector be a paid stipendiary. There is also nothing to stop, as is in the case of St. Lawrence, the sharing of a Victorian district church, in that case St. Matthew, with an ancient Parish church and one priest covering both. It is one ancient rectory per priest.

Deputy R.G. Le Hérissier:

Can I ask a further point of clarification? We were diverted by voices which were attributed to the Deputy.

The Bailiff:

Deputy, just before you carry on, I think we better ascertain the guilty party in relation to ...

Deputy M. Tadier:

It is a name and shame; it was me. It is the button on the side of the BlackBerry which I have not mastered yet. Sorry about that.

The Bailiff:

Thank you. So the Deputy Greffier will be entering your name in her records.

Deputy R.G. Le Hérissier:

It did sound like a higher power was communicating with Deputy Tadier. **[Laughter]** At that point, the Dean was talking about the issue of pastoral breakdown and I wonder if he could elaborate on how it is dealt with because, as we know, that is an issue at times, as he himself said, of course.

The Dean of Jersey:

It would be up to either a parishioner or perhaps the Advisory Council, which is what we have in Jersey as opposed to parochial church councils in England, to approach the Dean or the proctor of the Ecclesiastical Court to say that they wanted to raise the issue of ‘Was this a pastoral breakdown?’ I have to say that long before that ever got anywhere near a tribunal, all the other avenues open: reconciliation, mediation, would be tried first. The tribunal would be a last resort, if it was the lesser of 2 evils: either a Parish continuing in decline and going nowhere, or the inevitable sadnesses that come from tribunals. Having run a Church of England mission agency and been responsible for 60 staff, I do know that if ever you go to a tribunal everybody loses. So you try and stay away if humanly possible.

The Bailiff:

Does any other Member wish to speak? Yes, Senator Le Gresley.

Senator F. du H. Le Gresley:

I apologise if my command of the English language is not as it should be but I am struggling with a word on page 53 if I could ask the Dean just to look at that page under E16.1. The sentence includes the word “terrier”. Now is that derived from French or should it be “tenure” which is a different interpretation?

The Dean of Jersey:

It is “terrier”. Terrier is a word of ancient use in the Church of England meaning a log book of everything you do in the church. So: “On Thursday, 23rd we re-painted the chancel.” That would go in the terrier, along with all the things that you possess. So if a parishioner gives a new communion chalice, that goes in the terrier.

The Bailiff:

Does any other Member wish to speak? Very well, I call upon the Chief Minister to reply.

11.1.16 Senator T.A. Le Sueur:

I think this can be one of the shortest summing-ups on record. **[Approbation]** I am grateful to the Dean for explaining the whole matter in simple layman’s language. In the course of his speech towards the conclusion, he spoke thanking those who had helped to amend these Canons over the past 15 years and clearly he was not going to mention himself. But I can do that, and I do want to do that, to acknowledge that these changes, while apparently quite straightforward, took 15 years because it is quite a complex operation. He has stuck doggedly at it and he has been determined to achieve it, as he has achieved it, and I am very grateful to him for that. I think there was only one

other question that was not answered by him and that was in relation to Deputy Le Claire's comments about the position of the Dean in the States Chamber. That, of course, is nothing to do with Canon Law and so quite rightly it does not form part of these Canons. But certainly from my point of view, if we ever have to change these Canons again, I do hope the Dean or his successor will still be in this Chamber to save me having to try and explain those sorts of matters. I maintain the proposition.

The Bailiff:

Yes, the appel is called for then in relation to the proposition of the Chief Minister, Projet 179. I invite Members to return to their seats and the Greffier will open the voting.

| POUR: 42 | CONTRE: 0 | ABSTAIN: 5 |
|-----------------------------|------------------|-----------------------------|
| Senator T.A. Le Sueur | | Deputy G.P. Southern (H) |
| Senator P.F.C. Ozouf | | Deputy P.V.F. Le Claire (H) |
| Senator T.J. Le Main | | Deputy S. Pitman (H) |
| Senator B.E. Shenton | | Deputy M. Tadier (B) |
| Senator F.E. Cohen | | Deputy T.M. Pitman (H) |
| Senator J.L. Perchard | | |
| Senator A. Breckon | | |
| Senator S.C. Ferguson | | |
| Senator A.J.H. Maclean | | |
| Senator B.I. Le Marquand | | |
| Senator F. du H. Le Gresley | | |
| Connétable of St. Ouen | | |
| Connétable of St. Helier | | |
| Connétable of Trinity | | |
| Connétable of Grouville | | |
| Connétable of St. Brelade | | |
| Connétable of St. John | | |
| Connétable of St. Saviour | | |
| Connétable of St. Clement | | |
| Connétable of St. Lawrence | | |
| Connétable of St. Mary | | |
| Deputy R.C. Duhamel (S) | | |

| | | | | |
|-----------------------------|--|--|--|--|
| Deputy R.G. Le Hérisier (S) | | | | |
| Deputy J.B. Fox (H) | | | | |
| Deputy J.A. Martin (H) | | | | |
| Deputy of St. Ouen | | | | |
| 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 I.J. Gorst (C) | | | | |
| Deputy of St. John | | | | |
| Deputy A.E. Jeune (B) | | | | |
| Deputy of St. Mary | | | | |
| Deputy A.T. Dupré (C) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy T.A. Vallois (S) | | | | |
| Deputy M.R. Higgins (H) | | | | |
| Deputy A.K.F. Green (H) | | | | |
| Deputy D.J. De Sousa (H) | | | | |
| Deputy J.M. Maçon (S) | | | | |

12. Draft Employment (Amendment No. 6) (Jersey) Law 201- (P.143/2010)

The Bailiff:

Very well. We come next to Projet 143 - Draft Employment (Amendment No. 6) (Jersey) Law 201- -lodged by the Minister for Social Security. This is a matter where the principles have been approved but nevertheless I shall ask the Greffier to re-read the citation and then we will move on to consider individual Articles.

The Greffier of the States:

Draft Employment (Amendment No. 6) (Jersey) Law 201-. A Law to amend further the Employment (Jersey) Law 2003. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

The Bailiff:

Yes, so, Minister. As I say, as I understand it, the principles have been adopted and, Deputy Southern, your Scrutiny panel does not wish this to be referred, as I understand it.

Deputy G.P. Southern:

You are correct in that, Sir.

The Bailiff:

They did, but you do not. So, we move then to consider the individual Articles. So how do you wish to propose the Articles?

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

En bloc, if I may. We did have some discussion at the principles stage around the individual Articles, so I do not propose to speak at any length upon them. Article 2 widens the qualifying criteria for a redundancy payment. Article 3 relates to an employees' entitlement to redundancy pay when the employer has made an offer of new employment. Articles 4 and 5 deal with collective consultation with the employees' representatives. Article 6 requires an employer to notify the Minister for Social Security and that has been amended in line with the collective consultation numbers. I maintain the Articles.

The Bailiff:

Are the Articles seconded? **[Seconded]** Does any Member wish to speak on any of the individual Articles? Very well. All those in favour of adopting Articles 1 to 7, kindly show. Those against. Articles 1 to 7 are adopted. Do you propose the Bill in Third Reading, Minister?

Deputy I.J. Gorst:

If I may, Sir. Thank you.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Bill in Third Reading, kindly show. **[Interruption]**

Deputy I.J. Gorst:

Sorry, I just would normally have the right to sum-up even if Members have not made any comments, if that is appropriate. I just simply wanted to particularly thank the Employment Forum for the extra work they have done in regard to consultation on this issue which I think has been invaluable, and I want to place on record my thanks to them. Thank you.

The Bailiff:

Very well. The appel has been called for in relation to the Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

| POUR: 35 | | CONTRE: 0 | | ABSTAIN: 1 |
|-----------------------|--|------------------|--|--------------------------|
| Senator P.F.C. Ozouf | | | | Deputy G.P. Southern (H) |
| Senator T.J. Le Main | | | | |
| Senator B.E. Shenton | | | | |
| Senator F.E. Cohen | | | | |
| Senator J.L. Perchard | | | | |
| Senator A. Breckon | | | | |

| | | | | |
|-----------------------------|--|--|--|--|
| Senator S.C. Ferguson | | | | |
| Senator A.J.H. Maclean | | | | |
| Senator B.I. Le Marquand | | | | |
| Senator F. du H. Le Gresley | | | | |
| Connétable of St. Helier | | | | |
| Connétable of St. Saviour | | | | |
| Connétable of St. Lawrence | | | | |
| Deputy R.C. Duhamel (S) | | | | |
| Deputy of St. Martin | | | | |
| Deputy R.G. Le Hérisier (S) | | | | |
| Deputy J.A. Martin (H) | | | | |
| Deputy J.A. Hilton (H) | | | | |
| Deputy P.V.F. Le Claire (H) | | | | |
| Deputy of Trinity | | | | |
| Deputy S.S.P.A. Power (B) | | | | |
| Deputy S. Pitman (H) | | | | |
| Deputy I.J. Gorst (C) | | | | |
| Deputy of St. John | | | | |
| Deputy M. Tadier (B) | | | | |
| Deputy A.E. Jeune (B) | | | | |
| Deputy of St. Mary | | | | |
| Deputy T.M. Pitman (H) | | | | |
| Deputy A.T. Dupré (C) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy T.A. Vallois (S) | | | | |
| Deputy M.R. Higgins (H) | | | | |
| Deputy A.K.F. Green (H) | | | | |
| Deputy D.J. De Sousa (H) | | | | |

| | | | | |
|-----------------------|--|--|--|--|
| Deputy J.M. Maçon (S) | | | | |
|-----------------------|--|--|--|--|

13. Draft Restriction on Smoking (Warning Notices) (Jersey) Regulations 201- (P.156/2010)

The Bailiff:

We come next to Projet 156 - Draft Restriction on Smoking (Warning Notices) (Jersey) Regulations 201- - lodged by the Minister for Health and Social Services. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Restriction on Smoking (Warning Notices) (Jersey) Regulations 201-. The States, in pursuance of Articles 1, 1G and 2 of the Restriction on Smoking (Jersey) Law 1973, have made the following Regulations.

The Bailiff:

Yes, Minister.

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

I make no apology for stating that we all know that smoking kills. Not only is this the biggest preventable cause of premature death in Jersey, but it poses a considerable threat to our children and young people. A child who starts smoking at 15 is 3 times more likely to die of smoking-related cancer than someone who starts in their late 20s. While smoking is on the decrease, supported in part by our existing tobacco strategy, we must push forward new initiatives if we are to avoid debilitating illness, painful, expensive surgery and unnecessary death. Written health warnings on tobacco packs are already an established method of informing smokers of the damage done. Supplementing words with real images would help drive home the often brutal realities of smoking through frequent and continual exposure. An individual who smokes one pack a day is potentially exposed to a health warning 7,300 times a year. Under the Restriction on Smoking (Jersey) Law 1973, the States of Jersey can make Regulations to introduce warning images on tobacco products imported to the Island or manufactured here. Doing so will strengthen our communications and bring us in line with the U.K. and other European countries. Before bringing this proposition to you, we undertook a considerable consultation with the trade and as a result we are proposing a lead-in time which will allow old stock which does not meet the new Regulations to be sold. This will be 12 months lead-in for cigarettes and 24 months for loose tobacco. These times are the same as those given in the U.K. when they introduced warning images. This proposal's aim is to encourage non-smokers to remain smoke-free and encourage smokers to quit. My department will continue to work to support those who wish to quit.

[16:30]

The Trading Standards Department will ensure compliance with the new Regulations as part of their existing duties. Smoking is dangerous; it ruins people's lives. These Regulations represent a small but essential measure to support and improve the health and wellbeing of Islanders. I make the proposition.

The Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? Yes, Deputy Le Claire.

13.1.1 Deputy P.V.F. Le Claire:

Very briefly, I would like to congratulate the Minister and her department on bringing forward these Regulations for a continuation of our attempt to tackle the issue of smoking in the Island. It has been said a number of times but it cannot be over-emphasised that this is the number one killer.

Alcoholism obviously is very close behind but I believe it is somewhere in the region at the moment of 160 people a year that are dropping down dead. With more medicines and procedures available and new drugs available, we are able to keep a lot more people alive for a lot longer than we would have done before. So anything that we can do to try to wean people off tobacco, and anything that we can do to keep children from being exposed to it, and other people that do not smoke being exposed to it, we need to do. Members know I have been a smoker in my life; I have come off smoking; it killed my mother. I am very, very keen for the Minister to be a lot more proactive on this issue. She has done a very good job in trying to get around her department on a number of issues but I certainly would encourage her and her Assistant Ministers to get on this one and get on it hard. This is certainly an area where we can start to decrease the costs, not only in financial terms but in emotional terms to our community. I congratulate her and I am 100 per cent behind her and her department.

13.1.2 Senator S.C. Ferguson:

Yes, there were a couple of small queries. If we all stop smoking then it is going to wreck the Minister for Treasury and Resources impôts. But I would ask the Minister, is this being done in conjunction with Guernsey; are they going to have identical packets? Because I understand from figures that the Minister for Treasury and Resources found some time ago that you could cut the cost of a packet of cigarettes by about £1 which would leave much more scope for collecting more impôts. So if we did it together it would be beneficial, I think.

13.1.3 Senator P.F.C. Ozouf:

I am pleased to follow Senator Ferguson because, while I am not sure that I share her view about the Treasury problems with smoking, I think it would be far better to have a Treasury problem than deal with the health consequences and the untimely ending of life because of smoking. I would prefer to deal with a financial one and not that. However, she does raise an important issue as a consequential change of this amendment brought by the Health Department. She is right that it does put an end to the Channel Islands health warning as we know it. The consequential impact of this change will be that the tobacco market is effectively liberalised in terms of the tobacco products that can be sold in Jersey. The warnings, which are far more strident and much more obvious than those currently with the Channel Islands health warning, are also the same warnings that are in circulation, as I understand it, in the United Kingdom and also that this is an issue which has already been changed in Guernsey. The impact of this will be, as Senator Ferguson rightly - I hope - predicts, is that there will be a change potentially in the market price of cigarettes. The reduced amount of duty per packet which has been levied by this Assembly on a packet of cigarettes, and it is substantially less than the United Kingdom, both in terms of its V.A.T. (Value Added Tax) and duty, has not fed through into retail prices being lower. There is a problem with a number of dutied products: petrol, alcohol, but particularly tobacco, when taking out the U.K. duty and V.A.T. The net price of a packet of cigarettes in Jersey is, the last time I calculated it, about double in Jersey as what it is in the United Kingdom. Hopefully, this will have the immediate consequence, and I say this carefully, of lowering the price of tobacco products potentially in Jersey. That will give this Assembly the opportunity I hope of recouping some of that inexplicable margin which, at the last calculations I did, it was certainly north of 50, 60, 70, 80, 90 pence per packet. That is duty which hopefully this Assembly will be allowed to collect, not what is an inexplicable margin difference between Jersey and the United Kingdom in terms of tobacco products. So there is a consequential important economic issue and I undertake, with the Minister for Economic Development and the Minister for Health and Social Services, to keep under review the market price of tobacco products if the price of tobacco products does fall. I hope I am not going to give a disincentive for any people that are going to be bringing in tobacco products and dealing with that margin issue, but we do need to consider issues of perhaps raising the duty level to maintain the market price of tobacco in order that the hopefully ... and this is also not free money for the Health Department. But certainly if there is an opportunity of raising duties as a result of

this liberalisation, that is something that I would exceptionally consider taking as a mid-year change in terms of duties. We have never done that before but if we saw the price of tobacco fall by say 50 pence per packet, it might see the possibility of increasing duties in order to gather that money in for the benefit of Islanders in terms of services as opposed to an inexplicable margin, which has never been explained by satisfactory costs of printing a Channel Islands health warning.

The Bailiff:

Does any other Member wish to speak on the principles? Deputy Tadier.

13.1.4 Deputy M. Tadier:

First of all, I would like to draw attention to Regulation 4 and Regulation 6 because it seems that there is a potential contradiction: "Regulation 6 prohibits any person from producing or supplying tobacco with packaging that suggests that it contains tobacco that is less harmful than other tobacco." Yet, if we look at Regulation 4 there is also a requirement: "Regulation 4 requires packets of cigarettes to include a statement of nicotine, tar and carbon monoxide yields." So it is very obvious, and it is quite right, that the consumer can compare different packets to decide first of all what it is that they are consuming and how harmful they are. It will be necessary that they will be able to make a clear decision about whether one type of tobacco is more harmful than the other. So it seems to me that Regulation 4 is in direct contradiction of Regulation 6 because as a smoker... I am not a smoker but if I were a smoker I might decide I want to be able to choose a packet of tobacco which is, first of all, less addictive. So I will choose one with less nicotine, which has less tar in it, therefore, which will be slightly healthier - if you can have a healthy cigarette. So Regulation 6 certainly seems superfluous to me and I will be asking for that to be taken separately, or certainly for all 6 to be removed, but I think 6 is the problematic one. On another issue, I would like to ask the Minister more globally whether she has considered any changes to duty free. Clearly, the duty free applies to Jersey as a double-edged sword because I know that we can increase the costs of tobacco, whether it is cigarettes or roll-ups, and I know many people certainly now in these austere times who are only smoking duty free cigarettes because there are many people coming back and forward in the Island who have family who may not be smokers, that that is all they smoke. So, first of all, how duty free will be affected by these Regulations but also whether there is a long-term plan and whether there is going to be any cost benefit analysis looked at to what are the benefits of still having duty free. Sure, there are perks to it when it comes to health but there is certainly the obvious downside, which I am sure the Minister will be aware of, and the Chief Officer of Health will be aware of that too. So is there a long-term plan for that and also what will the implications for the Treasury be? Lastly, I would just like to say that I think all of these Regulations are necessary but they are necessary conditions not are not sufficient conditions. Ultimately what one I think has to constantly reinforce in young children is that it is about education. Not just about, for example, being able to read, having the literacy so you know what the warnings on the packet mean, but also to have the emotional wherewithal to deal with problems that come up in life so that one does not necessarily turn to substance abuse, albeit tobacco or other types of drugs. So in summing-up, if the Minister could perhaps explain how this fits into the broader policy to combat tobacco addiction.

The Bailiff:

Does any other Member wish to speak on the principles? Very well, I call upon the Minister to reply.

13.1.5 The Deputy of Trinity:

I thank Deputy Le Claire for his comments too and I know that he has always been a great supporter of the tobacco strategy and I really appreciate that. The comments from Senator Ferguson regarding Guernsey, in fact, Guernsey are ahead of us. They brought these pictorial requirements in, if I am right, if not last year but the end of the year before. I am not too sure of the

date but they are in. There was a comment saying that there was one picture which was different to what Guernsey had brought in but I am pleased to say that Guernsey have re-aligned to be the same as us as well as the U.K. I think the Minister for Treasury and Resources has answered the questions about impôts duty, et cetera. Regarding Deputy Tadier's, and a very important about the tobacco strategy, this is only one point. This is only one part of the whole strategy, and it is going to be a whole group of different strategies that we need to put in place. I am not complacent because it is not going to be easy but anyone that we can stop from smoking is a plus point. Regarding duty free, this is about pictorial warnings on cigarettes, and presumably they get the duty free either from the U.K. or E.U. countries and they have them on there already, so these pictorial warnings should be there. Regarding the Regulation 4 and Regulation 6, Regulation 4 describes the requirement for the statement of nicotine, et cetera, which are required for packets of cigarettes. Regulation 6 prohibits any person from producing or supplying tobacco, so there is a subtle difference there. Just to sum-up, I do not need to rehearse all the arguments about the dangers of smoking. We know it kills and if this will help anyone to stop smoking then it must be a good thing, not only for themselves but also for the smoking-related illnesses, both financially and socially. I propose these Regulations to this House.

Deputy M. Tadier:

Before that, could I ask the Attorney General for legal advice with regard to Regulations 4 and 6 as to whether he thinks there is any contradiction legally?

The Attorney General:

No, I do not believe there is a contradiction from a legal point of view. Regulation 4 requires specific quantitative information that needs to be set out on any package. Regulation 6 prevents the suggestion that one particular brand is better than another brand in terms of health. One I think is to do with information that is provided to members of the public; the other is to do with what gloss a seller might wish to put on that information and it is Regulation 6 that provides that such a gloss cannot be put on it.

Deputy M. Tadier:

If I can just have a supplementary. Regulation 6 says that anything that would suggest it contains tobacco that is less harmful than other tobacco, now clearly if you have on the packet figures which say that this contains a negligible amount of nicotine; let us say ... I do not know what the figures are. Let us say 0.1 gram and another one says it contains 1 gram of tar, it is going to be quite obvious to any lucid smoker that packet A is a lot less harmful than packet B. So I think there is a strong case of saying that that tobacco is less harmful than other tobacco and it might affect people's choices. Indeed, quite rightly, it should affect their choices.

The Attorney General:

I do not think I can add anything to my previous answer. I think the 2 deal with different things. In my view, there is not a contradiction between them but I fully accept that the Deputy thinks otherwise.

The Bailiff:

Very well. The matter before the Assembly is the principles of the Regulations, Projet 156. The appel is called for in relation to the principles. I invite Members to return to their seats and the Greffier will open the voting.

[16:45]

| POUR: 40 | | CONTRE: 0 | | ABSTAIN: 0 |
|-----------------------------|--|------------------|--|-------------------|
| Senator T.J. Le Main | | | | |
| Senator B.E. Shenton | | | | |
| Senator J.L. Perchard | | | | |
| Senator A. Breckon | | | | |
| Senator S.C. Ferguson | | | | |
| Senator A.J.H. Maclean | | | | |
| Senator B.I. Le Marquand | | | | |
| Senator F. du H. Le Gresley | | | | |
| Connétable of St. Helier | | | | |
| Connétable of Trinity | | | | |
| Connétable of St. Brelade | | | | |
| Connétable of St. Saviour | | | | |
| Connétable of St. Lawrence | | | | |
| Connétable of St. Mary | | | | |
| Deputy R.C. Duhamel (S) | | | | |
| Deputy of St. Martin | | | | |
| Deputy R.G. Le Hérisier (S) | | | | |
| Deputy J.B. Fox (H) | | | | |
| Deputy J.A. Martin (H) | | | | |
| Deputy G.P. Southern (H) | | | | |
| Deputy J.A. Hilton (H) | | | | |
| Deputy P.V.F. Le Claire (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 I.J. Gorst (C) | | | | |
| Deputy of St. John | | | | |
| Deputy M. Tadier (B) | | | | |
| Deputy A.E. Jeune (B) | | | | |
| Deputy of St. Mary | | | | |
| Deputy T.M. Pitman (H) | | | | |
| Deputy A.T. Dupré (C) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy T.A. Vallois (S) | | | | |
| Deputy M.R. Higgins (H) | | | | |
| Deputy A.K.F. Green (H) | | | | |
| Deputy D.J. De Sousa (H) | | | | |
| Deputy J.M. Maçon (S) | | | | |

The Bailiff:

Deputy Southern, do you wish this matter to be referred to your Scrutiny Panel?

Deputy G.P. Southern:

No, Sir.

The Bailiff:

Very well. Then we move on to the individual Regulations. Do you wish to propose them *en bloc*, Minister? Although if Deputy Tadier or anyone else wishes, they can be voted on separately, but did you wish to propose them *en bloc*?

13.2 The Deputy of Trinity:

I am in the hands of the Assembly but, yes, I would like to propose them *en bloc*, please.

The Bailiff:

Very well. Are they seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations?

13.2.1 Deputy M. Tadier:

Only to ask that Regulation 6 be taken separately.

The Bailiff:

Does any other Member wish to speak on any of the Regulations? Very well. Then we will take first Regulations 1 to 5 together. All those in favour of adopting Regulations 1 to 5, kindly show. Those against. Regulations 1 to 5 are adopted. Now Regulation 6 then is to be taken separately and the appel is called for in relation to Regulation 6. Therefore, the Greffier will open the voting on Regulation 6.

| POUR: 40 | | CONTRE: 1 | | ABSTAIN: 0 |
|-----------------------------|--|----------------------|--|-------------------|
| Senator T.J. Le Main | | Deputy M. Tadier (B) | | |
| Senator B.E. Shenton | | | | |
| Senator J.L. Perchard | | | | |
| Senator A. Breckon | | | | |
| Senator S.C. Ferguson | | | | |
| Senator A.J.H. Maclean | | | | |
| Senator B.I. Le Marquand | | | | |
| Senator F. du H. Le Gresley | | | | |
| Connétable of St. Helier | | | | |
| Connétable of Trinity | | | | |
| Connétable of St. Brelade | | | | |
| Connétable of St. Saviour | | | | |
| Connétable of St. Lawrence | | | | |
| Connétable of St. Mary | | | | |
| Deputy R.C. Duhamel (S) | | | | |
| Deputy of St. Martin | | | | |
| Deputy R.G. Le Hérisier (S) | | | | |
| Deputy J.B. Fox (H) | | | | |
| Deputy J.A. Martin (H) | | | | |
| Deputy G.P. Southern (H) | | | | |
| Deputy of St. Ouen | | | | |
| Deputy J.A. Hilton (H) | | | | |
| Deputy P.V.F. Le Claire (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 I.J. Gorst (C) | | | | |
| Deputy of St. John | | | | |
| Deputy A.E. Jeune (B) | | | | |
| Deputy of St. Mary | | | | |
| Deputy T.M. Pitman (H) | | | | |
| Deputy A.T. Dupré (C) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy T.A. Vallois (S) | | | | |
| Deputy M.R. Higgins (H) | | | | |
| Deputy A.K.F. Green (H) | | | | |
| Deputy D.J. De Sousa (H) | | | | |
| Deputy J.M. Maçon (S) | | | | |

The Bailiff:

Then we come to Regulations 7 to 10 and the Schedule. The appel is called for in relation to Regulations 7 to 10 and the Schedule. I invite Members to return to their seats and the Greffier will open the voting.

| POUR: 41 | | CONTRE: 0 | | ABSTAIN: 0 |
|-----------------------------|--|------------------|--|-------------------|
| Senator T.J. Le Main | | | | |
| Senator B.E. Shenton | | | | |
| Senator J.L. Perchard | | | | |
| Senator A. Breckon | | | | |
| Senator S.C. Ferguson | | | | |
| Senator A.J.H. Maclean | | | | |
| Senator B.I. Le Marquand | | | | |
| Senator F. du H. Le Gresley | | | | |
| Connétable of St. Helier | | | | |
| Connétable of Trinity | | | | |
| Connétable of St. Brelade | | | | |

| | | | | |
|-----------------------------|--|--|--|--|
| Connétable of St. Saviour | | | | |
| Connétable of St. Lawrence | | | | |
| Connétable of St. Mary | | | | |
| Deputy R.C. Duhamel (S) | | | | |
| Deputy of St. Martin | | | | |
| Deputy R.G. Le Hérisier (S) | | | | |
| Deputy J.B. Fox (H) | | | | |
| Deputy J.A. Martin (H) | | | | |
| Deputy G.P. Southern (H) | | | | |
| Deputy of St. Ouen | | | | |
| Deputy J.A. Hilton (H) | | | | |
| Deputy P.V.F. Le Claire (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 I.J. Gorst (C) | | | | |
| Deputy of St. John | | | | |
| Deputy M. Tadier (B) | | | | |
| Deputy A.E. Jeune (B) | | | | |
| Deputy of St. Mary | | | | |
| Deputy T.M. Pitman (H) | | | | |
| Deputy A.T. Dupré (C) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy T.A. Vallois (S) | | | | |
| Deputy M.R. Higgins (H) | | | | |
| Deputy A.K.F. Green (H) | | | | |

| | | | | |
|--------------------------|--|--|--|--|
| Deputy D.J. De Sousa (H) | | | | |
| Deputy J.M. Maçon (S) | | | | |

The Bailiff:

Do you propose the Regulations in Third Reading, Minister?

13.3 The Deputy of Trinity:

Yes, I do. I would like to thank those who have voted here because this will make a difference. I would also like to thank the Health Improvement Team. They do have a difficult task ahead of them to reduce the percentage of people who smoke but this will go a long way. Thank you.

The Bailiff:

Very well. Is the Bill in Third Reading seconded? **[Seconded]** Does any Member wish to speak in Third Reading? The Deputy of St. Mary.

13.3.1 The Deputy of St. Mary:

Just a brief comment; maybe it should have been made at First Reading, simply to point out that this is a first class example of invest to save. The Health Department puts in the effort; they develop a strategy; it gets approved by this House. We work and work and work on it and the level of the incidents of tobacco smoking goes down and down, especially among young people, and we are saving a lot of money, as well as a lot of heartache, as Deputy Le Claire said. So I just wanted to stress that this is an example of invest to save and that we should apply elsewhere in our dealings.

The Bailiff:

Does any other Member wish to speak in Third Reading? Deputy Tadier.

13.3.2 Deputy M. Tadier:

Just to follow on from that, of course, these are very necessary measures. I would like to reiterate though that the reason a lot of people either smoke, maybe excessively, or drink excessively, are often linked to socioeconomic factors. I would remind every Member, including myself and the Minister, that in the Strategic Plan we did vote for a more equal society. I think once we get those factors, and once that pans-out, and there has been research done about equal societies where the gaps are not so obvious as in some countries, that you do have better societies and people do not necessarily need to turn to substance abuse, et cetera, and we will all lead healthier lives. So, I would just reiterate that to the Minister and I am sure she knows all that anyway and I think in this respect keep up the good work.

The Bailiff:

Does any other Member wish to speak in Third Reading? Do you wish to reply, Minister?

13.3.3 The Deputy of Trinity:

I just thank the 2 Deputies for their comments and their support and I hope it does reduce the number of people who do smoke. Thank you.

The Bailiff:

The appel is called for in relation to the Third Reading of the Regulations. I invite Members to return to their seats and the Greffier will open the voting.

| | | | | |
|-----------------|--|------------------|--|-------------------|
| POUR: 43 | | CONTRE: 0 | | ABSTAIN: 0 |
|-----------------|--|------------------|--|-------------------|

| | | | | |
|-----------------------------|--|--|--|--|
| Senator T.A. Le Sueur | | | | |
| Senator T.J. Le Main | | | | |
| Senator B.E. Shenton | | | | |
| Senator J.L. Perchard | | | | |
| Senator A. Breckon | | | | |
| Senator S.C. Ferguson | | | | |
| Senator A.J.H. Maclean | | | | |
| Senator B.I. Le Marquand | | | | |
| Senator F. du H. Le Gresley | | | | |
| Connétable of St. Helier | | | | |
| Connétable of Trinity | | | | |
| Connétable of Grouville | | | | |
| Connétable of St. Brelade | | | | |
| Connétable of St. Saviour | | | | |
| Connétable of St. Lawrence | | | | |
| Connétable of St. Mary | | | | |
| Deputy R.C. Duhamel (S) | | | | |
| Deputy of St. Martin | | | | |
| Deputy R.G. Le Hérisier (S) | | | | |
| Deputy J.B. Fox (H) | | | | |
| Deputy J.A. Martin (H) | | | | |
| Deputy G.P. Southern (H) | | | | |
| Deputy of St. Ouen | | | | |
| Deputy J.A. Hilton (H) | | | | |
| Deputy P.V.F. Le Claire (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 I.J. Gorst (C) | | | | |
| Deputy of St. John | | | | |
| Deputy M. Tadier (B) | | | | |
| Deputy A.E. Jeune (B) | | | | |
| Deputy of St. Mary | | | | |
| Deputy T.M. Pitman (H) | | | | |
| Deputy A.T. Dupré (C) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy T.A. Vallois (S) | | | | |
| Deputy M.R. Higgins (H) | | | | |
| Deputy A.K.F. Green (H) | | | | |
| Deputy D.J. De Sousa (H) | | | | |
| Deputy J.M. Maçon (S) | | | | |

14. Official Report ('Hansard'): retrospective removal of names (P.168/2010)

The Bailiff:

We come next to Projet 168 - Official Report ('Hansard'): retrospective removal of names - lodged by the Privileges and Procedures Committee and I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to refer to their Act dated 10th March 2009 in which they approved amendments to Standing Orders to provide that where a name is spoken in the Assembly by a Member in breach of Standing Orders the presiding officer can, having made a determination that the use of the name was in breach of Standing Orders, direct that the name be omitted from the transcript of the meeting, with a note inserted in the transcript to indicate that the name has been omitted in accordance with this provision; and to agree that the Bailiff should be empowered to direct that any names found in the transcript of States proceedings from the establishment of the Official Report in 2005 until the coming into force of the amendment to Standing Orders approved on 10th March 2009 should be removed from the transcript, providing that the presiding officer had, at the time the name was used, ruled that the use of the name had been in breach of Standing Orders; and to further agree that when any name is removed retrospectively from the transcript in accordance with the use of this power a note should be inserted in the revised transcript stating "name omitted in accordance with States decision of [date this proposition is adopted]."

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

I hope that Members will find that this proposition is relatively straightforward and I trust that the accompanying report is self-explanatory. I will not therefore speak at great length about it but I do believe that it is important to set out some of the background. Standing Order 104(2)(i) sets out the rules agreed by the Assembly in relation to the use of names of persons who are not Members of the States during a debate. The Standing Order states that a Member of the States must not refer to any individual who is not a Member of the States by name, unless use of the individual's name is unavoidable and of direct relevance to the business being discussed. I think it is important to stress that the rule is not a total ban on the use of names, as it does not prevent the use of a name that is unavoidable, but as Members know the rule does require Members to avoid the unnecessary use of names. As with all matters of order in the Assembly, during debates the enforcement of the Standing Order is a matter for the presiding officer. Clearly, Sir, you and others who preside in the Assembly will occasionally take a pragmatic view if a Member inadvertently mentions the name of a third party during a speech in a way that is not seen to be deliberately in breach of the Standing Order or clearly inappropriate. Members may, for example, occasionally mention the name of an officer or another person that they wish to thank and the presiding officer does not decide to intervene on every single occasion of a technical breach of a Standing Order. There are nevertheless occasions when Members very clearly use names in an inappropriate way and on very rare occasions when Members may use a name knowing that they are deliberately breaching the Standing Order. In these circumstances, it is only right and proper that the presiding officer intervenes to draw the Member's attention to the breach of Standing Order 104(2)(i) and to ask the Member to withdraw the name. In March 2009 the States agreed amendments to Standing Orders in relation to the recording of any such incidents in Hansard. In approving the amendments to Standing Orders, the States recognised that it was clearly a nonsense for a Member to be asked to withdraw a name spoken in breach of Standing Orders only for the full exchange, including their name, to then be transcribed in full in Hansard and published on the Internet. Under the new Standing Order the presiding officer, having asked for a name to be withdrawn, can direct that the name is omitted from Hansard. In order to ensure that the matter is done in a totally transparent way, the Hansard records the direction of the presiding officer to omit the name. Fortunately, it has not been necessary to utilise the new provision frequently since it was introduced in 2009 and I understand that it has only been used on 2 occasions. Some time ago it was brought to P.P.C.'s attention that the new Standing Order had created a degree of inequity because all Hansard transcripts from the period between 2005 when Hansard was introduced and the date of the new Standing Order were not subject to the same provisions. The new Standing Order could not be made retrospective and P.P.C. overlooked to consider the matter of retrospection at the time of its introduction. This current proposition simply seeks to address the oversight in relation to the Hansard transcripts that pre-dates the new Standing Order. As can be seen from the proposition, the Committee is proposing that exactly the same procedure should be followed in relation to the removal of names. The new power that will be given to the Bailiff will only apply in situations where the presiding officer had, at the time the name was used, ruled that the use of the name had been in breach of Standing Orders. These occasions are extremely rare and it is believed that there are in fact only 2 occasions during the period in question where the power is likely to be exercised if this proposition is approved today. When the proposition was first lodged, the *J.E.P.* anonymous columnist Helier Clement suggested that public employees would spend many hours of their time trawling through every single Hansard transcript in order to identify and remove every single name. I can reassure Members that no such thing will happen. It is a relatively simple thing for the Greffier of the States and his staff to search the Hansard electronically to identify any occasions when the presiding officer has made the determination in relation to a name, and these occasions can then be brought to the attention of the Bailiff so that he can decide whether or not to exercise the power to order removal. As I mentioned earlier, this exercise has in fact already been undertaken and it is believed that there are only 2 occasions of relevance. P.P.C. believes that it is extremely important in the interests of equity that this proposition should be adopted today. The Committee is aware that some Members have concerns about the current Standing Order on the use

of names and some Members may also be concerned about the Standing Order introduced in March 2009. I would nevertheless urge Members to recognise that any decision to amend the current Standing Order on names, or to repeal the March 2009 Standing Order, would have to be made during a separate debate and this proposition today is merely to achieve consistency within the current rules. It is clearly open to the Assembly to review and, if considered appropriate, to amend the current Standing Orders. But for as long as the current provisions are in force, P.P.C. considers that it is important for the ruling to be consistent in relation to all Hansard that has ever been published. I therefore urge Members to support the proposition.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? Yes, Deputy Le Claire.

14.1.1 Deputy P.V.F. Le Claire:

Notwithstanding that the broadcast of the Assembly goes out live and anybody listening on the radio can pick up what is said as it is said, we do from time to time, and have in the past, requested tapes of the debates in the States and those are provided to us on a small cassette by the Greffier. I do not know if that is still relevant today because we have Hansard or whether or not it is going to be relevant in the future. But obviously if, for example, I wanted to capture and listen to ... or I have lost my sight and I wanted to remember what was said at that time and I go for a tape, have they given consideration to the fact that those tapes are going to have to be edited in such a way that the names are removed from those recordings?

14.1.2 Deputy T.M. Pitman:

In recent months, I do not know who has been the most concerned, as the Constable of St. Mary, the Chairman of P.P.C. and myself have often agreed. So I do not know which one has been more frightened about that. I have sought help but apparently I am still sane. But I cannot really agree with this one. I just think it is almost going back to the medieval times: he who cannot be named. It is really interesting that the Chairman just told us that there were only I think 2 examples. Well, it is like the proposition we are going to get from Senator Routier about length of speeches when, if you talk to the Greffe's office, 99.9 per cent of people do not speak for 3½ hours and do not abuse it; they speak for 5 or 6 minutes. So why are we doing that? I have to say that my feeling with this, and I do understand to a degree the Chairman's reasons for it, we have only had 2 examples, why do we need to do this? I just think it is an unnecessary thing. I think it is far better that P.P.C. remind people to use names with consideration and I think 99.9 per cent of us do. I think it is unnecessary and that is why I do not think I can support this.

14.1.3 The Deputy of St. John:

I do not think I will be speaking for another 4 or 5 minutes. I must say we should leave history in its place and putting things retrospectively I do not think is wise. History is history. I, over the years, have got a large number of tapes of various debates. Does that mean I have to bring all my tapes back to the Greffe's office and have them all wiped and then reproduced? Because really it is unacceptable that we go retrospective. What has been said has been said. It is in the history books and therefore it should remain as history. Thank you.

[17:00]

14.1.4 Deputy M. Tadier:

When this first came to the House, I think it was last year, I was a bit torn but I decided to support it because I thought it was important that members of the public who do not have a right to defend themselves who may be named, albeit inadvertently most of the time and sometimes hopefully not maliciously, would be protected. But I think more so, even though we have been given reassurances about the fact that it is not going to create lots of red tape for amending Hansard, I

think where it has created lots of problems is that it seems to have tied a certain amount of Members up in their speeches when quite innocuously we can mention a name very easily. For example we have talked about previous States Members and we do not know whether to refer to them as Mr. X or is it former Senator X or do we call them by their name and if we do are we going to get pulled up by it? So I think in practical grounds - and I think certain Members will sympathise with this - it just seems a bit of a nonsense and I think Deputy Trevor Pitman hit the nail on the head because it seems, with all these regulations that are coming into Standing Orders - the amendments for example to do with signatures on a sheet or to do with how long you can speak for - are starting to treat us as children. To some people listening at home perhaps and some Members will say it is because we behave like children but I think when push comes to shove we all appreciate that there are differences of opinion, there are difficulties in any Assembly. But at the end of the day we are parliamentarians and we should be trusted to use discretion and when that discretion is perhaps misjudged it is then job, I believe, of P.P.C. to step in and have words with Members. I would have preferred, I think, to have it if, for example, a member of the public had complained then in that circumstance by all means remove those names from the Hansard or have a word with the individual. But most of the time in a small Island - I can see, as an argument, both ways for it of course - sometimes it is inevitable because everyone knows everyone anyway and so it is just as easy to call them Mr. Smith, Mrs. Ecobichon who lives in St. Ouen as the cliché goes, rather than referring to their actual position. I do not think I am going to change my vote because I think it is important to be consistent. I did vote for it last time and really we are rubberstamping it but certainly if this were to come back I would really consider how I voted because I think there is a valid case about leaving what was said on record. When we start tampering with Hansard I think there is a dangerous precedent. Of course Deputy Le Claire is quite right, there are tapes going out of this, this is being recorded now, somebody could say something wrong. There are lots of other things which a Members can do to contravene Standing Orders, for example, one can swear, if this were being filmed I could go and hit one of my colleagues. I am not going to do that because first of all it is not a nice thing to do - that would contravene Standing Orders - are we going to start wiping those actions from any kind of video in future when these things are going to be recorded? I think not, that is getting into the realms of going one step too far. I think we need a bit of common sense in the hope a lot of these arguments will be transferrable in coming days when we debate many of the other amendments that are being brought forward to Standing Orders. So I will leave it like that, I am not going to change my vote but I think it is certainly something which we need to keep tabs on and I think we need to be able to speak freely and not be tied-up with red tape unnecessarily.

14.1.5 The Deputy of St. Mary:

Yes, I must say I am made uneasy by this for the reason that the Deputy of St. John said and also Deputy Tadier. There are a number of cases where names are used and all of them seem to me to be innocuous, there is only one where there is an issue. My first example is when we were discussing the Napier report, the Deputy of St. Martin brought a proposition about that and I found myself going around in knots really, the Deputy Acting Chief of Former Police or something and it would have been so much easier to have said Mr. Warcup. In fact I often did say Mr. Warcup and Mr. Power because they were named in the Napier report and I was quoting from the Napier report. So there is that issue all the time of how do I say this? We should not be thinking about how we get around things like that, we should just be trying to put our points across clearly. "The speaker wishes to thank ..." yes, quite often I have heard - I think it has happened today - Members of the Assembly naming third parties because they want to thank them and I think that is quite appropriate. So the only real issue - and the speaker mentioned it in her opening remarks - is someone knowingly, deliberately breaching Standing Orders. The problem there of course is if somebody is doing it deliberately they are doing it deliberately and I want to just quote really from a little item that was sent to me by Tony the Prof who often blogs quite intelligently about matters like this. He quotes an exchange in Hansard ...

The Bailiff:

Deputy, can we just be clear, we are not at the moment debating the wisdom or otherwise of the Standing Order which precludes names being used, we are debating whether there should be an ability in apparently 2 cases where it was used and the speaker was admonished at the time, whether that should be removed from Hansard. Now you have been speaking on whether it is a good thing or not to have this rule which does not seem to me to be relevant to the debate.

The Deputy of St. Mary:

In my view we are harmonising what exists now and we are going backwards, we are imposing it retrospectively, are we not, that is the idea?

The Bailiff:

The proposition is that in however many cases whether the name that was wrongly used should be removed from Hansard. But we are not debating the wisdom or otherwise of the current Standing Order which precludes the use of names.

The Deputy of St. Mary:

Well, no, clearly we have an existing position which is running now and, as Deputy Tadier said, there is a matter of consistency. But on the other hand, should we be going backwards and imposing on the record in my view a questionable practice? In that exchange between the Deputy Bailiff and Senator Syvret I will just read the last remark, the Deputy Bailiff said: "I have accepted that parliamentary privilege exists, it is up to Members to exercise restraint and responsibility." Really that is the issue, is it not, and Deputy Pitman mentioned in relation to speeches. We exercise that judgment and for that to be externalised and made into something that is absolute just concerns me. If we decide to name names and we have got it wrong or that was a bad judgment, well on our heads be it. But I am just very uneasy with taking the record and people have mentioned how absurd it is to then take dates and wipe those as well and jigger around with them. It is the record, it is what people said, they said it because they meant to say it and I am just very uneasy about this.

14.1.6 Deputy G.P. Southern:

Quite frankly, sir, I am almost in tears here. I am back on the Island for less than 6 hours and here we are debating this proposition from P.P.C. Really have they got little better to do than this? But I have qualms about this. It is clearly about rewriting history. The fact is that if people have been named in the past, whether or not the Bailiff objected or otherwise, they have been named, it is in the public domain. This smacks to me of simply rewriting history. How we conduct ourselves under our rules now is one thing, that is fine, if we want to tie ourselves in knots trying not to name somebody that is fine, let us do it. But let us not go back and rewrite history. What it reminds me of is airbrushing Trotsky out of photographs of the Communist Party in the early days or even worse, the Americans rewriting the history of World War 2 where they won all the battles and we were not there. This is something we should not be toying with and we should not be going anywhere near. You do not rewrite history, stuff is out there in the public domain, in the public, and to pretend that we can go back and wipe it is just ridiculous. I will be voting against this.

14.1.7 Deputy A.E. Jeune:

I support the Chairman of P.P.C. bringing this proposition but I am just picking up on something that Deputy Tadier said, it is slightly wide of the mark but with the fact that we have live broadcasts is there not some facility to have a slight delay in broadcasts going out where the names could in fact be erased at that point? I do not know whether the Chair knows anything about that. Thank you.

14.1.8 Deputy M.R. Higgins:

I am a member of P.P.C. and I might add that I disagreed with my colleagues on this particular item. Again, for the reasons that others of mentioned, the rewriting of history, but I also think we

are getting crazy as I have just heard from Deputy Jeune about political correctness. I am appalled, for example, by the fact that even in the States reports we can have Scrutiny hearings where officers - including officers who have misled the Scrutiny panels - and others are not named. Their titles can be given which means absolutely nothing to the public, but any member of the public who comes, his name is given in the transcript and in the documents. I just think we are going overboard and, I do not know, we will get to the stage we will not be able to say anything about anybody or record any names or any decisions and I think we are just going mad.

Deputy I.J. Gorst:

Could I ask the previous speaker if he would not consider rephrasing the comment “officers who have misled the Scrutiny panels” sir?

Deputy M.R. Higgins:

I will be making an official report to the Chief Minister about the officer concerned so I will not withdraw it.

14.1.9 Senator J.L. Perchard:

We have a privilege in this House and I have seen Members abuse that privilege by naming and accusing individuals outside this Chamber of dreadful crimes and I think if we are to abuse our privilege it is right that there should be an opportunity for the Chair to point that out to Members and it is a very rare occasion. There are consequences to others outside this Chamber, the families of, the children of, those that are named and accused and I think it is right that we have this backstop. I ask Members to give the Chair this opportunity to delete a name and if Members found in the future that the Chair perhaps exceeded the limits that the House felt reasonable then we could look at it again. But certainly I have seen people’s reputations, their families hurt to the point of great distress by Members abusing their privilege in this Chamber.

Deputy M. Tadier:

I wanted to seek clarification, I have spoken but I do not know if it is best done in a question to the Attorney General or just clarification maybe which the ...

The Bailiff:

You have spoken already, who are you seeking clarification from?

Deputy M. Tadier:

I just wanted to ask why the decision was made on 10th March 2009 so what was the justification for making it retrospective for 2005?

The Bailiff:

Well, I am sorry, that is a second speech.

14.1.10 Connétable P.F.M. Hanning of St. Saviour:

Just one point, I think we need to be sure that we are not rewriting history. I am afraid we are rather exaggerating this. If you look at it, mention has been made of Trotsky being airbrushed out of the photograph, when this happens - and it has only happened twice - a note will be made in Hansard that the name has been removed because of a breach of Standing Orders. That is the difference. As far as I am aware, in the photograph of Trotsky there was no note visible to everyone saying someone had been removed. **[Laughter]**

14.1.11 The Connétable of St. Mary:

It is extremely difficult to follow the Constable of St. Saviour, that was extremely, I thought, witty. It seems to me that there are a couple of things here; there are some Members who are completely overestimating what we are asking for in this proposition and there are some who do not quite

understand what it means. The power for the Chair, the President of the Assembly, to direct that a name is removed from Hansard exists now, this does not affect that at all. This only relates to a few instances that occurred in the time between Hansard being instigated in I think December 2005 and the time at which that additional power, which I have just mentioned, came into force in 2009. For that period any time that somebody's name was used, shall we say maliciously or inappropriately, even if the Chair said that the name had to be withdrawn the name still appears in Hansard.

[17:15]

As I have said repeatedly, we have done electronic scans that show that there are 2 instances of note, 2 instances only, and it is time limited, there will not be any future instances to be ruled on. We are talking about a defined moment in time. It seems that there are some Members, in fact Deputy Pitman stood up in the debate about the Canons law and I respect him for it, and said he could not support anything that had a built in inequality, that - as he understood it, we had it explained later - women could not be bishops and so he could not stand for it. I am here proposing on behalf of P.P.C. something to address a particular inequality that exists now and to see that put right. So I would urge Deputy Pitman to think for consistency that this is what we should be doing. The question of tapes, we are not talking about tapes we are talking about removal of names from Hansard, the electronic record, and that is for a very good reason. Apart from the fact, of course, we cannot control if anybody records anything, things are said very fleetingly, people might hear it but they may not remember it. But the important thing is Hansard goes on and on. It is infinitely searchable. Anybody who has seen any of the interest recently about social media in the jobs market, there was something yesterday about trying to school people to do more innovative, interactive job applications. Employers the world over are using the electronic media and using the internet to vet candidates for jobs - that is just one instance - before they give them even an interview. We know that in 2 cases names have been used in such a way that was clearly deemed inappropriate, where the President of the Assembly, the presiding officer, requested that those names be withdrawn. The speaker withdrew the name but in Hansard now those names exist and they can be searched. It is incredible to think that someone's life, the life of their family, can be blighted by the use and, as Senator Perchard said ... although Senator Perchard himself seemed to think that we were going to be having a power that could possibly be exceeded in some way which we would have to monitor. I repeat we are referring only to 2 instances that we know about in a very defined time. So of course tapes exist, cassettes may exist, but they are not easily searchable, they are not out there in the public domain. I certainly would not be expecting the Deputy of St. John to bring back anything that he has under his possession, we are talking only about Hansard.

Deputy P.V.F. Le Claire:

Can I just have a point of clarification, sir? The Chairman is saying that we have got a position at the moment where we are going to remove the names from the text of Hansard but somebody that cannot see can go and get a tape and hear the name.

The Deputy of St. John:

A point of clarification, maybe the ...

The Connétable of St. Mary:

I was speaking, Sir, may I be permitted to conclude? Members seem to wish to tilt at windmills, they wish to clutch at straws. I could go on giving similes, metaphors, whatever. But the fact is we are talking about defined instances on Hansard, the electronic record - Official Report ('Hansard'): retrospective removal of names - that is what we are talking about and I would like Members please, if they could, to stick to the point. This address an inequality and, frankly, I am quite surprised that Members find it so difficult to grasp. The real debate on giving the power of direction to remove names has been had. That is now current for everything going forward but we

are looking back. Two instances where someone's life has been blighted by words said inappropriately. We have parliamentary privilege, that is absolutely correct, those privileges are right to be defended, but we are really expected not to abuse our position of privilege. For the Deputy of St. Mary to say that it is on our heads if we exercise bad judgment, well, from the point of view of the person who has been named inappropriately I think he would see that or she would see that as a cavalier attitude. On that note I think there is nothing else I can say, apart from Deputy Jeune, when we talk about electronic intervention and slight delays I think we are talking about money and I think really we are, by and large, as an Assembly, responsible in what we say. I think we, by and large, are and the Chair does not exercise undue force, as I said in my speech. I think that would be a sledgehammer to crack a nut. But I think what the P.P.C. is proposing today is important and I commend the proposition to the House.

The Bailiff:

The appel is called for then in relation to the proposition of the Privileges and Procedures Committee, I invite Members to return to their seats to vote on P.168 and the Greffier will open the voting.

| POUR: 37 | | CONTRE: 10 | | ABSTAIN: 0 |
|-----------------------------|--|-----------------------------|--|-------------------|
| Senator T.A. Le Sueur | | Deputy R.C. Duhamel (S) | | |
| Senator T.J. Le Main | | Deputy G.P. Southern (H) | | |
| Senator B.E. Shenton | | Deputy P.V.F. Le Claire (H) | | |
| Senator J.L. Perchard | | Deputy S. Pitman (H) | | |
| Senator A. Breckon | | Deputy of St. John | | |
| Senator S.C. Ferguson | | Deputy of St. Mary | | |
| Senator A.J.H. Maclean | | Deputy T.M. Pitman (H) | | |
| Senator B.I. Le Marquand | | Deputy M.R. Higgins (H) | | |
| Senator F. du H. Le Gresley | | Deputy D.J. De Sousa (H) | | |
| Connétable of St. Ouen | | Deputy J.M. Maçon (S) | | |
| Connétable of St. Helier | | | | |
| Connétable of Trinity | | | | |
| Connétable of Grouville | | | | |
| Connétable of St. Brelade | | | | |
| Connétable of St. John | | | | |
| Connétable of St. Saviour | | | | |
| Connétable of St. Clement | | | | |
| Connétable of St. Peter | | | | |

| | | | | |
|-----------------------------|--|--|--|--|
| Connétable of St. Lawrence | | | | |
| Connétable of St. Mary | | | | |
| Deputy of St. Martin | | | | |
| Deputy R.G. Le Hérisier (S) | | | | |
| Deputy J.B. Fox (H) | | | | |
| Deputy J.A. Martin (H) | | | | |
| Deputy of St. Ouen | | | | |
| 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 I.J. Gorst (C) | | | | |
| Deputy M. Tadier (B) | | | | |
| Deputy A.E. Jeune (B) | | | | |
| Deputy A.T. Dupré (C) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy T.A. Vallois (S) | | | | |
| Deputy A.K.F. Green (H) | | | | |

15. Draft Amendment (No. 14) of the Standing Orders of the States of Jersey (P.169/2010)

The Bailiff:

We come next to draft Amendment No. 14 of the Standing Orders of the States of Jersey, P.169, lodged by the Privileges and Procedures Committee. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Amendment Number 14 of the Standing Orders of the States of Jersey. The States, in pursuance of Article 48 in the States of Jersey Law 2005, have made the following amendments to Standing Orders.

The Bailiff:

Chairman, this is the one where there is an amendment to paragraph 7, do you want to then propose at the moment numbers 1 to 6 and then you propose 7 and then we will debate the amendment to 7?

15.1 The Connétable of St. Mary:

I am intending to propose 1 to 4 and then 5 and 6 if that is acceptable. Standing Order 1 is simply the interpretation provision. Standing Orders 2, 3 and 4 insert in Standing Orders reference to the States Employment Board and allow the board to lodge propositions and present reports and comments in its own name. When the States Employment Board was first established it was made up exclusively of Ministers and at that time it seemed logical that the Chief Minister should be required to lodge propositions and to present reports and comments on behalf of the S.E.B. Following the recent amendments to the constitution of the States Employment Board brought in response to a proposition of the Deputy of St. Martin, it appeared appropriate to allow the board - in view of its revised constitution - to be able to bring matters to the States in its own name rather than taking decisions which then need to be dealt with again by the Chief Minister in another Ministerial decision before they can be brought to the States. I propose Standing Orders 1 to 4.

The Bailiff:

Are they seconded? **[Seconded]**

15.1.1 Deputy M. Tadier:

I just have a question in general. If the S.E.B. is able to bring propositions to the States in its own name and if Senator Routier's proposition of 7 signatures is adopted by the Assembly will the S.E.B. be required to acquire 7 signatures in order to be able to present propositions to the States? If that is the case I do not believe they have got 7 on the S.E.B., 7 States Members, so where would the extra Members be coming from?

15.1.2 Senator T.A. Le Sueur:

Simply to say as Chairman of the States Employment Board I welcome this amendment and think it reflects the revised and updated status of the States Employment Board and the introduction of people on the board who are neither Ministers nor Assistant Ministers. It seems to make sense that while the States Employment Board may not be quite in the same situation as a Minister, it is nonetheless a body which is governed by law and has the power to act in its own name and it seems slightly ludicrous that having the power to act in its own name it cannot bring propositions in its name. So I think this corrects an anomaly which probably should never have been there in the first place, so I very much welcome this amendment.

15.1.3 Deputy G.P. Southern:

I am confused, as many Members often say they are. If the States Employment Board is formally constituted by having the Chief Minister as its chair, then where is the problem? I do not understand, the structure of the S.E.B. is such that the chair is the Chief Minister and, therefore, it would seem to me automatic that the Chief Minister should bring propositions to the House on behalf of the States Employment Board. I do not see a problem and I do not see necessity for a change.

The Bailiff:

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

15.1.4 The Connétable of St. Mary:

I am sorry, Deputy Tadier must realise that Senator Routier's proposition has not been debated yet so it is hypothetical, but also it relates to private Members bringing propositions and clearly the States Employment Board is not a private Member, Deputy. I thank the Chief Minister for his comments and as far as Deputy Southern's question; I understand that this is simply to relieve a layer of bureaucracy. Normally the States Employment Board would come to a decision and they would have to go to the Chief Minister for him to make a Ministerial Decision, this just cuts out the layer of bureaucracy. I maintain those Standing Orders.

The Bailiff:

The appel is called for then into Regulations 1 to 4 of the amendments. I invite Members to return to their seats and the Greffier will open the voting.

| POUR: 47 | | CONTRE: 1 | | ABSTAIN: 0 |
|-----------------------------|--|----------------------|--|-------------------|
| Senator T.A. Le Sueur | | Deputy of St. Martin | | |
| Senator T.J. Le Main | | | | |
| Senator B.E. Shenton | | | | |
| Senator F.E. Cohen | | | | |
| Senator J.L. Perchard | | | | |
| Senator A. Breckon | | | | |
| Senator S.C. Ferguson | | | | |
| Senator A.J.H. Maclean | | | | |
| Senator B.I. Le Marquand | | | | |
| Senator F. du H. Le Gresley | | | | |
| Connétable of St. Ouen | | | | |
| Connétable of St. Helier | | | | |
| Connétable of Trinity | | | | |
| Connétable of Grouville | | | | |
| Connétable of St. Brelade | | | | |
| Connétable of St. John | | | | |
| Connétable of St. Saviour | | | | |
| Connétable of St. Clement | | | | |
| Connétable of St. Peter | | | | |
| Connétable of St. Lawrence | | | | |
| Connétable of St. Mary | | | | |
| Deputy R.C. Duhamel (S) | | | | |
| Deputy R.G. Le Hérisier (S) | | | | |
| Deputy J.B. Fox (H) | | | | |
| Deputy J.A. Martin (H) | | | | |
| Deputy G.P. Southern (H) | | | | |

| | | | | |
|-----------------------------|--|--|--|--|
| Deputy of St. Ouen | | | | |
| Deputy J.A. Hilton (H) | | | | |
| Deputy P.V.F. Le Claire (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 I.J. Gorst (C) | | | | |
| Deputy of St. John | | | | |
| Deputy M. Tadier (B) | | | | |
| Deputy A.E. Jeune (B) | | | | |
| Deputy of St. Mary | | | | |
| Deputy T.M. Pitman (H) | | | | |
| Deputy A.T. Dupré (C) | | | | |
| Deputy E.J. Noel (L) | | | | |
| Deputy T.A. Vallois (S) | | | | |
| Deputy M.R. Higgins (H) | | | | |
| Deputy A.K.F. Green (H) | | | | |
| Deputy D.J. De Sousa (H) | | | | |
| Deputy J.M. Maçon (S) | | | | |

The Bailiff:

Then, Chairman, how do you wish to proceed after that?

15.2 The Connétable of St. Mary:

With Standing Order 5 if I may, sir.

The Bailiff:

Standing Order 5 on its own, yes.

The Connétable of St. Mary:

This Standing Order will hopefully enable some minor savings in paper and improve efficiency, something I am sure which we would all like to see reflected in every way we can. I am sure that if

I look around the Chamber I will be able to observe most Members are using the lavender or today the sort of lilac colour Consolidated Order Paper to follow the business of the day on. The Consolidated Order Paper has been in use for a number of years but it has never been given any formal status under Standing Orders. This means that the Greffier of the States, in order to comply with Standing Orders, must still produce not only the main Order Paper on a Thursday afternoon but also one or more Supplementary Order Papers as are required. In practice I am sure that most Members will agree that the supplementary Order Papers are usually overlooked in favour of the Consolidated Order Paper. This minor revision to Standing Orders, which it could be said is long overdue, will allow the Greffier of the States to simply produce a Consolidated Order Paper if he believes that it is appropriate. Although it is important to point out that the Greffier will still have the discretion to issue supplementary Order Papers if he believes it is necessary. This could, for example, happen if the Greffier wishes to give notice of a matter to Members before the weekend but after the main Order Paper has been distributed. I propose Standing Order 5.

The Bailiff:

Is that seconded? **[Seconded]**

15.2.1 The Deputy of St. John:

I note the comments just made by the Chairman about the colour of this Order Paper. I raised it this morning, in fact, with the young lady who is doing the recording in the corner, because I understand she does the printing, about the actual colour. In fact it is very difficult to read and it is nothing to do with my glasses on my head. **[Laughter]** Those are for distance. But the print drops into the background colour and, therefore, I ask that P.P.C. look at the colour of the backdrop paper. The previous colour paper we used was slightly different in colour and made a difference. It is very difficult to read across ... so if you could look at that please.

15.2.2 The Deputy of St. Mary:

Just briefly, I would like to ask the Chairman what the status under this new regulation or new Standing Order is of the States of Jersey Order Paper that we get on Thursday or Friday, in St. Mary it sometimes comes on a Friday, because it does not seem to be mentioned. Because that is what I worked off and then I add the supplementary papers and the lavender is only when the Chairman sums up right at the end of business. So I just want to confirm that will not stop being produced.

15.2.3 Deputy M. Tadier:

When I first saw this I thought this suggestion was just black and white but thankfully we have got the Deputy of St. John whose has a keen eye to sort out the grey areas. **[Laughter]**

15.2.4 Deputy G.P. Southern:

At the risk of taking the matter a bit too far, I was going to compliment the Chairman of P.P.C. and the person who produces it, what a wonderful colour it is, very soothing on the eyes. **[Laughter]** I highly recommend this particular colour. I hesitate to disagree with the Deputy of St. John but he is simply wrong. I will lend him my glasses if you like.

15.2.5 Deputy P.V.F. Le Claire:

I just think while we are talking about new procedures that we are going to be adopting for informing ourselves of the lay of the land, we have recently this afternoon distributed some rather interesting A3 pieces of paper to tell us which way the lay of the land will lie in relation to the running order for an upcoming debate.

[17:30]

I think that while there is nothing really in this to dwell upon I do think that the Privileges and Procedures Committee needs to be cognisant with those Members that are currently trialling the

iPad software and technology that in the future it is far more easier and far more likely that we are able to introduce technology to solve an ongoing issue about the lay of the land in relation to debates, other than getting into long and lengthy debates about what colour paper things are coming on. We can certainly save a lot more paper and a lot more postage if we have laptops that are available to us - rather than laptops that are at home - that can be updated wirelessly by the Greffe as he sits in the chair amending things as they stand. It is something that can be done very simply, modern day technology, I am sorry to say, is vastly ahead of the lay of the land that we are currently debating on at the moment.

15.2.6 Deputy T.M. Pitman:

My mind is really wheeling at discussing these high brow things about the colours of the sheet, I would just like to propose the adjournment and refresh myself.

The Bailiff:

Well are you seriously proposing the adjournment before we finish the debate on this particular matter? No, any other Member wish to speak? Then I call upon the Chairman to reply.

15.2.7 The Connétable of St. Mary:

Thank you and I will try and keep it as quick as I can. The colour has changed slightly, some Members like it, some Members do not I am afraid, Deputy, but I am not sure if it is a permanent thing or if there has just been some lack of supply of the usual colour. I am sure we will get to the bottom of that. The Deputy of St. Mary, no, this does not mention the Order Paper because the Order Paper is not affected by this. The Order Paper goes out on a Thursday as usual, we are only talking about preparation for consolidated and that means now that we will not have to have the supplementary unless it is deemed to be necessary administratively. I propose Standing Order 5.

The Bailiff:

Very well, all those in favour of adopting Regulation 5 kindly show; those against? It is adopted. The adjournment is now proposed then, do Members wish to adjourn at this stage? Very well, then we will reconvene in the morning to continue with Regulation 6 of the amendment number 14 of the Standing Orders. We will reconvene at 9.30 a.m.

ADJOURNMENT

[17:32]