

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 2nd NOVEMBER 2010

QUESTIONS.....	8
1. Written Questions	8
1.1 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING ELDERLY PEOPLE IN FULL-TIME CARE:	8
1.2 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE NUMBER OF ELDERLY PEOPLE IN FULL-TIME CARE WHO HAD NOT PAID SOCIAL SECURITY CONTRIBUTIONS:	8
1.3 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE HOURLY RATE CHARGED FOR LEGAL ADVICE:	9
1.4 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING SUCCESSION PLANNING:	10
1.5 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING PERSONNEL MANAGEMENT:	10
1.6 THE DEPUTY OF ST. MARY OF THE CHIEF MINISTER REGARDING THE HAUT DE LA GARENNE INVESTIGATIONS:	11
1.7 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE CORPORATE PROCUREMENT TEAM: ...	12
1.8 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE POTENTIAL FOR PRIVATE SECTOR SERVICE PROVISION:	13
1.9 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING ECONOMIC GROWTH ESTIMATES:	13
1.10 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING PRIVATE SECTOR JOB LOSS ESTIMATES:....	15
1.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE IMPACT OF G.S.T. ON INCOME SUPPORT CLAIMANTS:	15
1.12 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE DEMAND FOR SOCIAL RENTED HOUSING:	16
1.13 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE IMPACT OF SPENDING CUTS ON INCOME SUPPORT:	17
1.14 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE IMPACT OF C.S.R. ON INCOME BANDS:...	18
1.15 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HOME AFFAIRS REGARDING IMMIGRATION FEE INCREASES:	18
1.16 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PUBLICATION OF RECENT TAXATION CONSULTATION FINDINGS:	19
1.17 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE LICENSING OF BANKS IN JERSEY:.....	20

2. Oral Questions.....	21
2.1 Deputy K.C. Lewis of St. Saviour of the Minister for Economic Development regarding the closure of shops in St. Helier:.....	21
Senator A.J.H. Maclean (The Minister for Economic Development):.....	21
2.1.1 Deputy K.C. Lewis:.....	21
2.1.2 Deputy G.P. Southern of St. Helier:.....	21
2.1.3 Deputy G.P. Southern:.....	21
2.1.4 Connétable A.S. Crowcroft of St. Helier:.....	22
2.1.5 Deputy T.M. Pitman of St. Helier:.....	22
2.1.6 Senator F. du H. Le Gresley:.....	22
2.1.7 Senator P.F. Routier:.....	23
2.2 Deputy P.J. Rondel of St. John of the Minister for Education, Sport and Culture regarding the removal of grants to fee-paying/private schools:.....	23
Deputy J.G. Reed of St. Ouen (The Minister for Education, Sport and Culture):.....	23
2.2.1 The Deputy of St. John:.....	23
2.2.2 Deputy G.P. Southern:.....	23
2.2.3 Deputy P.V.F. Le Claire of St. Helier:.....	23
2.2.4 Deputy P.V.F. Le Claire:.....	24
2.2.5 Senator J.L. Perchard:.....	24
2.2.6 The Deputy of St. John:.....	24
2.3 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the C.S.R. proposals for 2011 to 2013:.....	24
Senator P.F.C. Ozouf (The Minister for Treasury and Resources):.....	25
2.3.1 Deputy G.P. Southern:.....	25
2.3.2 Deputy G.P. Southern:.....	25
2.3.3 Deputy D.J.A. Wimberley of St. Mary:.....	25
2.3.4 The Deputy of St. Mary:.....	26
2.3.5 Senator J.L. Perchard:.....	26
2.3.6 Deputy M. Tadier of St. Brelade:.....	26
2.3.7 Senator F. du H. Le Gresley:.....	27
2.3.8 Deputy G.P. Southern:.....	27
2.3.9 Deputy G.P. Southern:.....	27
2.4 The Deputy of St. Mary of the Chief Minister regarding the reliance on the content of the Napier Report:.....	28
Senator T.A. Le Sueur (The Chief Minister):.....	28
2.4.1 The Deputy of St. Mary:.....	28
2.4.2 The Deputy of St. Mary:.....	28
2.4.3 Deputy M.R. Higgins of St. Helier:.....	28
2.4.4 Deputy F.J. Hill of St. Martin:.....	29
2.4.5 Deputy M. Tadier:.....	29
2.4.6 The Connétable of St. Helier:.....	29
2.4.7 The Connétable of St. Helier:.....	29
2.4.8 The Deputy of St. Mary:.....	30
2.5 Deputy P.V.F. Le Claire of the Minister for Transport and Technical Services regarding the pumping of water from ash pits:.....	30
Connétable M.K. Jackson of St. Brelade (The Minister for Transport and Technical Services):.....	30
2.5.1 Deputy P.V.F. Le Claire:.....	30
2.5.2 The Deputy of St. John:.....	31
2.5.3 The Connétable of St. Helier:.....	31
2.5.4 Deputy A.K.F. Green of St. Helier:.....	31

2.5.5 Deputy P.V.F. Le Claire:	31
2.6 Deputy T.M. Pitman of the Minister for Treasury and Resources regarding the proposals to increase the rate of G.S.T:.....	32
Senator P.F.C. Ozouf (The Minister for Treasury and Resources):	32
2.6.1 Deputy T.M. Pitman:	32
2.6.2 Deputy M. Tadier:	32
2.6.3 Deputy T.M. Pitman:	33
2.7 Senator J.L. Perchard of the Minister for Education, Sport and Culture regarding his attendance at the Parents for Choice group meeting at the Town Hall on 4th November 2010:	33
The Deputy of St. Ouen (The Minister for Education, Sport and Culture):	33
2.7.1 Senator J.L. Perchard:.....	33
2.7.2 Deputy K.C. Lewis:	34
2.7.3 Deputy T.M. Pitman:	34
2.7.4 Deputy C.F. Labey of Grouville:.....	34
2.7.5 Senator J.L. Perchard:.....	34
2.8 The Connétable of St. Helier of the Minister for Health and Social Services regarding the use of the Statutory Nuisances (Jersey) Law 1999:	35
Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):.....	35
2.8.1 The Connétable of St. Helier:.....	35
2.8.2 Deputy T.M. Pitman:	35
2.8.3 Deputy M.R. Higgins:.....	36
2.8.4 Deputy M.R. Higgins:.....	36
2.8.5 The Connétable of St. Helier:.....	36
2.9 Deputy M. Tadier of the Minister for Treasury and Resources regarding double taxation on essential goods and services:.....	36
Senator P.F.C. Ozouf (The Minister for Treasury and Resources):	36
2.9.1 Deputy M. Tadier:	37
2.9.2 Deputy G.P. Southern:.....	37
2.9.3 Deputy M. Tadier:	37
2.10 The Deputy of St. Martin of the Chief Minister regarding the confidential e-mail he sent to the Deputy of St. Martin on 27th September 2010 under the heading ‘Napier’:	38
Senator T.A. Le Sueur (The Chief Minister):	38
2.10.1 The Deputy of St. Martin:	38
2.10.2 The Deputy of St. Martin:	38
2.10.3 Deputy T.M. Pitman:.....	39
2.11 Deputy A.E. Jeune of St. Brelade of the Minister for Health and Social Services regarding age-related policy considerations in relation to accessing treatments:	39
The Deputy of Trinity (The Minister for Health and Social Services):.....	39
2.12 Deputy P.V.F. Le Claire of the Minister for Education, Sport and Culture regarding the comparison of G.C.S.E. grades between all non fee-paying and fee-paying secondary schools in Jersey:.....	39
The Deputy of St. Ouen (The Minister for Education, Sport and Culture):	39
2.12.1 Deputy P.V.F. Le Claire:.....	39
2.12.2 Deputy P.V.F. Le Claire:.....	40
2.12.3 Deputy J.A. Hilton of St. Helier:	40
2.12.4 Deputy R.G. Le Hérissier of St. Saviour:.....	40
2.12.5 Deputy T.M. Pitman:.....	40
2.12.6 Senator A. Breckon:.....	41
2.12.7 Senator J.L. Perchard:	41
2.12.8 Deputy P.V.F. Le Claire:.....	41

2.13	Senator J.L. Perchard of the Chief Minister regarding the proposal to reduce the subsidy for secondary education in private/fee-paying schools:	41
	Senator T.A. Le Sueur (The Chief Minister):	42
2.13.1	Senator J.L. Perchard:	42
2.13.2	Deputy P.V.F. Le Claire:	42
2.13.3	Senator J.L. Perchard:	42
2.14.	Deputy G.P. Southern of the Minister for Treasury and Resources regarding estimates for job losses contained in Stage 2 of the C.S.R.:	43
	Senator P.F.C. Ozouf (The Minister for Treasury and Resources):	43
2.14.1	Deputy G.P. Southern:	43
2.14.2	Deputy M.R. Higgins:	43
2.14.3	Deputy M.R. Higgins:	44
2.14.4	Deputy T.M. Pitman:	44
2.14.5	Deputy P.V.F. Le Claire:	44
2.14.6	Deputy G.P. Southern:	44
2.14.7	Deputy G.P. Southern:	45
2.15.	The Deputy of St. Martin of the Minister for Home Affairs regarding the establishment of the Independent Custody Visitor Scheme:	45
	Senator B.I. Le Marquand (The Minister for Home Affairs):	45
2.15.1	Deputy P.V.F. Le Claire:	45
2.16.	The Deputy of St. Mary of the Minister for Home Affairs regarding A.C.P.O. advice followed in the commissioning of the Napier Report:	46
	Senator B.I. Le Marquand (The Minister for Home Affairs):	46
2.16.1	The Deputy of St. Mary:	46
2.16.2	The Deputy of St. Martin:	47
2.16.3	The Deputy of St. Mary:	47
2.17.	The Connétable of St. Helier of the Minister for Transport and Technical Services regarding the works proposed for the Havre des Pas promenade:	47
	The Connétable of St. Brelade (The Minister for Transport and Technical Services):	48
2.17.1	The Connétable of St. Helier:	48
2.17.2	Deputy J.A. Martin of St. Helier:	48
2.17.3	Deputy J.A. Martin:	48
2.17.4	Deputy A.K.F. Green:	48
2.17.5	Deputy T.M. Pitman:	49
2.17.6	Deputy P.V.F. Le Claire:	49
2.17.7	Deputy M.R. Higgins:	49
2.17.8	The Deputy of Grouville:	50
2.17.9	The Connétable of St. Helier:	50
2.18	The Deputy of St. John of the Minister for Economic Development regarding a stranded vehicle in St. Aubin's Harbour:	50
	Senator A.J.H. Maclean (The Minister for Economic Development):	50
2.18.1	The Deputy of St. John:	50
2.18.2	The Deputy of St. John:	51
3.	Questions to Ministers Without Notice - The Minister for Education, Sport and Culture.....	51
3.1	Deputy J.A. Hilton:	51
	The Deputy of St. Ouen (The Minister for Education, Sport and Culture):	51
3.2	Connétable J. Gallichan of St. Mary:	52
3.3	Deputy K.C. Lewis:	52
3.4	The Deputy of Grouville:	52
3.4.1	The Deputy of Grouville:	52

3.5	The Deputy of St. Mary:.....	53
3.6	Deputy P.V.F. Le Claire:	53
3.7	Deputy T.M. Pitman:	53
3.8	Senator J.L. Perchard:.....	53
3.8.1	Senator J.L. Perchard:.....	54
3.9	Connétable L Norman of St. Clement:	54
3.10	Senator F. du H. Le Gresley:.....	54
3.11	Deputy R.G. Le Hérisier:	54
3.11.1	Deputy R.G. Le Hérisier:	55
4.	Questions to Ministers Without Notice - The Minister for Health and Social Services	55
4.1	The Deputy of Grouville:.....	55
	The Deputy of Trinity (The Minister for Health and Social Services):.....	55
4.1.1	The Deputy of Grouville:.....	55
4.2	The Deputy of St. Martin:.....	55
4.3	Deputy G.P. Southern:.....	56
4.4	Deputy P.V.F. Le Claire:	56
4.5	Deputy R.G. Le Hérisier:	56
4.6	Deputy A.E. Jeune:.....	57
4.7	Deputy M. Tadier:	57
4.8	The Deputy of St. Mary:.....	57
4.8.1	The Deputy of St. Mary:.....	58
4.9	Deputy P.V.F. Le Claire:	58
4.10	Deputy R.C. Duhamel of St. Saviour:	58
	STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY.....	58
5.	The Minister for Education, Sport and Culture - statement regarding the proposed reduction in subsidies for fee-paying schools	58
5.1	The Deputy of St. Ouen (The Minister for Education, Sport and Culture):	58
5.1.1	Senator J.L. Perchard:.....	59
5.1.2	Deputy J.A. Martin:	59
5.1.3	Deputy R.G. Le Hérisier:	60
5.1.4	Senator B.E. Shenton:.....	60
5.1.5	Deputy P.V.F. Le Claire:	60
5.1.6	The Deputy of Grouville:.....	60
5.1.7	Deputy T.M. Pitman:	61
5.1.8	Deputy M. Tadier:	61
5.1.9	Senator J.L. Perchard:.....	61
6.	The Minister for Housing - statement regarding P.139/2010, Rent Control: removal of exemptions.....	62
6.1	Deputy S. Power of St. Brelade (The Minister for Housing):.....	62
6.1.1	Deputy M. Tadier:	62
6.1.2	Deputy P.V.F. Le Claire:	63
6.1.3	Senator A. Breckon:	63
6.1.4	Deputy M. Tadier:	63
	PUBLIC BUSINESS	64
7.	Fiscal Policy Panel: reappointment of members (P.146/2010)	64
7.1	Senator P.F.C. Ozouf (The Minister for Treasury and Resources):	64

7.1.1 Deputy R.G. Le Hérisier:	64
7.1.2 Deputy J.A. Martin:	64
7.1.3 Senator P.F.C. Ozouf:.....	64
8. Jersey Police Complaints Authority: reappointment of member (P.147/2010)	66
8.1 Senator B.I. Le Marquand (The Minister for Home Affairs):	66
8.1.1 The Deputy of St. Martin:.....	66
8.1.2 Deputy M.R. Higgins:.....	66
8.1.3 The Deputy of St. Mary:.....	67
8.1.4 Senator B.I. Le Marquand:.....	67
LUNCHEON ADJOURNMENT PROPOSED.....	68
LUNCHEON ADJOURNMENT.....	68
9. Draft Community Provisions (Bovine Embryos) (Jersey) Regulations 201- (P.115/2010).....	68
9.1 Deputy R.C. Duhamel (Assistant Minister for Planning and Environment - rapporteur):	69
9.1.1 Deputy R.G. Le Hérisier:	69
9.1.2 The Deputy of St. John:	69
9.1.3 Connétable J.M. Refault of St. Peter:.....	70
9.1.4 Deputy M. Tadier:	70
9.1.5 Connétable D.W. Mezbourian of St. Lawrence:	71
9.1.6 Connétable J.L.S. Gallichan of Trinity:.....	71
9.1.7 The Deputy of St. Mary:.....	71
9.1.8 The Connétable of St. Clement:	72
9.1.9 Deputy M.R. Higgins:.....	72
9.1.10 Deputy K.C. Lewis:	72
9.1.11 Deputy R.C. Duhamel:	72
The Deputy of St. John (Chairman, Environment Scrutiny Panel):	75
9.2 Deputy R.C. Duhamel:	75
9.2.1 Deputy M. Tadier:	77
9.2.2 The Deputy of St. Mary:.....	77
9.2.3 The Deputy of Grouville:.....	77
9.2.4 Deputy I.J. Gorst of St. Clement:	77
9.2.5 Senator B.I. Le Marquand:.....	77
9.2.6 Deputy T.M. Pitman:	77
9.2.7 Deputy R.C. Duhamel:	78
9.3 Deputy R.C. Duhamel:	81
9.4 Deputy R.C. Duhamel:	82
9.4.1 Deputy P.V.F. Le Claire:	83
9.4.2 Deputy A.T. Dupre of St. Clement:.....	83
9.4.3 Deputy M. Tadier:	83
9.4.4 The Deputy of St. Martin:	84
9.4.5 The Deputy of St. Mary:.....	84
9.4.6 The Connétable of St. Clement:	85
9.4.7 Deputy R.C. Duhamel:	85
9.5 Deputy R.C. Duhamel:	88
9.5.1 The Deputy of St. Martin:.....	88
9.5.2 Deputy R.C. Duhamel:	88

10. Draft Health Insurance Fund (Miscellaneous Provisions) (Jersey) Law 201-	
(P.125/2010)	89
10.1 Deputy I.J. Gorst (The Minister for Social Security):	89
10.1.1 The Deputy of Trinity:	92
10.1.2 Deputy A.E. Jeune:	93
10.1.3 Deputy J.B. Fox of St. Helier:	95
10.1.4 Deputy T.M. Pitman:.....	96
10.1.5 The Deputy of St. John:.....	97
10.1.6 Senator A. Breckon:.....	99
10.1.7 Deputy G.P. Southern:	101
10.1.8 Deputy J.A. Martin:	103
10.1.9 Deputy E.J. Noel of St. Lawrence:	105
10.1.10 Senator T.J. Le Main:	106
ADJOURNMENT.....	107

[09:30]

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

QUESTIONS

1. Written Questions

1.1 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING ELDERLY PEOPLE IN FULL-TIME CARE:

Question

Would the Minister advise how many elderly persons in full-time care (when the States contribute to the cost of care) are non-native or those who have not made Social Security contributions since their arrival in the Island and would she detail the various nationalities, including British subjects and indicate whether or not a reciprocal health agreement exists to cover full costs?

If no reciprocal agreement exists, would the Minister advise who meets the cost of the care (the family, States of Jersey or other) and if it is the States of Jersey, what steps, if any, have been taken to address the situation since the Minister and I discussed this matter some months ago and, if action has been taken, when was this?

Answer

There are currently 108 older people placed in full-time care by HSS services' for older people. Of these 55 were born in Jersey and 53 were born elsewhere but had been resident in Jersey for 5 years prior to them requiring long term care. We do not analyse nationality because it is not appropriate to do so, nor can we provide information about whether social security contributions have been paid. In line with the Social Security Department our eligibility criteria are not linked to the payment of social security contributions.

Long-term care funding consists of two separate elements, the long-term stay element and the nursing element. Of the 53 mentioned above 28 pay for the long-term stay element of their care, 19 have the long-term stay element funded by the Social Security Department. 6 have the long term stay element funded by Health and Social Services Department. The nursing care element for all 53 is funded by the Health and Social Services Department.

Under our existing policy the Department recognises 10 reciprocal health agreements, these however only relate to emergency or acute treatment and have no bearing on the provision of long-term care.

The Department recognises that its existing overseas patients' policy needs revision and has drafted a proposed new policy which has been considered by the Law Officers Department and will be implemented pending discussions with Health, Social Security and Housing Scrutiny Panel.

The proposed new policy makes a direct link between the payment of tax and length of residency in relation to the provision of emergency and acute care and between Social Security's residency criteria in relation to long-term care.

1.2 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE NUMBER OF ELDERLY PEOPLE IN FULL-TIME CARE WHO HAD NOT PAID SOCIAL SECURITY CONTRIBUTIONS:

Question

Given that some months ago I raised with the Minister the cost of non-contributory persons in our care homes (a person who has not paid Jersey Social Security contributions) would he advise whether these people fall into the Social Security budget, directly or indirectly, and if they do would he explain –

- (a) what work has the Social Security Department undertaken to resolve this issue?
- (b) how many reciprocal health agreement payments, if any, are pending?
- (c) how much taxpayers' money is spent supporting these people annually?

Answer

The concept of a "non-contributory person" is not one that is used by the Social Security Department in relation to individuals in care homes. The department only supports people in residential care if they have satisfied the residency conditions for Income Support immediately prior to making an application for assistance (the principal residency condition is that of five years' continuous residence).

Assistance is means tested and the applicant must submit a full declaration of their income and assets which shows that they are unable to meet the cost of the fees themselves and have no substantial savings (the current amount of savings allowed to be retained is £13,706 for a single person).

Reciprocal health agreements do not cover funding for care home fees. Funding for residential care fees is not linked to the payment of Social Security contributions. This is a non-contributory tax funded benefit and data on care costs cannot be analysed in terms of an individual's contribution record. The Social Security Department will however be bringing forward a system in the near future for the funding of long-term care which will only be available to those with substantial residence in Jersey and accompanying Social Security contributions.

1.3 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE HOURLY RATE CHARGED FOR LEGAL ADVICE:

Question

Further to the answer given on 19th October 2010, can H.M. Attorney General state why a competitive tendering process is only now being explored, and will he specify the amount that is currently paid per hour to Crown Advocates and how this differs to the hourly rate (if any payment is made) paid to lawyers acting for children after the decision in Re B [2010] JRC 150?

Answer

There was insufficient time to undertake a competitive tendering exercise prior to allocating this work to external lawyers as stated in the answer given on the 19th October 2010. Those cases in which external lawyers were instructed needed urgent attention to safeguard the interests of vulnerable children.

A letter was sent out to all Jersey Advocates on the 15th October 2010 inviting them to participate in a procurement exercise with a view to setting up a panel of advocates who may from time to time be asked to advise and represent the Minister for Health and Social Services in connection with applications under the Children (Jersey) Law 2002.

Those external lawyers acting for the Minister are currently paid at the Crown advocate rates which applied at the time they were appointed to those cases. Those rates are:

Crown advocates £267 per hour

Qualified assistants £177 per hour

Unqualified assistants £149 per hour

The Judicial Greffe is responsible for the payment of lawyers acting for children. The following information has been obtained from the Judicial Greffe.

Prior to the decision of In Re B, the hourly rate paid for a salaried advocate, barrister or solicitor was £265 or more and the hourly rate for an advocate who was a partner was £336. In addition, a deduction of 10% of the time claimed was made prior to payment of the fee note.

Since In Re B, the following rates apply to lawyers acting for children-

Partner £179

Salaried advocate barrister or solicitor £145

Unqualified assistants £120

1.4 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING SUCCESSION PLANNING:

Question

Would the Chief Minister publish the most recent report received by the States Employment Board regarding Succession Planning in conformity with recommendation 8 of R.14/2008 (Succession Planning in the States of Jersey)?

Answer

The SEB has not received any recent reports on Succession Planning but it did discuss this matter with the Chair of the Appointments Commission earlier this year and requested that the Human Resources Director undertake work on this topic and bring back a report to a future meeting.

Part of the SEB initiative for succession planning involved the development of staff through a Modern Manager programme, which was under way prior to the presentation of R.14/2008. I can say that of the first 100 people that went through the Modern Manager Programme, 20 have achieved promotion and 5 others have been put into acting positions. So, clearly that is having some benefit. Also the number of (j) category employees has gone down by around 100 over the last two years.

1.5 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING PERSONNEL MANAGEMENT:

Question

Further to her written answer of 12th October 2010, would the Minister specify the changes to management structure, including reductions, that have occurred in the General Hospital subsequent to the appointment of an Interim Director?

What changes, if any, have occurred to the Personnel management structure both numerically and in terms of services offered?

Answer

The new management structure for the General Hospital is still dependent on a number of staffing changes being confirmed and approvals under the recent States voluntary redundancy scheme. Until these changes have been confirmed, and the individuals informed of the outcome, I do not believe it is appropriate to specify the detail of these changes.

As previously advised a management improvement plan will be presented in December.

A review of the Human Resources function in Health & Social Services has been undertaken and the resulting recommendations are being discussed with the Chief Ministers Department as it is responsible for the provision of this service.

1.6 THE DEPUTY OF ST. MARY OF THE CHIEF MINISTER REGARDING THE HAUT DE LA GARENNE INVESTIGATIONS:

Question

Would the Chief Minister confirm whether the ACPO team provided reports from January 2008 on the progress of their mentoring and guidance of the Haut de la Garenne inquiry to the Chief Executive to the Council of Ministers and the then Chief Minister, and if so, would the Chief Minister advise Members of the dates of those meetings and undertake to publish the minutes?

Answer

The ACPO team did not provide any reports to either the then Chief Minister or the Chief Executive to the Council of Ministers.

There was one informal meeting on 7th March 2008 when the Home Affairs Minister invited the Chief Minister and Chief Executive to meet two ACPO officers who were undertaking the review of the Police investigation. The ACPO team provided a brief verbal presentation of their findings. No papers were presented, nor notes taken.

The only written information that was presented to the Chief Minister and Chief Executive about the ACPO review was contained in a letter dated 12th June from the Home Affairs Minister to the Chief Minister. It contained the following information:

“I am not an expert in criminal investigation and therefore have sought advice from the Association of Chief Police Officers for England and Wales (ACPO) who have appointed an independent group of experts to audit the investigation against recommended best practice and to prepare reports with comments and recommendations. I have already studied two reports and a third is being studied by my Assistant Minister. On the basis of the reports I have seen so far I am satisfied that best practice is being followed and that recommendations are being acted upon.”

1.7 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE CORPORATE PROCUREMENT TEAM:

Question

Will the Minister advise Members of the size, cost and qualifications of the corporate procurement team and identify their savings targets and performance in achieving these targets to date?

Will he further publish the areas and products/services where these savings have been made identifying the quantum of savings in each case?

Answer

Table A below details the number of staff within the Corporate Procurement Department, the cost per annum and the number of staff who hold the professional procurement qualification. The qualification identified is the MCIPS (Member of the Chartered Institute of Purchasing and Supply.

Table A	2005	2006	2007	2008	2009	2010
Number of Staff	4	4	8	7	7	8
Number Qualified	2	3	5	4	4	4
Cost	245,531	230,793	488,661	438,557	431,326	447,600 ¹

Table B Details the savings made per annum from 2005. The corporate procurement team achieved their target savings of £1.9million. (Accumulative total from 2005 - 2009). For 2010 actual savings of £573K have been achieved. A further £500K is forecast.

Table B	2005	2006	2007	2008	2009	2010
IT	82,500	140,700	65,100			
Professional Services	37,700	7,100		47,500	123,300	
Office Supplies and Maintenance	11,600	101,600	218,500	63,200	215,900	132,000
Telecoms	23,500			102,200	61,400	21,000
Consumables	10,800			2,200	11,500	
Utilities		152,800	13,900	15,000		
Travel			15,000	117,600	56,300	22,000
Health				104,400	100,200	398,000
Forecast						500,000 ²
Yearly Total	166,100	402,200	312,500	452,100	568,600	1,073,000

Cumulative savings	Yearly	166,100	568,300	880,800	1,332,900	1,901,500	
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¹Total cost including Pension and Soc Sec contributions

²Actual savings for quarter three have yet to be verified

1.8 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE POTENTIAL FOR PRIVATE SECTOR SERVICE PROVISION:

Question

Will the Minister publish his assessment of where and how the private sector in Jersey will take up the slack caused by the public sector job and service cuts he and the Council of Ministers have announced setting out the timescale he expects these new jobs and services to fill the gap created?

Answer

A significant proportion of the proposed CSR cost savings will be achieved without reductions in jobs, through increasing efficiencies and changing how services are delivered. For example, an independent review of staff terms and conditions has identified potential savings of between £35m and £42m, and the Council of Ministers has set an initial target of £14m to be delivered by 2013, including reform of the public sector pension scheme. Staff and unions will have the opportunity over the coming months to shape which of these savings options are implemented.

Inevitably however, there will be some job losses where roles are no longer needed. The latest estimates suggest there could be a reduction of 69 posts in 2011 and a further 177 in 2012/13. This is equivalent to less than 0.4% of total employment.

In reality, and in contrast to the UK, the impact of the CSR savings proposals on private sector providers and contractors is likely to be minimal; therefore the effect on jobs will be limited to the direct reduction in public sector employment. It is hoped that as many as possible of the reductions will be achieved through voluntary redundancies. Some will go into early retirement, while Skills Jersey will be working to ensure that the right training opportunities are available for those wishing to find alternative employment in the private sector. I am confident that implementing the CSR over 3 years will minimise the impact on the economy and ensure that the individuals affected have the greatest opportunity to gain other employment if they wish.

The economy is expected to emerge from the downturn which should mean that there are more employment opportunities in the private sector. Furthermore the Council of Ministers is maximizing opportunities to boost economic growth.

Adding to the additional good work carried out by Economic Development a significant increase in emphasis is being made to grow and diversify financial services internationally – a policy endorsed by the States, in addition to developing a new intellectual property / e-commerce sector.

These policies will create new jobs over the period of the CSR programme.

1.9 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING ECONOMIC GROWTH ESTIMATES:

Question

Will the Minister advise Members of his estimates for economic growth in Jersey over the next 12 to 18 months stating the reasons for his forecast and identifying which sectors of the economy he expects to perform well/poorly over this period and give the reasons why he expects these sectors to perform in this way.

Answer

As members would expect, the Ministerial team at Economic Development consults with a wide body of people on the state of the economy and the direction we believe the economy will move in during the coming months and years.

The world economy is only just emerging from the worst economic downturn since the 1930's. The latest forecasts from the International Monetary Fund (IMF) are that the world economy will grow by 4.8% in 2010 and 4.2% in 2011 although the IMF points out that recovery is likely to be "slow and sluggish." Central banks and governments across the world have so far prevented a replay of the 1930s Great Depression through the massive policy response they put in place. The larger economies have returned to growth this year but recovery remains fragile as recent estimates of GDP from the UK have proved, not least because once the policy stimulus is withdrawn it is unclear how strong the underlying economies will be. A 'double dip' global recession is still a risk although it is not a central scenario for most economic forecasters.

Although the decline in global activity may have abated, the fallout remains. That is, the significant deterioration in government finances, the sharp rise in public debt and widespread unemployment in the leading economies across the globe.

From a Jersey perspective it would be imprudent to rely on a quick global rebound to repair the damage. We must plan for the fallout of what is now being called the 'great recession' to be long lasting.

The September Business Tendency Survey published by the States Statistics Unit shows there is scope for cautious optimism with finance firms reporting a further rise in business activity and they are more optimistic about future business. However, profitability still remains under significant pressure.

Gross Value Added (GVA) fell by 6% in 2009, with the financial services sector recording the largest real-term fall at 12%. The only sectors to report positive growth in 2009 were agriculture and transport and communications. Overall retail sales volumes have begun to stabilise after significant falls since 2008. However, non-food volumes are still well below their level in 2008 and fell in the second quarter of 2010. The September Business Tendency Survey shows that in the non-finance sector as a whole business activity is still falling, profitability remains under pressure, employment is being reduced and firms are still not optimistic about future business.

Whilst neither EDD nor the States Economics Unit estimates growth on a sector by sector basis, latest data from the Business Tendency Survey and anecdotal information suggest that the finance sector is increasingly optimistic about its prospects over the next few months and the rest of the economy is showing some signs of stabilisation, if not quite optimism.

The most recent forecasts for the whole Jersey economy point to a further decline in GVA in 2010. Next year should see a weak recovery with growth of about 1% predicted, and further moderate growth in 2012 of 2%. The FPP will publish their latest assessment of economic conditions and the

outlook for States finances in November and members will have their latest advice ahead of the Budget debate.

1.10 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING PRIVATE SECTOR JOB LOSS ESTIMATES:

Question

Will the Minister publish the research and estimates he has for the number of private sector job losses he expects to occur as a result of the proposals to cut public spending and raise taxes over the next 12 to 18 months?

Answer

Very few if any private sector job losses are expected to occur as a result of the proposals to cut public spending and raise taxes.

With specific regard to reductions in public expenditure, there is little reason to expect any significant private sector job losses as a consequence. Firstly, the reductions in public expenditure represent a relatively small proportion of economic activity. Secondly, in comparison to jurisdictions like the UK, the private sector in Jersey is much less dependent on public expenditure. In fact, it is likely that, as resources are freed up from the public sector, that private sector employment may increase.

With regards to tax increases, the proposals put forward in the draft Budget are the result of extensive research and consultation on the options to raise additional revenue. The effects of different taxes on employment and competitiveness have been a key factor in the considerations of the various options. As a consequence, we can be confident that the proposals to increase taxes will have a minimal impact on private sector jobs. For example there is a wealth of international evidence recommending broad-based consumption taxes such as GST as least harmful to growth and employment.

Further, both the reductions in expenditure and increases in taxes are being phased in gradually over the next three years. During this period the economy is expected to have returned to growth, and the Council of Ministers has committed to doing all it can to ensure that the Island maximises its potential for sustainable economic growth and opportunities for employment.

1.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE IMPACT OF G.S.T. ON INCOME SUPPORT CLAIMANTS:

Question

Will the Minister inform members of the total package he has proposed for low-income households to compensate for the impact of the 2% increase to GST and state how it will be affected by the impact of the £1.8 million cuts to benefits already agreed and the proposed £4 million cuts in Income Support to be made by Social Security?

Would the Minister outline how such proposals help to build a more equal society?

Answer

For households on low incomes I have proposed to:

- compensate all households receiving income support
- maintain an adequate GST bonus for those on low incomes but not receiving income support.

I have also proposed that income tax exemption thresholds increase in line with average earnings growth, which will give most help to those on lower incomes who pay tax.

As stated in an answer to a written question asked of the Minister for Social Security by Deputy Southern –

“Income Support provides comprehensive financial support to working age families both in and out of work. The single benefit ensures that individuals affected by the loss of a job or restricted working hours can be compensated for their reduced earning capacity by an increase in their Income Support benefit.”

The Income Support rates were adjusted in line with the introduction of the 3% rate of GST in early May 2008. The proposal to increase the rate to 5% in June 2011 includes a similar increase in the Income Support budget and the budget for the "GST bonus". This will ensure that lower income families that do not pay income tax will be protected from the full impact of the increase in GST.”

The spending cuts of £4 million in Income Support are to be achieved by the end of 2013 and it is anticipated that Jersey will have returned to economic growth by that time and the need to support working age families will have decreased as they find jobs in a more buoyant labour market.

The Social Security department will be providing additional support to jobseekers in the next few months to ensure that they are well prepared to take up employment as soon as possible.

The increased protection in respect of the GST increase will contribute to the Strategic Plan aim of creating a more equal society by helping to ensure that the additional tax measures are balanced by additional support for those on lower incomes.

Planning to balance the Island’s finances by 2013 will help towards creating an equal and fair society by securing economic growth, jobs and the ability to fund public services in the long term.

1.12 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE DEMAND FOR SOCIAL RENTED HOUSING:

Question

Given the increased demand for social housing in times of recession and following the Whitehead Report’s criticisms of the rental waiting list, what action, if any, does the Minister propose to take to meet the demand for social rental housing by 2014?

Will these actions be limited by the requirement to cut the Department’s budget by approximately £1.4 million by 2013 and by targets for housing property sales of £48 million over the 3 year period 2011 to 2013?

Answer

Professor Whitehead’s report was not critical of the rental waiting list. What the Professor highlighted was that the access criteria for social housing or at least for the States owned social

housing stock is extremely constrained and focuses on the most disadvantaged 20% of our society. However, she highlighted that were eligibility criteria widened to include in particular, childless couples under 50 who are presently largely excluded, the waiting list would probably be much higher.

In the Policy Statement I issued in August this year I said that we need more affordable housing and to deliver it we would need to consider new policy initiatives; to ensure that zoned land is developed in a timely manner and that existing States owned land, such as the d'Hautrée site, is used to provide affordable housing. I also said that private development capital could be borrowed and repaid from rents. This use of development capital could remove the burden of the capital cost from the tax payer.

I am not in a position where I alone can deliver the new affordable homes which I believe we need. New homes, particularly new affordable homes require land to be zoned for residential purposes. That is the responsibility of the Planning Minister who is provided with updates on the level of our waiting and transfer lists on a monthly basis. I will always work closely with the Planning Minister and give every assistance I can to try and ensure sufficient sites are available to deliver sufficient homes for Island residents.

As the Deputy has suggested in his second question our revenue budget has been cut by £1.4m or 10% by 2013. This will require that certain activity be reprioritised or performed differently in order to achieve the savings required. Cuts in revenue will not adversely affect the development of new affordable housing. However, that activity will be impacted by the necessary reprioritisation of the States Capital Programme. In addition, the current economic climate has seen Bank's limiting their lending and this has made sales to tenants more challenging. Taken together these factors will create a difficult environment in which to develop new affordable homes and refurbish its existing units. These are indeed difficult times. However, I am not one for standing still and my officers have identified opportunities for certain projects, particularly those which deliver new homes, to be funded from borrowing and are already in discussion with the Treasury in respect of the most appropriate way to facilitate this to ensure that the impact of the economic downturn and spending cuts is kept to a minimum.

1.13 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE IMPACT OF SPENDING CUTS ON INCOME SUPPORT:

Question

Will the Minister explain to members how he will protect vulnerable recipients of Income Support and other benefits from the impact of the recession and the imposition of a 2% increase in GST whilst the Department's spending is cut by a further £4 million as part of the CSR?

In what way will his proposals contribute to the Strategic Plan aim of creating a more equal society?

Answer

Income Support provides comprehensive financial support to working age families both in and out of work. The single benefit ensures that individuals affected by the recession by the loss of a job or restricted working hours can be compensated for their reduced earning capacity by an increase in their Income Support benefit.

Members will remember that Income Support rates were adjusted in line with the introduction of the 3% rate of GST in early May 2008 and the GST Bonus was introduced in July 2008. The Treasury proposal to increase the rate to 5% in June 2011 includes a similar increase in the Income Support budget and the budget for the GST bonus. This will ensure that lower income families that do not pay income tax will be protected from the full impact of the increase in GST.

The spending cuts of £4 million are to be achieved by the end of 2013 and it is anticipated that Jersey will be recovering from the recession by that time and the need to support working age families will have decreased as they find jobs in a more buoyant labour market. The department will be providing additional support to jobseekers in the next few months to ensure that they are well prepared to take up employment as soon as possible.

The increased protection in respect of the raised GST will contribute to the Strategic Plan aim of creating a more equal society by ensuring that the imposition of extra taxes on the population as a whole is balanced by additional support for lower income families. The department will continue working with jobseekers to encourage individuals to become financially independent. Great care will be taken to ensure that additional funding is allocated so as to ensure that incentives to work within the Income Support system are maintained.

1.14 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE IMPACT OF C.S.R. ON INCOME BANDS:

Question

Does the Minister accept that cuts to public services have a disproportionate impact on households on the lowest incomes, and what research, if any, has the Minister undertaken on the combined impact of Stages 1 and 2 of the CSR savings proposals across income bands, and if none, why not?

Answer

It is difficult to estimate the impact of public expenditure cuts on households at different income levels. This is the case both in general and in particular as the CSR savings will be achieved, as far as possible, through efficiencies and providing services differently without significant impact on frontline services. The IFS (Institute for Fiscal Studies) have stated with reference to analysis of UK spending cuts:

“Given the difficulties, conceptual and empirical, involved in the valuation of the benefits of public services, producing a single set of numbers that represent the distributional impact of the entire package of cuts to spending on public services necessarily involves making a series of contentious assumptions which may crucially impact the outcome; an alternative and no less plausible set of assumptions could yield quite a different outcome.”

Nonetheless, by ensuring that we close the forecast deficits in a way that minimises the impact on the economy and facilitates economic growth this will benefit Islanders at all income levels including those on low incomes.

1.15 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HOME AFFAIRS REGARDING IMMIGRATION FEE INCREASES:

Question

Will the Minister advise whether recent amendments to fees for visas and permissions to remain, are equitable and, given the differing nature of individuals' circumstances (both financially and in terms of the frequency these renewals are required) will he undertake to review the current system to ensure it is fair?

Will he also consider means-testing?

Answer

Immigration permission granted in the Island is common to immigration permission granted in the United Kingdom and the other Crown Dependencies. Fees for certain in-country immigration permissions for foreign, non EEA, nationals were introduced in Jersey on 1st May 2010 in line with similar fees charged by both the United Kingdom and the Isle of Man. When I introduced immigration fees I considered, for reasons of equity and fairness, that the administration of the charge should be identical in terms of allowed exemptions as those applicable in the United Kingdom and the Isle of Man.

I have recently reviewed the current system and whilst I have not increased the fees in line with current UK charges I found no reason to introduce a different exemption regime in Jersey to those applicable in the United Kingdom and the Isle of Man.

Since the introduction of local Immigration fees 158 foreign nationals and their dependants have applied to have their immigration permission varied or extended, only two of these applicants have claimed that they were unable to pay the fees due to their financial circumstances. I have exceptionally allowed for the fees to be paid in agreed instalments by one of these applicants and I am currently in discussion with my Customs and Immigration Service to consider a mutually acceptable method of payment for the second applicant.

Enforcement action to restrict employment or remove a person from Jersey as a result of non-payment of a fee would only be taken as a last resort and after close consideration of human rights and other considerations of a particular case.

I review all Immigration matters for which I am responsible on a regular basis, taking into account the Immigration regimes applicable in the United Kingdom and the other Crown Dependencies. Should these other jurisdictions introduce a system of means-testing for exemptions I will of course consider a similar system for Jersey.

Visas for foreign nationals are not issued locally and the fees for this immigration permission are set by Her Majesty's Government.

1.16 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PUBLICATION OF RECENT TAXATION CONSULTATION FINDINGS:

Question

Will the Minister undertake to make available to members a full summary of the submissions received during the recent consultation on business and personal taxation (with personal details omitted where relevant) as soon as possible ahead of the budget debate? Will he also agree to make the same information available to the general public?

Answer

A full summary of the responses received for the Fiscal Strategy Review consultation on personal tax was published on 15 September 2010 and can be found here:

<http://www.gov.je/Government/Pages/StatesReports.aspx?ReportID=452>

This is available to the public.

The author of the report, Involve, is a charity that specialises in helping organisations to consult and engage with people and groups. Involve read all the consultation responses and synthesised and summarised the key trends and views. Almost 1,000 individuals (including those representing interest groups) took part in events or responded by letter, email or in the online survey.

A summary of the responses received for the Business Tax Review will be published ahead of the budget debate. 46 responses have been received and are in the process of being analysed.

1.17 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE LICENSING OF BANKS IN JERSEY:

Question

Further to the Minister's confirmation that Jersey will only licence banks in Jersey from the top 500 in the world, what action, if any, is the Minister taking through the Jersey Financial Services Commission to remove the licence from the bank where a foreign national laundered \$43.9 million, when local residents have to produce passports, utility bills and go through other formalities to open an account or deposit £10,000 in cash?

Would the Minister provide details of the number of breaches either reported to or uncovered by the Jersey Financial Services Commission over last 5 years from amongst all of the banks based in the Island and outline what action, if any, was taken in each case by the regulator?

Answer

The Jersey Financial Services Commission's policy is to license banks who are both in the top 500 in the world and of systemic importance in their home jurisdiction. Jersey has had no bank failures during the recent financial crisis. Jersey was also recognised by the IMF in its recent report as having world leading regulation and controls to prevent money laundering and terrorist financing. Having such controls are essential to meet international standards.

The specific case related to the deputy's question occurred some considerable time ago, in the 1990s. The Island's AML and CFT regime has been further strengthened since then and is amongst the best in the world. As a result of the subsequent investigation, six institutions were identified as having inadequate controls and action was taken to ensure that deficiencies were remediated.

The Commission is highly active in supervising the Island's finance industry for compliance with regulatory requirements, including AML and CFT obligations. The Commission conducts extensive on-site examinations in the latter respect and publishes feedback for industry.

The Commission does not compile data specifically relating to regulatory breaches by banks. To review every relevant file in the timeframe available for this answer would have required the diversion of considerable resources. The regulatory standards in Jersey are appropriately high as well as proportionate and adequately applied by the Commission. This view is supported by the contents of the IMF report.

2. Oral Questions

2.1 Deputy K.C. Lewis of St. Saviour of the Minister for Economic Development regarding the closure of shops in St. Helier:

Further to yet more shops closing down in Jersey, will the Minister be encouraging landlords to reduce rents on retail units until the economy recovers and if not, why not?

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

The market will set rental values. It is not a matter for the Minister for Economic Development but I can tell the Deputy that in the current economic climate, landlords are being forced to negotiate on lease renewals. In a number of cases, rents are being reduced. It is a highly competitive marketplace driven by an increase in supply over demand.

[09:45]

The current retail environment is challenging where in St. Helier, 5.9 per cent of shops are currently vacant, an unusual number, although this does compare well with the U.K. (United Kingdom) average of vacant retail premises, which is currently 10 per cent. But there are some encouraging signs. For example, in 2009, 20 new shops opened in St. Helier while this year to date, 32 have opened and, indeed, I attended last night the opening of Liberty Wharf, which was a fine example of some retail space down at the Waterfront. These new businesses had a choice of premises and were therefore able to negotiate some attractive terms.

2.1.1 Deputy K.C. Lewis:

Since the *Jersey Evening Post* ran the story regarding my question to the Minister, 3 further retailers have called me to say that they will shortly be going *en désastre*. Was the Minister aware of this?

Senator A.J.H. Maclean:

Sadly, I am aware of a number of businesses that have not survived so far in the current very difficult economic climate, and it is very disappointing to see businesses that are not surviving. That is one of the reasons why we are investing as much as we are, for example, in enterprise and business development, £2 million a year, to try and support local businesses, to help them with the difficulties of raising finance and trading in difficult market conditions. I am pleased, as I have said a moment ago, to see there have been some new establishments of shops which are taking advantage of more competitive rates.

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

Will the Minister estimate the impact on the retail sector of the proposed rise in G.S.T. (Goods and Services Tax) from 3 per cent to 5 per cent?

Senator A.J.H. Maclean:

I am not sure what sort of estimate the Deputy is after. We can see a number of new shops have opened. That is good. What we are going to continue to do is to work hard with businesses in all sectors, including retail, to ensure that they are successful, that they make tax returns and, importantly, they not only maintain employment but they also create opportunities for jobs within the economy.

2.1.3 Deputy G.P. Southern:

Supplementary, Sir, if I may. Does the Minister accept that a rise in G.S.T. will make trading problems heavier for local businesses than for foreign businesses?

Senator A.J.H. Maclean:

What I would accept - and businesses will share this view, I am sure - any increase in taxation is never welcomed by a business. Nevertheless, businesses will adapt and they will overcome over the passage of time, and I am sure that we will have a successful and thriving economy in due course. However, there is one area that we do need to bear down on and we need to look very carefully at, and that is the increase in red tape and bureaucracy that does affect, in particular, small businesses. It is a disproportionate effect on 80 per cent of small businesses who employ 5 or less people in the Island. That is an area that my department is about to look at very closely.

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

Would the Minister agree with me that now, as never before, the role of the Town Centre Manager has become critical to ensuring the vibrancy of St. Helier's retail heart? Would he join with me in thanking the ratepayers of St. Helier for funding that salary entirely [**Laughter**] [**Approbation**] now that Economic Development is no longer contributing to what was before a shared expense?

Senator A.J.H. Maclean:

The Constable does a wonderful job in ensuring that the town of St. Helier is vibrant and successful. Indeed, the placement of the Town Centre Manager, which was a joint initiative between the Constable of St. Helier and Economic Development, has proven to be successful. It has, I may say, proven that in terms of getting the initiative up and running, the seed funding from Economic Development was imperative. Now, of course, the Constable is very kindly continuing the initiative [**Laughter**] and without doubt, he is proving that he is able to fund it and he has also confirmed the fact that it is a very successful initiative and will continue to be so. I believe the Town Centre Manager does a wonderful job and is supported by retailers in the Island.

The Deputy Bailiff:

We are going to go back to normal Question Time; Deputy Trevor Pitman.

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

I am sure it will be the city of St. Helier one day. Following on from Deputy Southern's question, is the Minister aware that another 2 locally owned businesses in the town, who are about to go online, have told me confidentially that they definitely will if we are to have 5 per cent G.S.T.? So there will no longer be a shop front for people to visit; it will just be online.

Senator A.J.H. Maclean:

The development of e-commerce is very important. A number of local businesses who have found it difficult to compete in the confines of Jersey are looking to go online. They are developing their businesses outside of Jersey. They are realising that we have a worldwide marketplace that inimitable businesses in Jersey can benefit from. That will help drive growth, drive taxes and generate employment locally as well. The world is the oyster of local businesses, and I think that is something that we should encourage, and we do very much so through enterprise and business development and elsewhere.

2.1.6 Senator F. du H. Le Gresley:

Could the Minister confirm that in order to help local retailers when G.S.T. goes up to 5 per cent in June 2011, the *de minimis* figure will be reduced to a figure, I believe, of £240?

Senator A.J.H. Maclean:

That is a matter for the Minister for Treasury and Resources. I do not believe that there is an intention to make any adjustments at this particular point but, as I say, it is a matter for the Minister for Treasury and Resources to consider. We will always work with businesses in order to ensure that they are as successful as possible and can deal with the challenges that they face in the current economic climate.

2.1.7 Senator P.F. Routier:

In recognition that some in St. Helier have been able to achieve a reduced rental, would the Minister speak to the Constables to see if they would be prepared to match the reduction in the rates which are paid by the businesses?

Senator A.J.H. Maclean:

If my Assistant Minister would like to attend such a meeting with me, I am more than happy to have a discussion with the Constables. **[Laughter]**

2.2 Deputy P.J. Rondel of St. John of the Minister for Education, Sport and Culture regarding the removal of grants to fee-paying/private schools:

Following the recent report, would the Minister clarify whether his department has plans to remove in full the grants to fee-paying private schools at any time in the future, or whether further cuts beyond those already announced will not be pursued if a mutually satisfactory agreement can be reached in the current discussions?

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

There are no plans to further reduce the grants to fee-paying schools outside of the proposals currently being explored with all fee-paying schools, and the governing bodies have already been made aware of this. My department is working closely with all schools to achieve a mutually satisfactory agreement and, once the discussions are completed, I will be bringing a proposition to the States so Members are able to consider this matter with all the facts in front of them.

2.2.1 The Deputy of St. John:

Will the Minister please meet with Mr. Le Blancq from Parents for Choice, and will he reconsider being at the presentation for States Members later this week and if not, why not?

The Deputy of St. Ouen:

I have already been asked that question in a different oral question. Am I required to answer that now?

The Deputy Bailiff:

It is a supplementary question.

The Deputy of St. Ouen:

Fine, Sir. On 2 separate occasions, I have invited Mr. Le Blancq, the spokesman for Parents for Choice, to attend my department to discuss his proposal with my officers and myself. It is quite appropriate and right that any particular strategic option should be considered and I plan in the New Year to include and develop the educational strategies within a Green Paper. Regarding the attendance of a meeting, I do not believe that it is useful or helpful at this time for me to attend such a meeting until I am aware and fully understand the proposals put in front of me.

2.2.2 Deputy G.P. Southern:

Will the Minister consider extending the period of the changes to the funding of fee-paying schools from his current schedule to something more like 5 years?

The Deputy of St. Ouen:

Absolutely. I am very mindful of the fact that initial discussions with the schools involved have indicated that the timescale is extremely tight and, as such, I am proposing to have further discussions with all the school governors tomorrow evening.

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

May I ask the Minister for Education, Sport and Culture, who has been taking most of this on the chin, whether or not he has been supported in his moves that he has been proposing by the Council of Ministers and what effect, if any, has the Council of Ministers had upon these proposals?

The Deputy of St. Ouen:

Both the Council of Ministers and, indeed, the States have had an effect on these proposals and others that I am being required to bring forward, because Members will recognise that both the Council of Ministers and the States are requiring myself and other departments to reduce government expenditure to ensure that we maintain any tax increases to a minimum.

2.2.4 Deputy P.V.F. Le Claire:

May I please ask a supplementary to that or get a better answer if possible. I would like to ask the Minister for Education, Sport and Culture to reflect on the fact that I am particularly referring to these proposals rather than the overall.

The Deputy of St. Ouen:

Yes, these proposals have been discussed with the Council of Ministers. They are proposals. They need to be explored further and I have had the full support of the Council of Ministers, as I have been engaging with the schools. I am keeping in touch obviously regularly with the Council of Ministers and discussions continue on this matter.

2.2.5 Senator J.L. Perchard:

The recommendations in the report from the U.K. consultants about school fees were to reduce subsidies in the short term to fee-paying schools by 50 per cent, but also to consider 100 per cent removal and the longer term of subsidies. Is it not the case that the Minister's real agenda is to move the Island's education system to a U.K.-type model of state schools funded by the taxpayer with completely unsupported private schools, which would almost certainly bring about the closure of at least one, maybe 2, of our fee-paying schools?

The Deputy of St. Ouen:

Not at all; I value the contribution made by the fee-paying schools and respect the right for parents to choose the form of education they wish to provide for their children. Furthermore, it is important that we recognise that the appropriate amount of support is provided to the fee-paying schools to provide the broad education that is on offer on the Island and, as such, there is no intention, and I repeat no intention, to remove all support from fee-paying schools.

2.2.6 The Deputy of St. John:

Since the Minister is entrenched in his views, does he believe he can get out of the hole that he has put himself in and keep his seat or will he keep on digging?

The Deputy of St. Ouen:

I do not believe that I am digging a hole. I believe that I am undertaking a particular process in considering a number of proposals to reduce the expenditure of my department. As such, I need to continue and follow the process and, as I said before, I will report back to this Assembly once that process has been completed and I can provide the information that both States Members and parents require.

2.3 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the C.S.R. proposals for 2011 to 2013:

Is the Minister satisfied that the C.S.R. (Comprehensive Spending Review) proposals for 2011 to 2013 are balanced and fair and, if so, would he explain why he holds this view?

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

I believe the package of both the C.S.R. and F.S.R. (Fundamental Spending Review) is both balanced and fair. The 2011 C.S.R. savings approved by this Assembly equate to 2 per cent of budgets and are, in the main, sensible and prudent efficiencies at a level which any organisation should be actively undertaking every year. The 2012 and 2013 C.S.R. savings are detailed proposals and some of these will need further assessment and evaluation, which will be undertaken before they are submitted for approval by this Assembly in the Business Plan next year. The package is balanced as it comprises savings of £65 million against the F.S.R. tax package of £45 million, both of which are staggered over 3 years. It is fair on the community because both businesses and individuals are contributing. In addition, while not all services are unaffected, the majority are protected. The whole package is designed to protect services that are valued and important to Islanders. So the C.S.R. proposals put forward show that it is possible to achieve the level of savings required and, before approval in any subsequent Business Plan, each will be challenged to ensure that they are the best way of saving taxpayers' money.

2.3.1 Deputy G.P. Southern:

I will go to the F.S.R. first if I may. Does he agree with the Chief Minister that the tax changes he proposes are, in fact, progressive rather than regressive as he suggests or, at the very best, proportional?

[10:00]

Senator P.F.C. Ozouf:

The element of the tax package includes G.S.T. and the 2 per cent supplement on incomes above the social security cap. Taken together, I think that they justify the position that the package itself is progressive in terms of its effect.

2.3.2 Deputy G.P. Southern:

Will the Minister study definitions of the word "progressive"? You cannot get a progressive package out of an element which is regressive and an element which is simply less than proportional. They cannot be described as progressive. That is a twisting of the English language that is beyond belief. Does the Minister not agree?

Senator P.F.C. Ozouf:

The Minister does not agree. The fact is that the proposal is put forward to change the current arrangements where currently there are no social security levies raised on incomes above £44,000. That is changing the situation therefore the more you earn, the more you will pay which is different from the current situation and, as far as G.S.T. is concerned, the Deputy and I will continue to disagree on the impact of G.S.T. I will argue with information from the I.F.S. (Institute for Fiscal Studies) in the U.K. that G.S.T., in the same way that V.A.T. (Value Added Tax) is, is generally proportional on incomes.

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

Returning to the question which was about C.S.R. The Minister in his opening answer talked about sensible and prudent efficiencies and claimed that the 2 per cent cuts that we have already seen were sensible and prudent and, by implication, that where we are going is also going to be sensible and prudent. Can the Minister explain how removing support for the key post of Intelligence Analyst to stop drugs coming into the Island at Customs and how withdrawing school visits to Durrell can be described as sensible and prudent?

Senator P.F.C. Ozouf:

Those individual questions need to be asked of the individual Ministers that have put forward proposals. The Treasury has been co-ordinating an overall plan in order to achieve the objective of

cutting 10 per cent off targets. Now, I am advised, and the Council of Ministers has been through many of the individual proposals, that where there are post reductions, they can be dealt with by efficiencies, by new working practices within the organisations. That is certainly the case for all of the proposals that have been brought forward by Home Affairs, as I am advised, and in relation to the visiting programme for Durrell, there are going to be some key difficult decisions to be made. At the margin, there are going to be higher priorities for public money and Durrell clearly falls within that.

2.3.4 The Deputy of St. Mary:

The Minister is trying to shuffle-off responsibility. Where the 10 per cent cuts came from, where the 2 per cent cuts came from is from the Minister's desk and now he is saying: "Oh, it is up to the individual Ministers to cut this and cut that." I am sorry, can the Minister accept some responsibility for these cuts that do so much damage and that is only 2 per cent, we have yet to see the full impact of the 10 per cent?

Senator P.F.C. Ozouf:

I do not think I am ever going to convince the Deputy that it is possible to make cuts in terms of public expenditure. I take full responsibility for setting out a programme designed to share the problem of dealing with £100 million deficit. The deficit reduction programme consists of partly cutting expenditure, partly increasing taxes and not going down the slippery slope of borrowing money or eating into our savings which bequeaths the subsequent generations' problems. The Deputy does not want to face up to these issues. I do and I take full responsibility for that.

2.3.5 Senator J.L. Perchard:

The question was about balanced and fair C.S.R. proposals. Even the U.K. Tribal consultants said that there were real opportunities at the Education Department to save money but the immediate pressure to save money required them ... they did not use the words "slash and burn". I will use the words "slash and burn" in the department to harvest easy revenues from easy targets. Will the Minister accept that sometimes it may be better to take longer over these cuts and not necessarily go for the easy targets?

Senator P.F.C. Ozouf:

I have some sympathy with Senator Perchard. I think we have achieved a great deal over the last 9 to 10 months. We have started to change the culture where there was not a belief or an acceptance that you can reduce States expenditure. We were on a trajectory of year-on-year, as the Comptroller and Auditor General said, increases in States spending. We have carried out the second part of the comprehensive spending review. We have published the initial conclusions of that. The States are not being asked to approve cash limits in the budget. They are being asked to approve an overall envelope of States spending. There is much work to be done on individual savings proposals between now and when we lodge the Business Plan next year and yes, there are going to be some departments. If the Minister for Education, Sport and Culture cannot deliver his private school grant reduction within the period that he has been asked to do, then the first issue is he is going to be asked to find alternative ways of delivering his savings target. That work will be ongoing over the next few months, and I am not going to criticise any Ministerial colleagues. They have been doing a difficult job well and have we got it all right? No. Will we get to the stage where we get everything right? Absolutely, by Business Plan time next year.

2.3.6 Deputy M. Tadier of St. Brelade:

Does the Minister accept that the Social Security proposals, while they may be less regressive than the current situation, can by no means be called progressive in the sense that higher earners will still pay a lesser percentage of social security contributions than lower earners under the current threshold?

Senator P.F.C. Ozouf:

It is what it is.

The Deputy Bailiff:

Minister, one moment, please. I am sorry, Deputy. I am going to rule that out of order. I did allow wrongly I think, Deputy Southern to put in a supplementary question. It is about C.S.R. not about raising revenue. Senator Le Gresley.

2.3.7 Senator F. du H. Le Gresley:

I may be straying slightly away from C.S.R. but I hope I am not. **[Members: Oh!]** **[Aside]** It is very close. It is the other part of C.S.R., F.S.R. I would just like to ask the Minister to explain why he considers a 66 per cent increase in G.S.T. to be a moderate increase, which are his words.

The Deputy Bailiff:

I am sorry, I think that is the same problem.

Senator P.F.C. Ozouf:

I have other questions on tax which he can come back to, I think.

2.3.8 Deputy G.P. Southern:

I will stay within the bounds of my original question then. Will the Minister give a categorical assurance - he is quite fond of those - that he will not be seeking a 2-year pay freeze as the mechanism for achieving his £40 million cuts from the conditions and terms of all public sector workers?

Senator P.F.C. Ozouf:

What I will be attempting to ask for is a target of £40 million delivered from terms and conditions within 2 years. How that is delivered is going to be by extensive communication, discussions with union representatives and staff. Certainly the mathematics are that it would have the effect of a 2-year pay freeze, but the Deputy is aware of my strong views in relation to some pay groups being others. I do not think that there is one policy that should fit all pay groups. Some pay groups will inevitably have a pay freeze, and maybe for a longer period of 2 years because of the differential of earnings compared to U.K. benchmarks.

2.3.9 Deputy G.P. Southern:

A final supplementary, if I may. Will the Minister guarantee to negotiate any such changes to terms and conditions and not, as he just said, discuss and consult?

Senator P.F.C. Ozouf:

Certainly I do not believe that wage negotiation should be negotiated over the floor of this Assembly, and that view has been known, and we were put in the position last year in relation to the pay freeze. It is quite difficult to answer Deputy Southern - especially when he is interrupting - but it is quite difficult to argue with Deputy Southern as he does not believe there should be any cutbacks in terms of pay and remuneration.

Senator G.P. Southern:

The Minister is putting words into my mouth. I have never said that and I do not say it now.

The Deputy Bailiff:

Deputy, please sit down and let the Minister finish his answer.

Senator P.F.C. Ozouf:

I think I have finished, Sir.

2.4 The Deputy of St. Mary of the Chief Minister regarding the reliance on the content of the Napier Report:

The Napier Report at paragraph 67 records that the Solicitor General advised the Director of Human Resources and I quote: “I would urge that particular caution be exercised to check that there are no provisos or caveats to any of the conclusions reached upon which reliance is to be placed.” Would the Chief Minister inform Members why this advice was not followed and when he considers it is acceptable to ignore repeated legal advice?

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

This passage refers to a statement that the former Minister for Home Affairs and the Chief Executive did not have access to the interim report of the Metropolitan Police and if they had, they would have seen that it was written in heavily qualified terms. In fact, when deciding to suspend the then Chief Officer of Police, the Minister for Home Affairs at that time had access to other information, for example, as referred to in the Napier Report, paragraph 89, from the meetings of the Gold Group, which indicated that serious mistakes had been made, as well as the information in a letter from the Deputy Chief of Police, which referred to the report of the Metropolitan Police. The Minister for Home Affairs had to decide what action to take in relation to the Chief Officer of Police given that in the light of the press briefing on 12th November 2008, the authority and judgment of the Chief Officer of Police, and by extension, that of the States of Jersey Police, would be called into question. The Minister for Home Affairs therefore had to balance the legal advice, which was given with other considerations, including a requirement to maintain public confidence in the States of Jersey Police. Legal advice was not ignored. It was carefully considered and weighed in the balance with other information available to the Minister.

2.4.1 The Deputy of St. Mary:

The letter of the Deputy Chief of Police to the Chief Executive on 10th November stated that: “The interim findings of the review by the Metropolitan Police fully support my previous comments” and that is in Napier paragraph 104. Napier says: “That report was in heavily qualified terms” (paragraph 69) and he also says: “The report expressly states that any observations in this report may be subject to amendment.” Yet that was the report relied on, firstly, by the Acting Deputy Chief of Police at the time and, further, should have been mentioned or known about by the various people involved. It seems to me, and I would ask the Chief Minister to comment why it is that those reservations, those severe, completely qualifying reservations, which Napier refers to as “heavily qualified terms”, why these were not taken into account in the suspension process.

Senator T.A. Le Sueur:

I thought I had already made it clear in my original answer that a number of factors were taken into in deciding whether or not to suspend. It was that balance which was struck by the Minister for Home Affairs on justifiable grounds which led to the suspension, of which the letter in question was only one factor.

2.4.2 The Deputy of St. Mary:

May I ask a further supplementary? Were those other matters outside the letter from the former Deputy Chief of Police... whatever? Were those other matters formally mentioned in any of the suspension letters to the former Chief of Police as they should have been?

Senator T.A. Le Sueur:

The question was about whether the decision to suspend was a valid decision, and I repeat that it was a valid decision for the reasons I have quoted.

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

Does the Chief Minister feel that the former Minister for Home Affairs misled the House when he stated the reason he took the action of suspension was based on the letter from the Acting Chief Officer of Police and the Metropolitan Police Report and those alone?

Senator T.A. Le Sueur:

I do not recall the words of the previous Minister for Home Affairs but I am sure that he had no intention to mislead the House.

2.4.4 Deputy F.J. Hill of St. Martin:

Given that the Chief Minister is very selective with certain parts of the Metropolitan Police Interim Report, will he request the Minister for Home Affairs to make the Metropolitan Police Report and Interim Report available to all States Members even under confidentiality clauses?

Senator T.A. Le Sueur:

I can certainly make the request to the Minister but I have no expectation it would be delivered.
[Laughter]

2.4.5 Deputy M. Tadier:

Does the Chief Minister accept that on paragraph 107 of the report, it says that too much reliance was placed on information coming from one source and that, irrespective of what the justification in hindsight may have been, Napier also said that the basis on which Mr. Power was suspended on 12th November 2008 was, in his view, inadequate. If the Chief Minister accepts that, what action will he be taking?

Senator T.A. Le Sueur:

I think we are going over old ground here. I have already indicated that Mr. Napier produced his findings, which I have taken into account, and formed my own conclusions as a result of his comments.

2.4.6 The Connétable of St. Helier:

The Chief Minister says that the legal advice was not ignored. It was simply balanced. Will the Chief Minister agree with me that it is not so much a matter of ignoring legal advice but not sharing it with States Members? Will he confirm that the reservations by the Crown Officers were not shared with States Members at any stage during the statement by the former Minister for Home Affairs, nor were they shared with this Assembly during the in camera debate when I attempted to get this matter resolved at an early stage. What is his view on the fact that the former Chief Minister replied to an email from me saying that the legal basis of the suspension was absolutely assured?

[10:15]

Senator T.A. Le Sueur:

I suspect we are straying from the question but certainly the decision to suspend was a decision for the Minister for Home Affairs and the Minister for Home Affairs alone. It was not a question of sharing it with other States Members or any other parties. It is the responsibility for the Minister, a very onerous responsibility, which that Minister discharged to the best of his abilities in accordance with all the information available to him.

2.4.7 The Connétable of St. Helier:

Can I ask a supplementary, please? Does the Chief Minister not feel that it is incumbent on any Minister to share legal advice with this Assembly when an important matter is being debated?

Senator T.A. Le Sueur:

That would depend entirely on the circumstances of the situation.

2.4.8 The Deputy of St. Mary:

I am finding it curious that the Chief Minister is suddenly switching from the justification in the letter from the former Deputy Chief of Police and relying on the Interim Report and suddenly there is all this new information that was relied on in the suspension. I would just like to quote from the Napier Report, paragraph 107, to the Chief Minister and ask for his comment: “The letter from Mr. Ogley to Mr. Lewis dated 11th November 2008 informing him of Mr. Warcup’s letter does not make clear that the report received by Mr. Warcup from the Metropolitan Police was only an interim one and that its author had heavily qualified its contents. While there was additional material coming in from Mr. Gradwell and from the reports of the Gold Group that was indicative of failings on the part of Mr. Power, no effort was made to collate this in a systemised way or to make reference to this material in the documentation provided to Mr. Power at the time he was suspended.” So the “get out”, the alibi of the Chief Minister, was not used at the time. Could the Chief Minister comment on that?

Senator T.A. Le Sueur:

With difficulty, since I was not involved at the time, but certainly I accept the comments of Mr. Napier that no effort appeared to have been to collate that systematically. Nonetheless, the information was there, the information was used and relied upon by the Minister for Home Affairs, and a decision was made on valid grounds.

The Deputy Bailiff:

I advise Members we have only got through 4 questions in just over half an hour and I am now going to be very much tougher on both Members and Ministers, questions and answers. Deputy Le Claire has a question to ask of the Minister for Transport and Technical Services.

2.5 Deputy P.V.F. Le Claire of the Minister for Transport and Technical Services regarding the pumping of water from ash pits:

Would the Minister inform Members of the number of occasions on which water has been pumped from ash pits this year and from which locations? Would he state how that water has subsequently been managed and would he give the total cost and state which part of the department’s budget this has been paid from, please?

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

From the start of the year to 17th September, the department has removed water collected from 8 different ash bays on 36 days, each day including a number of individual visits. The location of these pits is within the southern portion of the La Collette site. The water is removed by a local contractor and transported to the Bellozanne sewage treatment works for disposal. This was deemed the most environmentally sound method of disposal currently available based on sampling data from the pits including analysis for metals, pH, salinity, dissolved oxygen and temperature. The cost of this activity over the period is £13,340, which includes haulage costs to deliver the liquid to the sewage treatment works. This cost has been met from the solid waste operation budget for the La Collette facility. I will conclude by saying that a proper management of our operations at La Collette is always a priority and while I am in office will continue to be so.

2.5.1 Deputy P.V.F. Le Claire:

Thank you, that is a very comprehensive and succinct answer that we rarely hear when we put questions to Ministers. I would like to congratulate the Minister on giving me that answer and ask him for one piece of missing information. What type of water has this been? Has it been ingress from the sea or from rainwater?

The Connétable of St. Brelade:

Rain.

2.5.2 The Deputy of St. John:

Given the question, it raised a number of concerns wearing my environmental chairman's hat. Has this been mentioned to the Environmental Panel at any of your interviews over the last few months? We note that the Minister states it has been going on for a number of months. Does the Minister expect this to continue and is it through ingress from over the top and, if so, I was under the impression these pits were sealed?

The Connétable of St. Brelade:

As long as rain continues, the problem will continue and I suspect it may. In terms of the historical process, clearly if a pit is capped-off the requirement to pump it out is not there but those pits that have remained uncapped to allow other important waste management activities to occur, such as bioremediation of third party contaminated soils and working processes, the need to pump out will continue. With regard to the Environment Scrutiny Panel, I am always happy to answer questions when they are put.

2.5.3 The Connétable of St. Helier:

Excuse my ignorance, but if rain is getting into the ash pits, does that not mean that they are not covered? If they are not covered, is there not a danger that toxic ash is being blown into the surrounding residential area and indeed into the sea of the Ramsar site?

The Connétable of St. Brelade:

No, because the pits are capped-off with sand once ash is dumped on them, so there is no risk of that whatsoever.

2.5.4 Deputy A.K.F. Green of St. Helier:

In a similar vein, I was assured, when I asked previous questions, that the pits were sealed and that there was no way that the ash could come into contact either with the seawater or with rainwater. We are now told that the pits are coming into contact with rainwater. Will the Minister agree to provide a chemical analysis of the water that is being pumped out from that?

The Connétable of St. Brelade:

The chemical analysis of water pumped out from various pits will obviously differ, but I have to question the Deputy's intent. Effectively, pits are capped-off once they are sealed. There are a series of ash pits, one on top of the other, so clearly there is a capping-off process. Once the process is complete, that is finished, but during the working process the pits are inevitably going to be open which will mean a risk of the ingress of rain, which is what we are pumping out, but I am happy to answer the Deputy's requirements as necessary.

2.5.5 Deputy P.V.F. Le Claire:

Given that there are 8 different ash pits that require removal of rainwater and treatment of rainwater, what is going to happen in the future when the new incinerator starts? Will there continue to be 8 open pits that need draining?

The Connétable of St. Brelade:

I suspect not because the requirement for pits, once the new E.f.W. (Energy from Waste) plant comes on to line, will reduce, in that the bottom ash will be dealt with in a different way and the only requirement for ash storage will be that for fly ash, so inevitably the process will be different but that is yet to be ascertained.

Deputy P.V.F. Le Claire:

Can I thank for the Minister for his answers.

2.6 Deputy T.M. Pitman of the Minister for Treasury and Resources regarding the proposals to increase the rate of G.S.T:

Would the Minister explain his reasoning for implementing an increased rate of G.S.T. across the board which will affect many middle earners who are paying the same or more income tax than at least 10 wealthy 1(1)(k) residents whom Treasury figures reveal to be paying less than £5,000 per annum in income tax.

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

An increased rate of G.S.T. is needed to ensure that we achieve balanced budgets by 2013, which will ensure our economic prosperity in the future. All residents pay G.S.T., including 1(1)(k)s. I understand that there continues to be some lack of clarity on the 1(1)(k) tax contributions, and I want to be clear that most of the 1(1)(k) s paying less than £5,000 or £10,000 per year arrived in the Island in the 1970s and 1980s and were based on the policy at the time. All 1(1)(k) incomes, all 1(1)(k) individuals, pay 20 per cent on their taxable income arising in Jersey in the same way that all other residents do. I need to be clear that the agreements are not to limit their tax to a certain contribution. The policy was to ensure that entrants had sufficient wealth or income to generate the tax contribution when taxed at 20 per cent to result in a tax liability of at least that certain amount. So I will be outlining my conclusions on the 1(1)(k) review in a report which I will issue prior to 7th December, and I am also going to be making some further observations at 1(1)(k) in the budget speech on 7th December.

2.6.1 Deputy T.M. Pitman:

I am not sure if the Minister is aware that 78 out of 123 1(1)(k)s in 2008 paid less than the much touted £100,000. Nevertheless, I do think the Minister is in need of one of his famous tutorials for considering his answer. Perhaps he can explain how in only 2007 in the presence of a States Member and several other people, a senior civil servant from within the Treasury made it quite clear that 1(1)(k)s did indeed negotiate what they would pay to the Comptroller of Income Tax. How can he explain that anomaly?

Senator P.F.C. Ozouf:

I recognise that there continues to be a lack of clarity of exactly the reasons why 1(1)(k) tax contributions are and over the last 3 or 4 years, pointed questions have been made... perfectly legitimate questions have been made by Members. Answers have been given from which Members - perhaps understandably - have concluded certain aspects. I thought that the former Chief Adviser's Report would have helped matters and helped Members' understanding of 1(1)(k). Clearly, there is still some uncertainty about it, but there is a minimum tax contribution that each individual had to pay and they had to bring sufficient income in order to pay that minimum tax contribution. That is very different from effectively negotiating a tax payment.

2.6.2 Deputy M. Tadier:

Does the Minister share the zeal of his Assistant Minister who said last session that he would like to see 150 more 1(1)(k)s come to the Island and, if so, will the Minister consider reducing the burden of tax that 1(1)(k)s have to pay in these difficult financial times in order to attract more 1(1)(k) residents to the Island?

Senator P.F.C. Ozouf:

The Deputy is now pretty well-known in this Assembly for his sarcasm and wit and I believe that my Assistant Minister has a great amount of zeal, and what he said in the Assembly last time was that the tax contributions for 1(1)(k)s are in the region of 1 per cent of the value of G.S.T. What the

Assistant Minister said, and I agree with him, is that if we can increase the amount of tax that is paid into the Treasury by attracting more 1(1)(k)s in the Island, then that is a good thing. There are only 120 or 117 1(1)(k)s that have ever been issued. That is a much smaller number than I think a lot of people would believe. But I am reviewing the tax contribution and the tax arrangements for 1(1)(k)s. I am going to be publishing a report in advance of the budget and it will be a subject which this Assembly, I hope, will be addressing during the course of the budget debate.

2.6.3 Deputy T.M. Pitman:

I do think it is a bit harsh to call Deputy Noel a zealot, but there we go. Sticking with the issue, which is the main issue of G.S.T., given that one multimillionaire felt compelled to phone me up to tell me with some satisfaction that due, in his words, to having a good accountant and legal advice, the system allowed him to pay tax at just 2 per cent, with G.S.T. being a clearly regressive tax, does the Minister agree it is high time that Jersey did finally implement a system of fair progressive taxation? We are, after all, committed apparently to developing a fairer society.

Senator P.F.C. Ozouf:

I would be quite careful about taking the phone calls of alleged millionaires who claim that they are not paying their appropriate amount of tax. What I can do, by way of assurance to the Deputy, is say that we have been completing a quite substantial review of the Tax Department and I will also be outlining some changes to the Tax Department in advance of the budget debate. I am wanting to ensure that the Tax Department is given all of the necessary resources and staff and assistance in order to ensure that Islanders meet their obligations. The Deputy and I will disagree in relation to the future of the tax package for Jersey. We respectfully disagree in relation to what is fair in terms of tax and no doubt will continue to debate these issues in the Assembly.

2.7 Senator J.L. Perchard of the Minister for Education, Sport and Culture regarding his attendance at the Parents for Choice group meeting at the Town Hall on 4th November 2010:

Will the Minister attend the meeting being organised by the Parents for Choice group at the Town Hall on Thursday, 4th November 2010 and if not, why not?

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

On 2 separate occasions, I have invited the spokesperson for Parents for Choice to meet with me and senior officers to discuss their proposal and other concerns that they may have. However, each time they have chosen to decline. I would like to confirm that this invitation is still open. Discussions are taking place with all fee-paying schools to gain a greater understanding of how this proposal will impact on the school, and what the school is able to do to minimise any increase in fees that may result from implementing this proposal. Furthermore, plans are already in place to discuss the proposal with all stakeholders once the initial consultation process is concluded. It is my intention, with the support of the schools' governing bodies, to meet with parents at each school to discuss the proposal in more detail once those discussions with the schools have concluded.

[10:30]

2.7.1 Senator J.L. Perchard:

Will the Minister please meet with Parents for Choice? They have invited him on 8 separate occasions to meet. He has declined. One can only imagine why he is so shy. Does he refuse to attend Thursday's meeting because he now recognises that this issue has been grossly mishandled and has grown out of his control and, in reality, his policies would be in fact laid bare - threadbare - in front of fellow States Members and the educational establishments?

The Deputy of St. Ouen:

I do not believe it has been grossly mishandled. I just think it is absolutely and totally premature. I keep saying to States Members and others we have only just started the conversation with the schools. I am still awaiting the specific information that I requested from some of those schools to enable me to better understand the impact of this proposal. Once I have had that information and once those discussions have been completed, then obviously I would love to be able to inform parents and others about what the likely impact may be. I need to be allowed to work with the governing bodies. I also need to be allowed sufficient time to be able to do that. That is something that the governing bodies are requesting, and I too am requesting this Assembly and parents just to allow sufficient time for us to explore this proposal. There are no firm decisions being made and I have already given a commitment that I will be coming back to this Assembly before I do make them.

2.7.2 Deputy K.C. Lewis:

We are very aware that the Minister is in negotiations with boards and head teachers but, as has been pointed out, feelings are running high with parents of these children and it would be a great courtesy if the Minister would turn up at the meetings just to hear the fears and anxiety of the parents. Would the Minister do so?

The Deputy of St. Ouen:

I have been listening to all parents' concerns. I have been able to speak to some personally. I have had email correspondence and I am acutely aware that many of the parents' concerns reflect particular issues to do with a particular school. One cannot generalise these issues with them in that manner. I need to, and I will... and I have given a commitment that I will meet the parents in each school, so we can properly discuss how this proposal may or may not be furthered.

2.7.3 Deputy T.M. Pitman:

Does the Minister agree that with the approach being taken by some Members there is a danger that the real issue here, which is of course ensuring the education of our Island's young people, gets lost beneath some of the re-election campaigns of some Members?

The Deputy of St. Ouen:

I think the Deputy makes a good point, not only regarding the election campaign issue, but that States Members are losing sight of the fact that I, and my department, are responsible for the education of all children on this Island and the provision, not just those within the fee-paying sector. I am required and want to seek to provide the best education opportunities for all the Island's children regardless of their circumstances.

2.7.4 Deputy C.F. Labey of Grouville:

I am quite alarmed, and I think many parents are quite alarmed, when the Minister says that he wants to understand the impact of the proposals. These are his proposals. So, could he indicate what research and advice he received from his officers beforehand?

The Deputy Bailiff:

I am sorry. I am going to disallow that question, Deputy. The question must relate to the subject matter which is the meeting on 4th December.

The Deputy of Grouville:

But, Sir, the meeting is about this issue.

The Deputy Bailiff:

That would give rise to questions about the whole subject.

2.7.5 Senator J.L. Perchard:

It was a very good question. My final supplementary, the Minister says, quite rightly, that he needs to work with the governing bodies and that a meeting of Parents with Choice would be premature. Why then has the Minister admittedly invited Parents with Choice to meet him privately?

The Deputy of St. Ouen:

I invited Parents with Choice to come and meet with me because they have brought forward, not general concerns raised by the parents that have been in contact with me, but a particular proposal that is of a more strategic nature. That particular proposal is quite rightly to be considered and understood and will be no doubt included in our Green Paper as we consider the future education provision on this Island in the new year.

2.8 The Connétable of St. Helier of the Minister for Health and Social Services regarding the use of the Statutory Nuisances (Jersey) Law 1999:

Would the Minister advise on how many occasions officers of the Health Protection Department have taken action or otherwise utilised the Statutory Nuisances (Jersey) Law 1999? Would the Minister undertake to consider whether the law should be amended to include nuisance caused by traffic movements?

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

The department has served 2 abatement notices so far this year. Noise from vehicles, where the vehicle is not roadworthy should be addressed by the States of Jersey Police Officers, Honorary Officers and the States of Jersey Vehicle Inspectors. Vehicle movement and the traffic impact is a material planning consideration and part of the planning process. I do not believe we should duplicate legislation. I have therefore come to the opinion that there is little merit in extending the Statutory Nuisance (Jersey) Law 1999 to include vehicle movements.

2.8.1 The Connétable of St. Helier:

I did hope the Minister would tell me a longer period of action under the Nuisance Law than just 2 abatement notices this year, which I must say is not a great deal of use of a law. Would the Minister not reconsider her views that traffic, such as can be created by a home delivery service of a takeaway restaurant in a quiet residential area, constitutes nuisance in the terms of the law? That is why it was brought to this House. Surely it should be able to take action in those kinds of situations.

The Deputy of Trinity:

I know that the Constable and the Parish Deputies have been in great discussion with my department, as they have been with the Planning and Environment Department. Officers have met him as well as the person who was complaining. At this present moment in time, under the Nuisance Law, it is nuisance on private land which we can do, like barking dogs, if there was an issue regarding audible car alarms going off, then that is something that we can do. Actual traffic movements do not come under this legislation. As regarding the number of abatement notices, I can go back to 2007, there were 8; in 2008 there were 11; 2009 there were 5.

2.8.2 Deputy T.M. Pitman:

Given that, as my Constable is aware, I appear to have exhausted every possible avenue: police, harbour authorities, attached youth service, *et cetera*, in trying to assist residents at Albert Quay plagued by problems with traffic movement - traffic that has no reason to be there - does the Minister not concede that this could be a possible last resort for helping people and could she not genuinely consider or re-consider her attitude to perhaps doing as the Constable asks?

The Deputy of Trinity:

The department is always ready to help in any way it can. It does do in different ways. It takes all inquiries and complaints very seriously. At this moment in time, the actual vehicle movements do not come under the statutory legislation. It can be addressed through other ways, like States of Jersey Police, Honorary Officers and Vehicle Inspectors but also is part of the planning process, of which the health protection is a strategy consultee to any planning process.

2.8.3 Deputy M.R. Higgins:

Would the Minister give us an indication of the types of enforcement notices and the reasons the enforcement notices have been given, certainly this year? Also, would she not agree that the department is basically, because of the inadequacy of the law, not carrying out its functions and dealing with the complaints that are affecting residents of this Island? Will she bring forward changes to the law?

The Deputy of Trinity:

I can understand. Again, I say that the department has been in great discussions with the Constable as well as the Deputies of that area. This particular restaurant, I understand, has had a change of use. It went through the planning process. It went to the Parish Assembly for licensing. But, as it stands, traffic movements do not come under the Nuisance Law. As I said, it can be dealt with in other ways and I would not wish to duplicate legislation. I know the department has been in touch with the complainant down there and has offered to see if it can help in any other way. I think that was refused at that time.

2.8.4 Deputy M.R. Higgins:

The Minister did not answer the question. What were the nature of the enforcement notices and does she think the law needs to be changed because it is not adequate?

The Deputy of Trinity:

I do not have that information about the type of abatements, but I can say they can range from barking dogs, and I know there was an issue in St. Brelade this year or last year about seagulls.

2.8.5 The Connétable of St. Helier:

Given that the Minister does not see a need to beef-up the law - I do not agree that it is going to duplicate - would she at least support a Private Members Bill seeking to amend the Nuisance Law to include traffic noise and traffic nuisance?

The Deputy of Trinity:

I wait to see, but I understand that the department is always willing to talk to the Constable, as with the Deputies in that district. But, as I say, it could be duplicating existing legislation. This is about traffic movements and it does not come under the Nuisance Law because there are other laws that it can be dealt with through.

2.9 Deputy M. Tadier of the Minister for Treasury and Resources regarding double taxation on essential goods and services:

Has the Minister considered whether the agreed withdrawal of allowances for many under '20 means 20' and the absence of exemptions for foodstuff and other essential goods, has resulted in some members of the public effectively facing double taxation on essential goods and services?

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

If double taxation is defined as buying goods and services which are subject to tax already out of taxed income, then double taxation exists in most economies in the world and Jersey is no exception. However, it is not the case that the existence of '20 means 20' and a broad-based consumption tax is the cause of this situation. Instead it is a consequence of having both an income

tax and a consumption tax to avoid double taxation, in the Deputies words, of this nature, it would be necessary to only have one of these. In practice few, if any, economies take this approach. Most developed countries rely on a combination of taxes, both income and consumption. This is because there exists a trade-off between equity and efficiency. To rely exclusively on income tax would introduce significant distortions and inefficiencies and pose risk to the Island's economy in the longer term. In contrast, to rely significantly on a consumption tax would be less damaging to the economy, but would reduce the ability of the tax system to redistribute income in a progressive manner. Therefore, the combination of both types of taxes is used to raise tax revenue in Jersey as it does in many other countries.

2.9.1 Deputy M. Tadier:

I thank the Minister for that was a better answer than I am used to having. But I would ask, will the Minister explain then why we have allowances at all under any tax system? What is the purpose of allowances?

Senator P.F.C. Ozouf:

There are a range of reasons for allowances. In the case of the general personal allowance, it is put in place to allow effectively an amount of income that does not attract tax. For other allowances, whether it be the child allowance... they basically provide a benefit for a couple or an individual with children. There is an explanation for each one of the allowances. The decision to remove allowances, or at least most of them - not including pension and child allowance - for incomes over a certain period is because it is accepted that Jersey has a low tax rate and at a certain income you pay 20 per cent irrespective of most of those allowances which fall away.

2.9.2 Deputy G.P. Southern:

Is it not the case that a truly progressive system would contain higher tax rates and no reductions and allowances?

Senator P.F.C. Ozouf:

Yes, that is absolutely right. But I have made my views absolutely clear, having considered whether or not we should introduce a higher rate of tax, I have concluded that in the long term interest of stability and certainty in the Island, we should keep the 20 per cent tax rate. Most of the people that I have seen in recent weeks in consulting over the F.S.R. have confirmed that view.

[10:45]

2.9.3 Deputy M. Tadier:

Does the Minister accept that when it comes to personal allowances for income tax - and let us make it simple for those individuals who may be single without children - the purpose for that is that it costs a certain amount of money to live and it is considered not correct to tax people on their non-disposable income. That taxation is for disposable income only. In that case, if the Minister does acknowledge that as one of the reasons, will he then acknowledge that because under '20 means 20' many members of the public are not getting any allowances at all for basic foodstuffs, for electricity bills, for heating, for rent, for mortgages, that they are effectively being double taxed and that is immoral?

Senator P.F.C. Ozouf:

I hate to offer the Deputy a tutorial, but I think that he and I need to have a chat about tax and the reality and the consequences of it. The reality is that we need to raise revenue in order to fund public services that everybody pays for. One can engage in all these torturous discussions about whether or not there is double taxation here and all the rest of it. At the end of the day, we have to make judgments of what is a fair and balanced tax package. There are charts in the budget which put all the taxation measures forward: the social security, duties, G.S.T. on incomes. I am happy to

talk to the Deputy about how those percentages work with the proposals that have been put forward in the budget. I would argue that they are fair, faced with the situation we have of dealing with the deficit.

Deputy M. Tadier:

Sir, can I raise a point of order? Standing Orders say that we are not allowed to ask supplementary questions or ask questions which are not relevant to the initial question, yet the Minister has continually and repeatedly given answers which have nothing to do with my question about double taxation. I do not need a tutorial from the Minister. In fact I would like to invite him to one of my own tutorials with a more socialist bent. **[Laughter]** Maybe we could come to a synthesis of ideas. But I would like a ruling from the Chair on that, please.

The Deputy Bailiff:

I do not consider there is any Standing Order which has been breached, unless you are able to point me to one which needs attention. I think you have made your point and no doubt you are happy with that.

2.10 The Deputy of St. Martin of the Chief Minister regarding the confidential e-mail he sent to the Deputy of St. Martin on 27th September 2010 under the heading ‘Napier’:

Will the Chief Minister assist Members when debating proposition P.166 of 2010 by agreeing to release the confidential e-mail he sent to the Deputy of St. Martin at 21:03 on Monday, 27th September 2010, with the heading “Napier”? If not, why not?

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

The e-mail to which the Deputy of St. Martin refers was marked “Confidential” as it contained the name of a States employee. In line with normal practice, individual employees are not named and I see no reason why I should break this principle, and therefore will not agree to the release of this e-mail. Before the Deputy went on leave in September, I advised him that I would be considering whether there were any issues arising from the Napier Report that warranted disciplinary proceedings being instigated. My e-mail to the Deputy on 27th September 2010 set out my position, having considered the Napier Report, and I do not see anything contained in that e-mail that would add to the debate.

2.10.1 The Deputy of St. Martin:

I think that most Members are speculating as to what was in that e-mail. Will the Minister confirm that the contents of his e-mail was to inform me that he had come to the conclusion to take positive action on the matter which was very much the subject of public speculation?

Senator T.A. Le Sueur:

I have said that the content of the e-mail remains confidential. I have said that my e-mail set out my position, having considered the report.

2.10.2 The Deputy of St. Martin:

In previous questions regarding disciplinary action being taken against those involved with suspension against the former Police Chief, the Minister has been overly coy in giving straight answers to straight questions. In light of the question this morning, will the Chief Minister inform Members what action, if any, he is taking against those involved in the suspension of the former Chief Police Officer?

Senator T.A. Le Sueur:

Again, I made it quite clear that any matters of that nature remain confidential between the parties concerned.

2.10.3 Deputy T.M. Pitman:

Could the Chief Minister confirm, in line with confidentiality, that the e-mail was not about the Chief Executive Officer?

The Deputy Bailiff:

The Chief Minister has already indicated that he regards this e-mail as being confidential and that he is not going to answer further questions on it. We are moving on to the next question.

2.11 Deputy A.E. Jeune of St. Brelade of the Minister for Health and Social Services regarding age-related policy considerations in relation to accessing treatments:

Would the Minister advise whether treatments, whether medical or surgical, available to patients have age-related policy considerations, over-riding health need considerations and, if so, state which treatments such policy considerations apply? Thank you, Sir.

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

I can assure Members and the public that there are no policies which stipulate age as a limiting factor for consideration for either medical or surgical treatments. Unfortunately, age brings with it its own other illnesses and co-morbidities that increase the risk of carrying out some treatments. It is these risks that are considered by our clinicians when deciding to treat or not. In every case the risk benefit is a determining factor when deciding to treat and not age.

Deputy A.E. Jeune:

I thank the Minister for her reply. Thank you, Sir.

2.12 Deputy P.V.F. Le Claire of the Minister for Education, Sport and Culture regarding the comparison of G.C.S.E. grades between all non fee-paying and fee-paying secondary schools in Jersey:

May I ask the Minister for Education, Sport and Culture if he will provide, as a group, the most recent G.C.S.E. (General Certificate of Secondary Education) grades for all non-fee paying secondary schools in Jersey and state how they compare to the fee paying secondary schools?

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

The department's policy is not to publish the results of individual schools or by sector, as we do not wish to create the opportunity for the development of league tables, which are proved to be divisive and crude. Raw results take no account of a school's admission criteria, the catchment area which feeds the school, or the work being done with pupils in that school. Neither is it in the best interest of individual schools to publish results, either by school or by sector. Jersey has a highly selective education system. It would be wrong to compare the performance of the non fee-paying sector against the fee-paying sector as this would give a distorted view.

2.12.1 Deputy P.V.F. Le Claire:

I used to share the same opinion as the Minister, but of late I have changed my tack and I ask the Minister whether or not his recent proposals, which focus on the costs of running schools and delivery services, are not themselves divisive and crude.

The Deputy of St. Ouen:

Not at all. As I said before on this particular subject, if parents wish to view and discuss the academic achievements of a particular school then they are more than able to meet with the headmaster and they will gain that information.

2.12.2 Deputy P.V.F. Le Claire:

Sorry, that really made me stand, Sir. May I ask through you, Sir, if I might be given on this one occasion today - and every other time - the Minister has consistently refused to give Members of this Assembly answers to those questions and now he is saying any member of the public can go up and get those answers from the headmaster? Is that what he has just said?

The Deputy of St. Ouen:

For parents who are choosing, particularly an appropriate education or school for their child, it is absolutely right that the parent is able to visit the particular school and discuss with the headmaster the academic achievements within that school. In that way, the headmaster is able to put into context and deal with any questions that might arise from the parent concerned.

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

I believe I heard correctly at the Parents for Choice meeting last week when the question arose of exam league tables, and somebody mentioned at that meeting - and I believe I heard correctly - that one of the States' secondary schools, of the young people taking English and Maths, only 28 per cent gained a grade A to C in those subjects. I was quite horrified when I heard that figure of 28 per cent, which is well below the U.K. average of 51 per cent. Even taking into consideration catchments, language difficulties, *et cetera*, is the Minister prepared to tell the Assembly whether that figure I heard last week is correct?

The Deputy of St. Ouen:

This is part of the problem, when people tend to seek to use information to promote a particular argument. The figure that has been quoted of 28 per cent is untrue and incorrect.

The Deputy Bailiff:

You have answered the question. It is incorrect.

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

Would the Minister not acknowledge that there is a slight inconsistency in that when O-level results are announced his Department immediately publishes a press release showing how Jersey 6th forms are performing in relation to certain types of 6th forms in the U.K.? Would he not accept, if there was honesty in the process, transparency and the concept, for example, of value added was fully explained and fully put into the public domain we would not be playing this game of shadows with everybody at the moment, which is basically leading to immense frustration.

The Deputy of St. Ouen:

The experience in the U.K. has shown that league tables do not work and I do not propose to advise this Island or the Education Department to follow that particular route. With regard to 6th form and the comparisons, as I said before, we have a highly selective education system. When it comes to A-level studies, all the schools are selective, including Hautlieu, which selects on academic ability and achievement. As such, it is, I believe, acceptable to consider those results.

2.12.5 Deputy T.M. Pitman:

Deputy Le Hérissier has rather stolen my thunder. Nevertheless, even with a value added approach, within a small geographic jurisdiction, does the Minister agree that league tables could only have a negative impact? Because the issue will become a political football with point-scoring made by certain people?

The Deputy of St. Ouen:

I think I have already made the point, but the Deputy raises another, which I feel I should just quickly address; that is about value added. That is something that is challenging all educational authorities, whether over here or in the U.K. It is something that I have asked both my department

and the teachers to consider, so that we can properly demonstrate the achievements of those that perhaps are less academically minded than others. Thank you.

2.12.6 Senator A. Breckon:

Can I just declare a non-pecuniary interest? I am an invited governor of Grainville school. Would the Minister like to comment that when some grades are published, some schools have an inclusive policy that includes students that have special needs, and also do not have English as a first language?

The Deputy of St. Ouen:

Absolutely and it is a policy that I fully, fully endorse. I think it is sad that in certain cases we do not have the inclusion policies that we should. It is one thing that I aim to promote and continue to promote. Thank you.

2.12.7 Senator J.L. Perchard:

The Minister said that he has asked his officers to look at a way of assessing value added. I think probably Members would agree that that would be a good compromise, because the Minister will no doubt want to hold the schools to a level of performance and to ensure that the schools are improving. Will the Minister agree to impose a value added test on all schools? Will the Minister then release that information so that parents can make an informed judgment when their children have to migrate from fee-paying schools?

The Deputy of St. Ouen:

I do not understand the comment that pupils will have to migrate from fee-paying schools, as though our State schools are somewhat inferior. I absolutely refute that suggestion. We have excellent teachers within our education system, both across the fee-paying and non fee-paying. **[Approbation]** We see our young people achieving good standards. With regard to value added, I would like to add that it is not just about money. It is something that we need to avoid. A few Members seem to focus simply on economics.

[11:00]

Well, I am afraid there is more to it than that. It is an educational policy that I want to develop, and that is what we will be discussing in the New Year when the Green Paper comes out on the future of education. Thank you.

2.12.8 Deputy P.V.F. Le Claire:

That was a very old trick played then by the Minister for Education, Sport and Culture to avoid the answer, which is pertinent, which I will try to put it a little bit more simply to him in order that he may understand it. It is exactly what Senator Perchard just put to him. When he evaluates the performance of these private schools, which he says he has a duty to do because they are receiving States subsidies, will he and his department discount in any evaluation the results that those schools are achieving?

The Deputy of St. Ouen:

We have to take into account the performance of each and every school. It is a piece of work, in co-operation with the governing bodies, where we are proposing to invite independent educational advisers into each schools, so we can verify independently how those schools are performing and what opportunities exist for improvement. Because that is ultimately what we all strive to achieve.

2.13 Senator J.L. Perchard of the Chief Minister regarding the proposal to reduce the subsidy for secondary education in private/fee-paying schools:

In reply to a written question 5704 on 19th October 2010, the Minister for Education, Sport and Culture invoked that the initial proposal supported by the Council of Ministers was to reduce the subsidy over a period of 2011 until 2013, starting at the end of 2011. When did the Chief Minister personally, and the Council of Ministers formally, first become aware of the proposal to reduce subsidies for secondary education in private fee-paying schools?

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

I first became aware that officers of the Education, Sport and Culture Department were suggesting reducing the grant to fee-paying schools as an option to meet the C.S.R. setting the targets on 17th May 2010 in a meeting with the Minister for Education, Sport and Culture. The issue was first raised informally with the Council of Ministers at a C.S.R. workshop on 19th May, held to discuss options for savings, but no proposals were put forward at that stage. As a member of the political board which peer reviewed the C.S.R. proposals of Education, Sport and Culture, I first saw the steering group report, which included the formal proposal, on 21st September 2010. At the Council of Ministers workshop held on 5th October 2010 all Ministers received the department's savings proposals, which included the Education, Sport and Culture steering group report and templates.

2.13.1 Senator J.L. Perchard:

Is it the case that the Minister for Education, Sport and Culture then made the decision to propose funding cuts to fee-paying schools at least 2 weeks before the Business Plan debate, but chose to remain silent on this matter during the debate? Will the Chief Minister indicate which it is, was it that the Minister is negligent in his duty or did the Minister knowingly act contrary to Standing Order 155 paragraph 3, Code of Conduct for Elective Members the article headed: "Openness", where it is stated that the holders of public office should be as open as possible and restrict information only if confidentiality clearly demands?

The Deputy Bailiff:

I am not sure that is a question the Chief Minister can answer, but Chief Minister, answer it if you think you can.

Senator T.A. Le Sueur:

I would struggle I think with that one. Certainly, we had to distinguish between options for consideration and formal proposals. The formal proposals were put forward at the dates I mentioned.

2.13.2 Deputy P.V.F. Le Claire:

Could I ask the Chief Minister, so the members of the public and Members in this Assembly can be quite clear, how many Ministers on the Council of Ministers support the removal or the reduction of fees to private schools that have been proposed by the Minister for Education, Sport and Culture? How many? When was the decision taken? Where is the vote recorded?

Senator T.A. Le Sueur:

Ministers tend to make decisions by consensus. Not all Ministers will always agree with everything. But I will say that in this case, Ministers do support the general principle of the Minister for Education, Sport and Culture to review and consider options for the reduction in grants for private schools. Those negotiations and discussions, as the Minister says, are ongoing. It is the principle of negotiating those discussions and discussing which the Ministers wholeheartedly support as part of the proposals of the Minister to contribute an appropriate share towards the reductions, which all Members which to see in our overall States spending.

2.13.3 Senator J.L. Perchard:

In a final supplementary. This has been done to death, but it is important that Members understand that the Minister is backtracking. I have a letter here to States Members - 8th October - where the

Minister says clearly that it has been difficult to arrive at this decision. The decision was to cut 50 per cent of the subsidies to States secondary schools. Will the Chief Minister join me in asking his Minister for Education, Sport and Culture to withdraw this proposal completely and consult and consider a proper future for the educational system of Jersey rather than this *ad hoc* approach which is being adopted?

Senator T.A. Le Sueur:

I hope the Senator was not suggesting I was backtracking. I think the Minister is quite capable of listening to advice and he will make up his mind in due course. Certainly, he is making a statement later this morning, which may help clarify the matter to the satisfaction of Members. Maybe I should have added at the start a declaration of interest, which I think is not relevant to this particular question, but for the avoidance of doubt, I just remind Members that I am a trustee of one of the fee-paying schools, not a member of the board of governors or an active director.

2.14. Deputy G.P. Southern of the Minister for Treasury and Resources regarding estimates for job losses contained in Stage 2 of the C.S.R:

Will the Minister confirm his estimate for job losses contained in stage 2 of the C.S.R. and state how many of these are due to efficiency savings and how many to service cuts?

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

The F.T.E. (Full-Time Equivalent) potentially affects, for stage 2 of the C.S.R., as set out by each department in the publication that was set out last week... There are 176 in 2012 and 152 in 2013. As far as efficiencies versus service cuts, these obviously vary from department to department. I hope that these are not, and should not be taken, as the Deputy asking these questions, as job losses. The programme of a virtual recruitment freeze, coupled with the natural turnover that exists in the public sector, should mean that they are not going to be, hopefully, compulsory redundancies. I should also point out that the package of measures set out in the Council of Ministers' proposals also are a package of investment in some services, which will mean there were some corresponding creation of jobs, particularly in the areas, for example, such as Health and Social Services.

2.14.1 Deputy G.P. Southern:

Does the Minister accept what I am going to call job losses will continue into 2014 and beyond?

Senator P.F.C. Ozouf:

I have made it clear that I believe that we should do and should be working to lifting the target of £65 million worth of savings in the period after the stage 2 of the Comprehensive Spending Review. We need to deliver public services more efficiently, more effectively, and there should never be a return to the year-on-year increases - the inefficiencies - that we have seen in recent years. We need to redistribute taxpayers' money into those areas that are most valued by the public, and that means that, I am afraid, the C.S.R. does not end in 2013, it should be carrying on in 2014 and 2015 and there will be some redistribution of jobs within the public sector as a result, if we are to find new money for vital public services.

2.14.2 Deputy M.R. Higgins:

I may have misheard the Minister for Treasury and Resources, so I would like him to clarify. If I am not mistaken he said that the number of full-time equivalent cuts were 176 for 2012 and 152 for 2013. In his written answer to me this morning, question 8, he says the latest estimates suggest there could be a reduction of 69 posts in 2011 and a further 177 in 2012/2013. Could he please tell us which of the figures are correct?

Senator P.F.C. Ozouf:

I responded to the Deputy's question by simply lifting off the F.T.E.s affected, which are published in the comprehensive spending review, part 2, document. That is the actual number of F.T.E.s that have been submitted by each department and, as has been rehearsed on a number of occasions this morning, these are proposals, they are not actual decisions that have been made in terms of savings. There is an awful lot of work to be done on those individual departmental proposals before we bring forward the proposals for the Business Plan in next year.

2.14.3 Deputy M.R. Higgins:

Just indicate which ones are the ones we should be following at the moment then?

Senator P.F.C. Ozouf:

The F.T.E.s affected by the Stage 2 of the C.S.R., as I responded directly to Deputy Southern's questions, are those that are set out in the document. In the written answer I have given my estimate of what we think it may well be in terms of job losses. I hope that clarifies.

2.14.4 Deputy T.M. Pitman:

Only last month I recall the Minister for Treasury and Resources stated that he did not recognise my ultimate figure of around 500 job losses. Doing the quick sums, as that now seems to be the way we are going, would he like to reconsider that answer?

Senator P.F.C. Ozouf:

Certainly, as a direct result of the C.S.R., all the numbers are clearly set out both in the Stage 1 and Stage 2 of the C.S.R. What I would ask the Deputy to consider is what the net position is for the public sector, taking account of the significant amount of investment that is going in, for example, services in Health and Social Services. The net number I think is the number that the public are really interested in, which is the ongoing debate that we have when we issue the amount of people that have been employed by the public sector.

2.14.5 Deputy P.V.F. Le Claire:

The question focuses on job losses contained in Stage 2 of the C.S.R., and I just wonder if the Minister for Treasury and Resources could inform us as to whether or not ... yesterday I was told members in States employment who were going to take voluntary redundancy went into work expecting to be given answers and were told to go away because we have some more work to do on it. Has this process been stalled?

Senator P.F.C. Ozouf:

Slightly different point, but I will answer the question nevertheless. The voluntary redundancy scheme has been brought to a conclusion at the end of last week and there are decisions going to be made at lunchtime by me and by Ministerial decision, after having consulted the States Employment Board from a financial aspect being made today. I believe it is the case that staff are going to be informed within the next 24-48 hours. I do not think there has been a delay. In fact, we have moved pretty quickly in relation to most of those issues.

Deputy P.V.F. Le Claire:

Thank you, Sir.

2.14.6 Deputy G.P. Southern:

I have 2: left hand, right hand, toss a coin. Does the Minister intend to negotiate the terms of voluntary redundancy to be offered in 2011 and is he aware that the terms for voluntary redundancy are no different from that of compulsory redundancy at the moment?

Senator P.F.C. Ozouf:

I think those are properly questions to be addressed to the Chief Minister who chairs the States Employment Board. I am aware, as a member of the States Employment Board, what the current arrangements, the enhanced terms, the voluntary redundancy scheme, which has been run after the States approved the allocation of £6.5 million, are on the enhanced scheme. S.E.B. (States Employment Board) has considered revised redundancy terms and they are indeed the same, voluntary or compulsory. S.E.B. has discussed whether or not there should be any differences in relation to voluntary or compulsory redundancy and concluded it should be the same.

2.14.7 Deputy G.P. Southern:

Will the Minister please answer the question? Will those terms be negotiated?

Senator P.F.C. Ozouf:

That is not a proper question for me, because I am not the Chairman of S.E.B. It should be really the Chief Minister to answer those things. However, what I will say is that S.E.B. has made decisions in relation to voluntary redundancy and they have been communicated to that staff and there is an ongoing process of discussion.

2.15. The Deputy of St. Martin of the Minister for Home Affairs regarding the establishment of the Independent Custody Visitor Scheme:

When asked on 19th July 2010 for an update on the establishment of the Independent Custody Visitor Scheme, the Minister stated that Ministers would shortly be attending a familiarisation visit to police headquarters and be issued with identity cards and stated: "So we are very nearly there." Will the Minister inform Members if the scheme is now operating and if not, why not?

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

Once again I thank the Deputy of St. Martin for his continuing interest in this matter and acknowledge that this was originally his idea. I thank him for that and for his input. There has been a further slight delay in getting the scheme up and running. This was partly because of the difficulty in arranging the timing for the familiarisation visit to police headquarters. These had to take place in the evening and it was difficult to co-ordinate with the Custody Sergeant, who was going to arrange those. Then for a time he was taken away from his normal role to be an Acting Inspector. There was also a slight glitch with the quality of photos for I.D. (identification) cards, but this has now been resolved. I am glad to say that volunteers are now ready to become fully operational. They have appointed their chairperson and they have held their first informal meeting. They are due to commence unannounced visits to police headquarters in November. They will operate, of course, as an independent group and will, of course, be reporting back in relation to details to the Home Affairs Department.

[11:15]

2.15.1 Deputy P.V.F. Le Claire:

The Independent Custody Visitors Scheme is an important element in ensuring that people in custody have their rights and a provision for their rights. Will this in the future include the right for prisoners to vote in Jersey, as in the U.K.?

Senator B.I. Le Marquand:

That is a different issue, of course, [Laughter] because the issue that has been raised in the U.K. is prisoners in prisons, as opposed to prisoners temporarily in police custody. That, of course, will not be a matter ultimately for this Assembly. In the short term it is a matter for the Chairman of the P.P.C. (Privileges and Procedures Committee), but if we are going to be human rights compliant we are going to need to make some changes. What is not clear at this moment is the exact shape of the changes. Because my understanding is the judgment of the European Court was that a blanket ban

was not acceptable, and I do not know exactly what the details are going to be. Off point, but I have answered it anyway.

The Deputy Bailiff:

It is not on point at all, this is correct.

2.16. The Deputy of St. Mary of the Minister for Home Affairs regarding A.C.P.O. advice followed in the commissioning of the Napier Report:

What was the basis on which the then Deputy Chief Officer of the States of Jersey Police commissioned the report from the Metropolitan Police on 27th August 2008? Was the advice of A.C.P.O. (Association of Chief Police Officers) followed in the commissioning of this report? Does the Minister consider the use of that report, as detailed in the Napier Report, was consistent with best practice and has it damaged relations with Metropolitan Police?

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

If good practice had been followed in relation to Operation Rectangle, the historical abuse inquiry, then such a review would have been commissioned as early as March 2008. But it was not. What in fact happened was that following advice from the A.C.P.O. Homicide Working Group, but in any event knowing that this was good practice, the then Deputy Chief Officer commissioned the report. The basis of the report was so that there would be an independent look at how the inquiry had been handled and, in particular, as to how individual inquiries within the inquiry had been handled. There are differing opinions in relation to what could or could not have then happened in relation to this. I do not think that the Deputy Chief Officer was wrong to make reference to it in his letter to the Chief Executive. Indeed, it confirmed his own concerns, and he did not write the relevant letter until such time as those concerns had been independently confirmed by the interim report. But such reports are not normally used for disciplinary purposes. The Metropolitan Police most certainly did not want it to be used for formal disciplinary purposes. Mr. Napier, in his report - let me refer to him by name - sees no reason why it should not be used in a redacted form. There he clearly departs from normal practice in relation to such matter. If it had been used in a redacted form, this would have caused great difficulties in relationships with the Metropolitan Police and possibly also with other police forces. Indeed the Metropolitan Police had indicated to the Deputy Chief Officer if it was used for formal purposes then they would not have completed the review, because of their concerns. But, as I say, there are different opinions in different areas on this. Mr. Napier, as in many other areas, takes a different opinion to most other people.

2.16.1 The Deputy of St. Mary:

That is a very interesting answer. It points up the exact problem with the use of the Metropolitan Police's Interim Report. The Metropolitan Police did not want it used for anything anywhere near disciplinary process and certainly not with suspension. Yet, that is how it was used. It was used in that way, with or without the wish of the Deputy Chief Officer. That is how it was used. I just wonder whether the Minister would like to comment on this matter of it causing great concern and the fact that it could not be issued in redacted form, because that would have shed even more light on the fact that this report was being used in a suspension process, which it should never have been. Would the Minister comment on that?

Senator B.I. Le Marquand:

Of course, that is not the opinion of Mr. Napier in relation to the matter. As I say, we do have different opinions in relation to this. It was viewed by the former Minister for Home Affairs only inasmuch that it was referred to in the relevant letter by the then Deputy Chief Officer. But he did not see the document. One of the difficulties with the document is it contains 2 types of information. It contains general information and comments in relation to the way in which the

matter had been handled, which is highly relevant to the disciplinary matter. Also, it contains detailed analysis of individual investigations, which is highly operational, entirely operational material, which should not be viewed to any purpose other than that. I think that is part of the complication. As I say, there are different opinions in relation to this matter.

2.16.2 The Deputy of St. Martin:

I am glad the Minister has mentioned that the report really is to look at the strengths and the weaknesses of investigation. Will the Minister inform Members whether in actual fact that Metropolitan Police Report was commissioned with the authority of the Acting Chief Police Officer? So, in fact, the Acting Chief Police Officer was aware of it and, in fact, gave the okay for it to be commissioned.

Senator B.I. Le Marquand:

I have been referring, for consistency of the question, to the then Deputy Chief Officer of Police. Of course, he is now the Acting Chief Officer of Police. So when I refer to the then Deputy, it is the same person. I may have lost ...

The Deputy of St. Martin:

I asked the question the wrong way. Will the Minister confirm that in actual fact the Metropolitan Police Report was commissioned with the authority of the suspended Police Chief Officer? In other words, it was done with the authority of the Police Chief?

Senator B.I. Le Marquand:

Yes, that is so. That is my understanding. The mechanism was through the then Deputy Chief Officer, but it was with the knowledge and agreement of the then Chief Officer.

2.16.3 The Deputy of St. Mary:

Wiltshire, in their report, make it absolutely clear that the purpose of an external review of the kind commissioned by the Deputy Chief Officer, with the authority of the then Chief Officer of Police, is to learn lessons, is to find out whether things have been done right, and so on, and in this case to go into individual inquiries. Then Napier says at paragraph 35: "Mr. Warcup said in interview that he wanted a report from the Met. Police in order to give substance to the media announcement that was to be made on 12th November." A media announcement which, of course, was absolutely more or less the same thing as the suspension because it happened in parallel. Can the Minister comment on the abuse of a Metropolitan Police review, which is supposed to be a learning device and part of the mentoring process and part of the process of improving the operations of the police, and therefore people respond to it in a different way. It was waited for, so that it would give substance to the media announcement on 12th November 2008. There is a contradiction there, which I would like the Minister's comments on.

Senator B.I. Le Marquand:

There is absolutely no contradiction there at all, because it is quite proper that a senior police officer who is contemplating making a media announcement should double-check that what he is going to say is correct and supported. That is entirely consistent with the proper use of the interim report.

2.17. The Connétable of St. Helier of the Minister for Transport and Technical Services regarding the works proposed for the Havre des Pas promenade:

Would the Minister agree to make a statement or publish a report explaining to the public what works are proposed for the Havre des Pas promenade, the cost and timetable for the works and the consultation that has taken place on the matter?

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

It is probably best that I answer the Connétable's question by saying what I am going to say now. This will obviously be public. The department does intend to make minor modifications to the existing La Collette promenade and Green Street slipway to enable it to be used as an alternative emergency service access road to the La Collette reclamation site. While this emergency route is not intended principally to serve the Island's Energy from Waste plant, its implementation was attached to the planning obligation for the Energy from Waste plant, and was therefore included as part of the public consultation. The emergency services have been consulted during the design stage, and construction work should commence in January 2011. The work is expected to cost approximately £300,000 and be completed by June 2011. I have, in fact, put up a plan in the Members' room, and have an early draft design of this route with me here. It is, as yet, incomplete. Consequently we have not yet gone to the public with it, because there is further work to be done. Clearly as soon as that takes place it will be publicised.

2.17.1 The Connétable of St. Helier:

With respect to the Minister, and I am grateful to him for his openness, does he not believe that this matter does require a proper report, a proper explanation to the public, given that it is a third of a million pounds that is being proposed to be spent, and that this is a very historic and attractive part of St. Helier, which is going to be radically altered by these works?

The Connétable of St. Brelade:

I mentioned the figure of £300,000 not a million. The local commerce - the cafés thereabouts - have been spoken to, and I have a letter dated 3rd June with regard to that. We are waiting for completion of the drawings with regard to the top of the Green Street slipway area, and until those are completed there seems little point in putting it out. Certainly as soon as we have achieved that we will go public with it.

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

I would have liked the residents to have more consultation. My worry on hearing this today - and it was part of a planning application, as you say - is will it not be a very convenient way to get to the Energy from Waste plant from the east of the Island. It will be overused and it will not just be used by the emergency services.

The Connétable of St. Brelade:

I would disagree. No, the intention is it is going to be an emergency road, purely for the emergency services. It will not be a public road as such. I think the Deputy will understand that if, in the instance of a serious fire at La Collette, there is a risk that the approach road from the west could be compromised. Thereby emergency service vehicles will be unable to access it. This is purely the reason for the creation of this road, so that an alternative access road, particularly to the fuel farm area can be created.

2.17.3 Deputy J.A. Martin:

Sorry, supplementary. Will T.T.S. (Transport and Technical Services) be banning other vehicles over a certain size using that part of the road?

The Connétable of St. Brelade:

The road is designed for the Bronco Aerial Platform, which is the biggest vehicle the fire service have. So, clearly smaller ones will be able to go there as well. We can introduce a system of rising bollards or some such automated system to prevent other vehicles accessing the road and that may be a sensible approach.

2.17.4 Deputy A.K.F. Green:

The sum of £300,000 on top of the costs of the Energy for Waste plant. Are there any other small alterations to be made, such as the removal of the fuel farm that we have yet to hear about?

The Connétable of St. Brelade:

The figure I quoted is included in the Energy from Waste plant costs. The work will be done by in-house labour, but it does involve some serious concrete work, and if Members wish to look at the drawings it will be quite obvious what is needed.

Deputy A.K.F. Green:

The Minister did not answer my question, are there other plans, such as the removal of the fuel farm?

The Connétable of St. Brelade:

Not that I am aware of.

2.17.5 Deputy T.M. Pitman:

I think the Constable was very diplomatic with his language. One of the residents who phoned me described what was going to happen as the rape of a very attractive area. Nevertheless, given what has happened with residents reeling from 5 months of congestion and related problems, does the Minister concede that really a greater consultation should have been undertaken with residents in the area, to put their minds at rest, such as can be done.

The Connétable of St. Brelade:

I think it is appropriate to consult with the local residents once the designs have been completed. I think there is always a risk when the survey teams go out to try and design the work that people get alarmed, but my impression is that the area will be improved and there will be no detraction from the amenities there presently.

[11:30]

2.17.6 Deputy P.V.F. Le Claire:

When we were undertaking Scrutiny on this issue we were quite aware there was going to be the need for an emergency access road and it was mentioned during the debate on several occasions. Conducting Scrutiny on this issue we looked into whether or not, from the Buncefield experience, the Jersey States Fire Department was going to be able to handle an incident. Having spoken to them, one of their member's opinion at the time was: "We stand back and manage the burn." Is that the case now? If that is the case now, although it is nice the Minister has shown us these plans, is it wise to spend £300,000 on an access road that will not be used? Would that not be better spent on a fire services being merged with the ambulance services?

The Connétable of St. Brelade:

I think it is important we have a considerable area down at La Collette, which includes the fuel farm. I think it is important that the advice of the emergency service is taken and acted upon.

2.17.7 Deputy M.R. Higgins:

Just following on from Deputy Green's question, there are rumours circulating that the chimney at the J.E.C. (Jersey Electric Company) site at La Collette is not up to dealing with the temperatures that the Energy from Waste will need and that there are problems with it. Will the Minister either discount those rumours or tell us what is going on?

The Deputy Bailiff:

That question does not seem to me to relate to the question of the cost and timetable for works proposed and I disallow it.

2.17.8 The Deputy of Grouville:

With regard to the Minister saying that this is going to be in-house work, I am a bit sceptical of this in these economic times. Should there not be some form of obligation to put the work out for tender?

The Connétable of St. Brelade:

My department are well experienced in dealing with seawall work as this is undertaken as part of their regular duties. There seems little point in engaging outside contractors for that when we are perfectly capable of dealing with it ourselves.

2.17.9 The Connétable of St. Helier:

The work does involve the demolition of a granite structure at the widest point of the promenade. I would ask the Minister to consider with his officers whether that is necessary, given that there is going to be another passing place for the vehicles created a short distance towards the east. Would the Minister undertake to look at the preservation and perhaps the enhancement of this granite structure for the use, for example, of young people? Will he undertake to bring his final plans to the St. Helier Roads Committee and to pay more attention to them than when the Committee commented in 2008: "The Roads Committee has examined plans for the above submission and does not give approval."

The Connétable of St. Brelade:

Clearly we put the St. Helier Roads Committee's noses out of joint. I regret that and will agree to consult in future. With regard to the granite structure, there is a rather vandalised shelter down on the promenade and the plans indicate its removal. Notwithstanding that if the Roads Committee, or if it is felt generally that there ought to be another created, I think it could be considered. But the policing of that shelter, I think, is something the Parish need to consider seriously before it is constructed.

2.18 The Deputy of St. John of the Minister for Economic Development regarding a stranded vehicle in St. Aubin's Harbour:

I did not expect to get there this morning. Following the reports that a vehicle was submerged in St. Aubin's Harbour, would the Minister advise why this vehicle was in the harbour, how it got stranded, whether the vehicle was on the beach legally, provide details of the cost of this incident and details of insurance cover and outline what action, if any, he has taken to prevent further incidents of this nature occurring in relation to the harbours.

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

In response to the Deputy's comment, I was rather hoping we would not get there either. **[Laughter]** I can add that it was more than a report. There was, in fact, some quite helpful photographic evidence printed in the *Jersey Evening Post*, which confirmed that a Jersey Harbours' Land Rover was indeed submerged in St. Aubin's Harbour as a result of mechanical failure. The Land Rover was carrying out planned maintenance, replacing risers and mooring chains. This is routine work that was started in the Spring and was being completed when this unfortunate incident occurred. The vehicle was purchased second-hand for this type of work. It was insured. I understand the claim has been agreed by the insurers. I am therefore told that Jersey Harbours will face no financial loss as a result. To reduce the risk of a similar accident happening again, the Harbours Department are reviewing their standard operating procedures to see if they indeed need tightening-up.

2.18.1 The Deputy of St. John:

Given the many environment concerns that have been raised in this Chamber over recent times, can the Minister confirm or otherwise that diesel or petrol, whatever was in the vehicle, and oil from the engine did not escape from the vehicle while it was submerged? If it did, what action was taken? Were booms deployed? If not, why not?

Senator A.J.H. Maclean:

I share the Deputy's concerns about the environmental impact. Indeed I am sure he is taking great care to ensure his diesel boat is converted to a sail craft to also improve the environmental impact. I cannot answer his question about leakage. As far as I am aware there was no leakage, but I certainly will look into the matter if it will be helpful to him, and see indeed if any was detected on sand after the event was concluded.

2.18.2 The Deputy of St. John:

Will the Minister confirm or otherwise that booms were not deployed on that occasion, given that I was down at his department last week and that was confirmed to me by officers in his presence, and I would have thought he would have been aware of the answer? Will he undertake to go on an exercise and see how booms are deployed? Go out to sea on the tug and show that he is a hands-on Minister within his department.

Senator A.J.H. Maclean:

I think that is a splendid idea and the reason I delegated responsibilities for the harbour to my Assistant Minister is that I would hope that he would take on board and go indeed with the good Deputy to witness such an incident occurring. He rightly says we did invite him down to the harbour. He came down. He had a look at the tug. He had a look at some work being undertaken on the pilot boat. We engage regularly with the good Deputy, who shows interest in the Harbour Department and will continue to do so. His interjections in such matters are always very helpful.

The Deputy Bailiff:

Before we go any further, can I remind Members that Standing Order 63 says: "Up to 2 hours shall be allowed." It is not compulsory to use it. **[Laughter]**

The Deputy of St. John:

Can I thank the Minister for his reply.

The Deputy Bailiff:

Very well. That brings that part of question time to an end.

3. Questions to Ministers Without Notice - The Minister for Education, Sport and Culture

The Deputy Bailiff:

We come now to questions to Ministers without notice. The first question period is for the Minister for Education, Sport and Culture. I call on Deputy Hilton.

3.1 Deputy J.A. Hilton:

In response to a previous question, when I asked the Minister whether the figure of 28 per cent that was given at the Parents for Choice Meeting last week was correct, regarding passes at English and Maths at G.C.S.E. level in one of the States schools, the Minister responded that it was not true. Can he tell Members whether all the States schools meet the minimum target of 51 per cent G.C.S.E. passes at English and Maths? If indeed it is the case, that some of the schools are not reaching that figure, does the Minister not agree that this in fact strengthens his case not weakens his case for additional funding to address these areas?

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

I am afraid that I do not have the information at hand to answer the Deputy's question. But I do know that we monitor the performance of all our States schools very thoroughly. If we had any concerns about a particular performance of a school, action would be taken. If the Deputy is asking me whether or not funds should be directed towards supporting vocational training, especially for 14 to 16 year olds, absolutely.

3.2 Connétable J. Gallichan of St. Mary:

Will the Minister advise whether there has been a need to undertake remedial work on the roof of Hautlieu School? If so, can he confirm whether this work was achieved under building works guarantees and that there has been no need for additional expenditure?

The Deputy of St. Ouen:

I have noticed work being undertaken on the roof. We are not responsible for property. It is now the responsibility of the Property Holdings Department. As such, I would ask that the Constable would direct her question to that department.

3.3 Deputy K.C. Lewis:

Further to the Minister's refusal to meet with Parents for Choice, does the Minister not believe that meeting with parents at an open meeting just to hear their views and concerns would be beneficial?

The Deputy of St. Ouen:

First of all, maybe the Deputy or other States Members can answer me this question, why will Parents for Choice not come and meet with me? **[Approbation]** I have already made... and I do not know how many more times I need to state it, but it is my plan to meet with the parents of each individual school to talk about the possible impact or otherwise of the proposal on their school. This is what I intend to do.

3.4 The Deputy of Grouville:

I am going to ask my question you disallowed before. It might be more appropriate now. The Minister claims that he was seeking to understand the impact of his proposals. Could he explain what research and advice he received from his officers before making such proposals?

The Deputy of St. Ouen:

A number of reviews have been taken by the department over the last 12 months, instigated by myself. One is the funding of primary and secondary schools. That report did help to inform the view expressed by my department that there may be an opportunity to reduce the current support provided to the fee-paying schools. Subsequently, and totally separately, the department was subjected to an external review undertaken by Tribal, instigated by - I believe - the Chief Minister and the Treasury Department to ensure that every area of our department was considered. As such, those 2 pieces of evidence have led us to the position we are in. The problem that I am trying to address is to fully engage with the schools and identify how they would propose to handle this reduction, if indeed it was agreed.

3.4.1 The Deputy of Grouville:

A supplementary, Sir? Does the Deputy not accept that imposing or increasing a user pays charge is not reducing expenditure to his department? It is not an efficiency saving.

The Deputy of St. Ouen:

I would agree that it cannot be classed as an efficiency saving. It is reduction in cost. I would remind the Deputy that all the services provided by the department are funded through the taxpayer. As such, it is my responsibility to look at how those funds are appropriately used. The Deputy will also be aware that many of the individuals and parents involved in the current discussions are equally concerned about the cost of higher education, which has diminished over time, and I have

tried to address, in the short time that I have been Minister. I am afraid that whichever way you look at it there are some difficult choices to be made. It is my responsibility, not only to explore those options, but ultimately to come back to this Assembly with a clear picture of what I believe is acceptable and what is not.

3.5 The Deputy of St. Mary:

Can the Minister confirm that in the present C.S.R. there are no plans or there will be no closures of any schools, primary or secondary?

The Deputy of St. Ouen:

I know my department and the Ministerial team have had in the forefront of our minds that any proposals to reduce our costs of the department should be managed properly without impacting on frontline services. This is still the aim, and it is my view that the C.S.R. proposals will not require schools to close. There are other matters that will need to be considered over the coming years with regards to pupil numbers, both in the fee-paying sector and in the non fee-paying sector, which will need to be addressed.

The Deputy of St. Mary:

That was hardly a yes or a no.

3.6 Deputy P.V.F. Le Claire:

Giving the Minister a breather from private schools for a moment. In terms of comprehensive savings that could be achieved with what we are trying to achieve in education in the future, what is the Minister doing to divert pupils from attending school and to take part in education at home online?

[11:45]

The Deputy of St. Ouen:

That really would be perhaps a brand new policy for the department to adopt. We are responsible for providing education to our young people. We have appropriate resources and facilities available throughout the Island with experienced staff on hand that can deal with all of those matters. As such, I do not believe that it was necessarily appropriate to support learning from home.

3.7 Deputy T.M. Pitman:

Did the Minister take his decision to now bring the issue of possible reduction in subsidies for fee-paying schools to the States as a result of political pressure? Does he feel that this may, in reality, be setting a precedent for any future contentious decisions that he may feel it necessary to take as Minister?

The Deputy of St. Ouen:

I was always adamant that the States should be allowed, and quite properly should be allowed, to determine how the department's budget is spent. There is an issue to do with the timing of this matter. It was recognised in the Business Plan and, as such, because the savings were going to be subject to the completion of some major reviews, those took place. Now we are doing some further work to identify how those savings are made. I, equally, recognise the efforts made by both the Education and Home Affairs Panel and, indeed, Senator Shenton, to amend the Business Plan and 2 statements were issued, which acknowledged the work that I was undertaking and the requirement for additional time.

3.8 Senator J.L. Perchard:

Deputy Breckon made the point that it may be counterproductive to compare schools and their results. I have some sympathy with that and the Minister echoed that. But my question is, to the

Minister, parents when considering where to place their children, if they are forced to leave fee-paying schools for cost reasons are entitled to know where a school is performing. Are there any value added measures used by Education, Sport and Culture to assess and compare relative performance of Island schools? Will the Minister release this value added information?

The Deputy of St. Ouen:

First of all, I really am pleased that the Senator is so keen on the subject of fee-paying schools. However, apart from asking questions in this House, the Senator has chosen not to attend upon my department or engage in any meaningful conversation on the range of matters that are properly to be considered. With regards to the parents' choice, I fully recognise that choice. We all make choices and we need to provide sufficient information for the parents to do just that.

3.8.1 Senator J.L. Perchard:

Supplementary, if I may, Sir? The Minister does not seem to understand the question. Are there any value added measures used by his department to assess and compare relative performance of Island schools? If so, would he make that information publicly available?

The Deputy of St. Ouen:

I have information that is available at the department for the Senator to view. I am not currently prepared, as I have said before, to create any form of league table, including value added. Thank you.

3.9 Connétable L Norman of St. Clement:

Is the Minister able to confirm that the number of children in our primary schools continue to decline? If that is the case, what is happening to the rate of decline?

The Deputy of St. Ouen:

In recent times we are seeing an increase of births and the recent predictions show that the number of children in our primary schools will remain relatively constant.

3.10 Senator F. du H. Le Gresley:

In the budget which we will be debating later this year, the capital of expenditure programme shows that the rebuild of St. Martin's primary school is being deferred to 2013. Could I ask the Minister if he supports this decision and whether any attempts will be made to deal with the deteriorating condition of the temporary classrooms which are attached to the main building?

The Deputy of St. Ouen:

Do I support the decision to defer it? No. I would have loved it to have been built probably a year or 2 ago. The issue is that there are only sufficient funds for particular capital projects. It went through a prioritisation process and it has now been accepted that it should be built in, I think, it is 2013, as the Senator suggests. I would hope that that is a commitment that both the States and, indeed, the Council of Ministers at the time will meet.

3.11 Deputy R.G. Le Hérissier:

Would the Minister tell us, given his aversion to using league tables, how the performance of schools is judged at the moment by stakeholders as different as parents, the educational management at Highlands and himself? How does he judge the relative performance of schools?

The Deputy of St. Ouen:

We have a professional partnering system that we have put in place and a governing body that oversees the school and the performance of it. The combination of that, and with independent inspections that happen at regular intervals, I am quite confident that the performance of our States schools are being managed appropriately.

3.11.1 Deputy R.G. Le Hérissier:

Supplementary, Sir? Could the Minister say what happens if a governing body has been reassured by the data it receives then it learns that another school of a comparable kind is performing very differently? How does he deal with that situation?

The Deputy of St. Ouen:

We have experienced staff within the department that fully appreciate the issues that particular schools face, and they will deal with it in an appropriate manner. If the Deputy chooses to find out more, please come to the department and meet my officers.

The Deputy Bailiff:

That brings the first question period to an end.

4. Questions to Ministers Without Notice - The Minister for Health and Social Services

The Deputy Bailiff:

We now come to the second question period with questions of the Minister for Health and Social Services. Deputy of Grouville.

4.1 The Deputy of Grouville:

Will the Minister tell the Assembly how many middle grade doctor posts are vacant or filled by locums at present? Also how the £1 million growth fund to improve the middle grade service will be spent?

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

I do not have those specific answers to those questions. But suffice to say that there is a vacancy for middle grade doctors and, at times, they are filled by locums. Middle grade doctors perform a very vital role. Also they are looking at their terms and conditions to be in line with U.K. terms and conditions. This is vital if we want to attract doctors at that level to Jersey.

4.1.1 The Deputy of Grouville:

If she does not have that information nor even how the £1 million pound growth fund is going to improve the middle grade service, could she supply it to the Assembly at some point?

The Deputy of Trinity:

I can get that information about the number of vacancies we have. As regarding the £1 million pounds funding, part of that is recruitment of middle grade doctors and part of that too is funding of their terms and conditions, as I said, to bring them in level with U.K. terms and conditions, which is vital if we want to attract middle grade doctors to Jersey.

4.2 The Deputy of St. Martin:

In the Council of Ministers' comments to P.137, which is my amendment regarding the Children (Jersey) Law, it is claimed that the Children's Policy Group believes that its interest would be better served by not supporting my proposition. Will the Minister inform Members how it came to that decision and why?

The Deputy of Trinity:

As you know, the Children's Policy Group is made up of the 3 Ministers: Home Affairs, Education and myself. Our overriding policy within the Children's Group is the best interests of the child. We take every issue very seriously. The comments we came to was on reflection from officer advice. We had advice from Probation. We discussed the issue with the Attorney General and with

all officers around the table. The comments stand as it is. At the moment the discretion is left with the Court. We felt that that was appropriate.

4.3 Deputy G.P. Southern:

Will the Minister undertake to update Members on the progress she has made towards her Stage 1 C.S.R. target and, in particular, finding a replacement for the hydrotherapy pool?

The Deputy of Trinity:

The process is still continuing and it will continue as we go into next year. All these projects are being worked through. Over the next course of the months more will come to light. Regarding the hydrotherapy pool, yes, that work is still being carried on. If there is any other way that I can find within the budget then I will look at all those issues in front of me at that time before I make a decision.

4.4 Deputy P.V.F. Le Claire:

I would like to thank the Minister for circulating the waiting times to all States Ministers that Senator Ferguson and I asked for on the previous session. In reviewing that, just on the surface level, I note that the U.K. system is completely different to that of Jersey. Where the U.K. has adopted an 18-week referral time, Jersey works towards 26 weeks. What I would like to ask the Minister is if she can give us some targets and achievements in relation to Jersey, and targets and achievements in relation to the U.K. so we can monitor the performance, because at the moment we have an average waiting time for routine referral for back pain of 3 weeks and 144 people waiting between 90 to 180 days for those surgeries. Yet plastic surgery is dealt with so rapidly that only one person had to wait that long.

The Deputy of Trinity:

I am glad the Deputy brought up the issue of the U.K. In my comments I sent around yesterday, I think it is very pertinent that I read it out: that there is in the U.K. an 18-week list, as they say, from pen to knife which means from when the G.P. (General Practitioner) writes the referral to the operation time. It is very interesting because this is due to specific investments in primary and secondary care. Again it shows, and goes on to read, if the Deputy read through, which I am sure he has done, that the G.P.s are much more involved in a diagnostic test before the patient even gets to the hospital. So it shows that primary care is so important. All the G.P.s have a major input in that. This is where we fall down over here because all the diagnostic tests, *et cetera*, are done in hospital - or most of them are - because it is free. If those people had to do them in G.P. it would cost. That is why the whole issue of primary care and secondary care needs to be re-looked at. We need to bring it into the 21st century.

Deputy P.V.F. Le Claire:

Sir, may I ask a very brief supplementary?

The Deputy Bailiff:

No, Deputy, I will come back to you if there is time. You had a very rambling question, if I may so. I shall also ask the Minister to keep her answers concise in accordance with Standing Order 65.

The Deputy of Trinity:

I do try, Sir.

4.5 Deputy R.G. Le Hérissier:

Given the additional funds that are being channelled to Health, and given the comment on the U.K. Health Service, that all the millions never really resulted in any obvious productivity improvements, would the Minister reassure the House that she is fully aware of the cost of every service she now operates and she can make informed decisions as to where that money should go?

The Deputy of Trinity:

That is a very big question and I only have a little brain. If I could put all those figures in my head I think I would be definitely in the wrong job. I would be a professor mathematician. I am very aware of the cost but, most importantly, we need that money from the Health Insurance Fund to tide us over for the next few years. As I have said many times, we are at a crossroads with Health and Social Services. There are big decisions that we, as an Assembly, and the Islanders will have to make in the next couple of years; before that if we can. A strategic roadmap is vital because we have to decide what we want to do on-Island, what we want to do off-Island. As I said, the subspecialisation of consultants has made a difference, and it will make a difference in how we do things and what the Island wants to pay for their health service. I put in that, as I have just said in the previous question about primary care, that it is going to be even more vital. We need to bring the regulations and the law, so that we all do it together and we all move forward. We do need to do it otherwise ...

The Deputy Bailiff:

Concise answer please.

4.6 Deputy A.E. Jeune:

Could the Minister please identify to the Assembly how effective her department has been in recovering monies from visitors who have received hospital treatment or A. and E. (Accident and Emergency) services since the loss of the reciprocal health agreement or at least in the past year?

[12:00]

The Deputy of Trinity:

As we know with the reciprocal health agreement we do go out actively seeking those who are on holiday or tourists or whatever. If they need A. and E. treatment or inpatient care we actively go and try and get that money back, and we have been successful. I have not got the amount. It is as good as the information that we are given. But we do go out actively and follow it up. That is why getting the agreement back is so important. My officers and the officers of the Chief Minister's Department are working actively with the Department of Health to reinstate it.

4.7 Deputy M. Tadier:

Will the Minister advise whether she believes that there is any causative correlation between the reduction in bed occupancy in mental health units and the increase in suicide rates in recent months and years?

The Deputy of Trinity:

I do not have the rate of bed occupancy regarding mental health but suicide is an important issue. As you know, we have had some research done with Southampton University. They have come up with a couple of recommendations, of which we are following through. Again one of those important recommendations is the A.T.S. (Assessment and Therapy Services), which is assessment and therapy working with G.P.s in the primary care, along with officers of Employment and Social Security and Health promotion. That is important because we need to get that rate down, but we need to find out the reasons why and work to be one step ahead. But unfortunately 25 per cent of the people who do commit suicide never come anywhere near mental health services. That is why it is important that we need to do that work with G.P.s in the primary care service so those high risk patients are identified as early as possible.

4.8 The Deputy of St. Mary:

There are people all over the Island who do not go to the doctor because they are fearful of the cost. Does the Minister share the goal of making access to G.P. care and other primary and preventative care affordable to all?

The Deputy of Trinity:

Yes, the same as like anyone else. Regarding families with young children it is a problem. But, as it stands, under the Health Insurance Fund Law, the G.P. is paid to see a person in front of them. That is why it is so important that we get those primary care regulations changed so the G.P. can offer a range of services, and we have a contract with the G.P. surgeries or group of G.P.s to offer a full range of care. I ask why does a G.P. have to take a blood test where it can be done more efficiently and hopefully cheaper by a practice nurse? But the fact is that that law needs to be changed. That is why it is so important to get that Health Insurance Fund money so we can go ahead and take that next step and change it.

4.8.1 The Deputy of St. Mary:

May I just ask the question again? Does she share the goal of making access to G.P.s and preventative care affordable to all? It is really quite a simple answer basically.

The Deputy of Trinity:

Yes, I thought I made that clear.

4.9 Deputy P.V.F. Le Claire:

I take your ruling, Sir, and accordingly ask the Minister if X-rays have to be paid for by the public at the moment? They used to be. The Minister said that diagnostic tests in a hospital were all free.

The Deputy of Trinity:

If I remember rightly, but I probably need to check that, I think there is a small price paid for having an X-ray. But regarding any more like an M.R.I. (Magnetic Resonance Imaging) or anything like that, I think that is free. There is only a small price.

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

Members will have noticed an advert that appeared in the local evening newspaper a number of weeks ago advertising for members to join a new Ministerial advisory board to advise Health and Social Services. It also indicated that these persons would be paid. Can the Minister outline why we are embarking down this road of asking for paid advice when we have civil servants who are already paid to provide these services?

The Deputy of Trinity:

The Health and Social Services Minister's Advisory Panel: as I have said, the strategic roadmap is going to be important and the need for some independent advice to make sure that we are going down the right avenue. These are people that will begin to challenge me, to ask me the questions, what should I be looking at, as well as challenging the department. It is important that we get good professional advice and a challenging ... The strategic roadmap, which we are going to be undertaking is vital, and it will go out to consultation.

The Deputy Bailiff:

That brings question time of the Minister for Health and Social Services to a close, the time now having expired. There are no matters under J. Under K, the Minister for Education, Sports and Culture will make a statement regarding the proposed reduction in subsidies fee paying schools, as though he has not dealt with it enough.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

5. The Minister for Education, Sport and Culture - statement regarding the proposed reduction in subsidies for fee-paying schools

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

Yes, it is me again. Members will be aware that Senator Perchard has recently lodged 'au Greffe' a report and proposition in which the States have been asked to request me not to make any reduction in the level of financial support in 2011 for fee-paying schools until the matter has been brought to the States. I have discussed this with the Council of Ministers. They support my view that the States should be asked to consider any significant changes to the funding of fee-paying schools. I am, therefore, happy to accept Senator Perchard's proposition. I have also listened to the representations that have been made to me by both governing bodies and parents. I accept that the original target set by the Council of Ministers to reduce the funding to fee-paying schools over 2 academic years is extremely challenging and more time is required. As such, I have, after discussion with the Chief Minister, decided to extend the timescale for consultation and will be talking about the detailed arrangements at a meeting scheduled to take place on Wednesday night with the chairs and governors of Victoria College, Jersey College for Girls, De La Salle, Beaulieu and FCJ. The discussion will also cover the inclusion of strategic options in the proposed Green Paper on the future of education. I am hopeful that all governing bodies will agree to participate in a review which balances the need for cost efficiency with the need to raise standards in Jersey's educational system as a whole. I propose to work with them on this over the coming months. To support schools in this process and following discussions with the governors, arrangements are being made for independent school advisers to assist each school in considering the efficiency and effectiveness of the education provided, including areas where increased collaboration could lead to more efficient practice and an improved curriculum. I look forward to further discussions on this subject [Laughter] and intend to bring a report and proposition to the States in due course for a full and proper debate and, in time, to allow schools to set their fees within the normal timescale.

The Deputy Bailiff:

Questions now to the Minister on his statement.

5.1.1 Senator J.L. Perchard:

Hallelujah. The Minister said in his statement just now that he wished to undertake a full review of the strategic options and prepare a Green Paper on the future of education for all the Island's children. Fantastic. Will the Minister then agree to withdraw his prescriptive and controversial proposals to reduce funding to fee-paying secondary schools by 50 per cent while this full review is being undertaken in an open and honest way?

The Deputy of St. Ouen:

First of all, I do not know where the Senator has been over the last 2 or 3 months, but I have spent much time speaking about the proposal and the introduction of the Green Paper that will determine the future shape of education on the Island. As such, it is absolutely linked to my policy. With regards the question about withdrawing the current proposal, I think it is absolutely appropriate that we pursue and continue the dialogue that is only just being started with the schools, which will form part and provide further information to support the development of the Green Paper that I want to bring out in the new year. As such, I have no intention of withdrawing the current proposal.

5.1.2 Deputy J.A. Martin:

I would be very interested to hear that now the Minister has decided to bring this to the States, what is his Plan B for raising the money, because it will not go through this House?

The Deputy of St. Ouen:

That is going to be something that obviously all States Members will have to determine. That is due process and I would have to abide and follow that.

Deputy J.A. Martin:

Sorry, has he not got a Plan B to raise this money?

The Deputy Bailiff:

Do you have a Plan B, Minister?

The Deputy of St. Ouen:

We had plans A, B, C, D, E, F and G about 6 months ago when we started the C.S.R. process. Through discussions, not only within my department but with the Council of Ministers, the proposal that the reduction to fee-paying schools or grant to fee-paying schools is just part of the proposals that the Council of Ministers chose to support further.

5.1.3 Deputy R.G. Le Hérissier:

In reference to the last paragraph, the Minister says he will allow schools to set their fees within the normal timescales. What does he mean by normal timescales?

The Deputy of St. Ouen:

To my knowledge fees are normally set towards the end of March, beginning of April, at the start of the new academic year. So in this case any fee increases should be notified to parents no later than April 2011.

Deputy A.E. Jeune:

Thank you, Sir, but my question has now been answered.

5.1.4 Senator B.E. Shenton:

The Minister says in his statement: "I accept that the original target set by the Council of Ministers to reduce the funding to fee paying schools over 2 academic years is extremely challenging." I was under the impression that this was the Minister's policy. His statement says that this is the policy of the Council of Ministers and has been forced upon him. Could he clarify his own personal statement?

The Deputy of St. Ouen:

I do not think I said "forced upon" me and obviously I include myself as one of the Council of Ministers. This has been a discussion that has been had. It has been part of the C.S.R. process. As such, the Council of Ministers have put forward budget proposals and C.S.R. proposals for 2011, 2012 and 2013 that are to be balanced against additional taxation. It has been recognised that, as such, my department is being required to deliver £11.2 million over that period. This is what I am seeking to do. I fully accept and acknowledge my role and responsibility in this regard.

5.1.5 Deputy P.V.F. Le Claire:

In my earlier question away from the topic of private schools, the Minister for Education, Sport and Culture dismissed out of hand learning online at home. Online learning and video conferencing are playing an important role in delivering high level education and reducing CO₂ emissions. Is he now saying that those will not be possible to be put forward as proposals under his Green Paper?

The Deputy of St. Ouen:

If we are talking about the opportunities for distance learning and adults improving their educational skills, then I think it is very appropriate that that particular area is explored. In fact we are encouraging that on the Island, and we have worked closely with outfits such as the university.

5.1.6 The Deputy of Grouville:

When the child commences a particular school, does the Minister not believe his department enters into a contract with that child and their parents? To change the terms to such an extent whereby some pupils will have to leave the school, E.S.C. (Education, Sports and Culture) is renegeing on its contract.

The Deputy of St. Ouen:

With regard to contracts with pupils, there is an absolute and full responsibility that the Education Department take in providing education for all children. If the Deputy is suggesting that somehow I can be held responsible for fee increases levied at private schools, I am afraid my authority does not extend that far.

[12:15]

5.1.7 Deputy T.M. Pitman:

I have got a good bit of sympathy with the Minister especially after today, but I feel Deputy Martin is perfectly right. In bringing this to the States it will never get through, in my opinion, in an election year. Where then would that leave the Minister with regard to his position and especially to making up those savings or cost reductions as there appears to be no Plan B?

The Deputy of St. Ouen:

With regards to my position, I will continue to undertake my role and responsibilities as Minister for the Education, Sports and Culture Department. It would be rather perverse necessarily that the department would be held to deliver the 10 per cent when perhaps other departments have been allowed to deliver a lesser sum, especially if this Assembly sends out a strong message that this particular area should not be reduced. At the same time, it is my responsibility and I will continue to seek to deliver efficiencies in all areas that we are responsible for. As such, we will hopefully continue to provide not only the services that everybody has come to expect but at the right cost.

5.1.8 Deputy M. Tadier:

Very much following on from Senator Perchard's question. Now that the Minister has given an undertaking to put a Green Paper out for consultation, does he now accept that given the fact that private tuition fees at the private schools is only a small part of that, but it will nonetheless have implications on both sectors, is it not more sensible to leave that on the backburner until we have looked at the whole situation in the round?

The Deputy of St. Ouen:

This is a discussion that, I think I have already said, I need to have with the governing bodies. I think States Members must be under no illusion that whether it is my department or others, we are required to deliver savings to offset the need for additional taxation. There is no easy way of saying that. There will always be and are bound to be individuals that will feel and notice an impact of some of the proposals that are being brought forward. Our responsibility, as both the States and the Council of Ministers, is to ensure that process is managed and we end up with a system that everyone can feel part of and recognise as reasonable. I will be discussing and I will continue discussions with the governors and will return with a comment regarding a changing of time.

5.1.9 Senator J.L. Perchard:

I plead with the Minister for Education, Sport and Culture; if an honest review of the education provision is to be undertaken on the Island, could this review consider expanding the role of the fee-paying sector and turning the Minister's own policy on its head in an effort to save money for the comprehensive spending review?

The Deputy of St. Ouen:

I think, as I said before, education is not necessarily all about money and savings. I have already said that the education on this Island is extremely selective and, as such, we need to be mindful of that when determining future policy. With regard to any proposals and considerations for strategic options, my mind is truly open. I have made that clear to Parents for Choice and their spokesman

that if they firmly believe that their proposal is right and fit for this Island that they come and discuss that matter appropriately, and in the right context, with me and my officers.

The Deputy Bailiff:

That brings question time on the Minister's statement to an end. We now come to a statement by the Minister for Housing.

6. The Minister for Housing - statement regarding P.139/2010, Rent Control: removal of exemptions

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

I apologise to Members for the lateness of the appearance of this statement. Last Friday afternoon I had a very productive meeting with Senator Le Gresley and Senator Le Marquand in connection with P.139 Rent Control: removal of exemptions. We discussed the above proposition and rent control in general. We all agreed that a major piece of work now needs to be done to reform and revise some laws that have been in existence in their original form since the late 1940s. We recently made considerable progress in modernising Jersey's very old housing laws, including drafting the new Migration Law. Colleagues will remember that I personally guided the Residential Tenancy Law through the Assembly in 2009. Since then we have been working on a scheme to protect tenants' deposits. Regulations have been drafted and a procurement exercise is now underway. We will also be introducing compulsory property condition reports for all new tenancies. I have also said that we need to review the need for rent controls in Jersey and our statutory tenancy agreements. Not least we need to do this because Jersey does experience high rents and it is now time that the present 1946 Law and the 1992 Regulations are reviewed, as my recent comments on this issue have said. I am happy to confirm that I will now accelerate this work, bringing together the work on condition reports, tenancy agreements and rent control into a new single process of consultation and policy development beginning very early in the New Year. I am very keen to work with Senator Le Gresley and indeed any other States Member in the Assembly and any members of the public that wish to consult or carry out this work. Senator Le Gresley is absolutely right to be focused on protecting tenants, and I am grateful to him for correspondence with me and the Population Office in the past week so that we can agree a work programme and a way ahead. Indeed I also thank Senator Le Marquand for his goodwill and time in hosting a meeting at his office last Friday and for bringing his considerable legal expertise to this meeting. A short report outlining our timetable and approach on all of the above will be lodged very shortly as a report.

The Deputy Bailiff:

We now come to questions of the Minister.

6.1.1 Deputy M. Tadier:

Will the Minister advise whether during this recent meeting the issue of the rent element of income support was brought up, and would the Minister advise whether he considers that money, which is effectively taxpayers' money which is paid to a landlord, could be put to better use by acquiring more buildings, building new housing stock and maintaining it rather than paying that element into the back pocket of landlords?

Deputy S. Power:

I have to say that we did not discuss the housing component of income support. I have discussed the housing component of income support with the Minister for Social Security and the Minister for Treasury and Resources in the very recent past. It is very much on our agenda. The whole issue of a rebate being paid to private sector landlords is something that we are considering at the moment, but it is too early for me to give any in depth response to that.

6.1.2 Deputy P.V.F. Le Claire:

I was quite surprised but pleasantly surprised to see the Minister has said that they need to review the need for rent controls in Jersey as it is now time. This was part of my proposal in an Assembly debate a couple of weeks ago, which was not supported by Members that we need to have a consideration of rent control. Will the Minister be looking to our fellow Island in Guernsey because they have a rent control officer? Will he be looking to learn from them, as he did from the Isle of Man?

Deputy S. Power:

As I indicated, I will be going out to consultation in the New Year with all that will be involved in this. We will talk to Guernsey. Both myself and my predecessor at Housing have an excellent relationship with the Guernsey Housing Minister. The process as I see it now - and I think Senator Le Gresley will agree - is that the process does not work. The Rent Control Tribunal in its present form has not been enacted or established or re-established for the last 3 to 5 years. The rent control mechanism - the law as it stands at the moment - does not have sufficient teeth and it is not being used. I am personally very unhappy with a law that does not work.

6.1.3 Senator A. Breckon:

On a similar theme, the Minister has said: "I have also said we need to review the need for rent controls in Jersey." Has he any idea what the terms of reference will be and the timescale?

Deputy S. Power:

That is a very good question. Yesterday I saw a template for the timescale on this. I replied to the director of the Population Office this morning. I am hoping that I will be able to give a strong indication to Senator Le Gresley and the Assembly as to what the timescale will be. What I have seen this morning, I did not agree with. I do not want to commit myself or the department any further except to say that I will come back to the Assembly very soon on a workable timescale.

Deputy T.M. Pitman:

Senator Breckon asked my question, thank you.

6.1.4 Deputy M. Tadier:

I welcome the Minister's invitation for Members to consult with him. Would he consider setting up a working group to look at the issues to do with private rental in the round so to also look at issues of inspection, of rent rebate, of depositor protection for non qualified residents in the Island, so that we can all put our heads together and come up with joined-up thinking on this?

Deputy S. Power:

I am happy to confirm that at last Friday's meeting with Senator Le Gresley this did come up. I think what I would like to do would be to form a group of States Members, perhaps including Senator Le Gresley if he is willing to contribute some of his time, to look at this whole area. Indeed 2 other States Members have indicated their interest in working on this. I will be asking them to come to a meeting very soon with the Director of the Population Office to map out a way forward and to reform, revise and rewrite some of these old laws.

The Deputy Bailiff:

Are there any other questions for the Minister? Very well, it is now 12.30 p.m. Minister, do you think you are able to deal with P.115 between now and lunch or would it be more convenient to put your co-Ministers under pressure and invite them to deal with P.146 and P.147?

Senator F.E. Cohen:

I think that would be more sensible.

PUBLIC BUSINESS

7. Fiscal Policy Panel: reappointment of members (P.146/2010)

The Deputy Bailiff:

Very well. If the Assembly agrees we will take next P.146 Fiscal Policy Panel: reappointment of members lodged in the name of the Minister for Treasury and Resources. I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to refer to their Act dated 5th December 2006 in which they agreed to establish a Stabilisation Fund and further agreed to the establishment of a new independent Fiscal Policy Panel and their Act of 26th September 2007 in which they appointed the following persons as members of the Fiscal Policy Panel for a period of 3 years: Mr. Christopher Allsopp CBE, Ms. Marian Bell CBE, Mr. Joly Dixon CMG, and to re-appoint them for a further period of 3 years.

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

One of the most significant developments in recent years by the States in terms of good fiscal discipline has been the creation of a Fiscal Policy Panel. In fact, the fact that we have a Fiscal Policy Panel is to be, I hope, a source of some pride to this Assembly because other small jurisdictions have held up our independent Fiscal Policy Panel as a model which they wish to replicate. I am also pleased to tell the Assembly that Guernsey has indeed appointed a Fiscal Policy Panel comprising the same membership as ours. The 3 members of the Fiscal Policy Panel have provided the Assembly with invaluable independent economic advice in advance of business plans over the last 3 years and budgets. I would like to record my thanks to the 3 panel members, all of whom are eminent economists in their own fields, for all of the advice and assistance that they have given to the States and the Island in the last 3 years. I have pleasure in proposing their re-election for a further 3 years.

The Deputy Bailiff:

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

7.1.1 Deputy R.G. Le Hérissier:

Notwithstanding the excellent job that the 3 members have done, according to the Minister, would the Minister not accept that there is a time at which the membership needs to be renewed and refreshed because things and matters are moving very fast in the finance and economic worlds, and it behoves us to be as up-to-date as possible in the kind of advice, the kind of reading of the situation that we get? We should not become settled in our thinking.

7.1.2 Deputy J.A. Martin:

It was partly asked by Deputy Le Hérissier. I read that the interviews took place in 2006. Was it re-advertised or is it just a matter of re-appointing the same people?

[12:30]

The Deputy Bailiff:

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

7.1.3 Senator P.F.C. Ozouf:

The parallel that I would describe in terms of Jersey's F.P.P. (Fiscal Policy Panel) - while of course not on anything like the scale of it - is the M.P.C. which is the Monetary Policy Committee of the Bank of England. There is a practice there, as I understand, for members to be eligible to serve for

2 terms. I believe it is 2 terms in terms of a period of office. Certainly I did give consideration whether or not the membership of the F.P.P. should be changed at this point, certainly with the life of this Assembly extending for a further period of 12 months and then obviously a new Assembly being elected thereafter. I would imagine that there is going to be need for refreshing the F.P.P. and possibly adding one or 2 additional members on. I will undertake to do that. As far as these members are concerned, I would certainly like to align the F.P.P. membership with the States term in order for us to be able to appoint an F.P.P. on a regular basis. I do not think anybody in this Assembly is suggesting anything but praise for the work of these 3 individuals who are, as I said, very senior and eminent economists in their own right from a wide range of experience. Certainly going forward, I would imagine there is going to be within a couple of years some additional members of the F.P.P. I take Deputy Le Hérisser's point and I hope that I have answered Deputy Martin in terms of the query that she raised. I move the proposition.

The Deputy Bailiff:

The proposition is made. All Members in favour, would they kindly show? The appel is called for. I invite Members to return to their seats for a vote on the proposition of the Minister for Treasury and Resources that Mr. Christopher Allsopp, Ms. Marian Bell and Mr. Joly Dixon be reappointed to the Fiscal Policy Panel for a period of 3 years. I invite the Greffier to open the voting.

POUR: 44		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
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. Martin				
Connétable of St. John				
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 Hérisser (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy P.V.F. Le Claire (H)				
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 J.M. Maçon (S)				

8. Jersey Police Complaints Authority: reappointment of member (P.147/2010)

The Deputy Bailiff:

I wonder whether the Minister for Home Affairs is able to deal with P.147 before lunch?

Senator B.I. Le Marquand:

He shall do his best, Sir. This is a matter of ... I am sorry, I got too excited, yes.

The Deputy Bailiff:

I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion in accordance with Article 2 of, and the Schedule to, the Police (Complaints and Discipline) (Jersey) Law 1999 to reappoint the following as a member of the Jersey Police Complaints Authority for a further period of 3 years: Advocate Deborah Jane Lang.

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

The Jersey Police Complaints Authority is the independent body whose responsibility is to look into complaints against individual members of the police and to oversee the investigation of those complaints, and indeed to make recommendations as to whether or not disciplinary action should be taken against such officers. We have among the existing members of the Authority, Advocate Deborah Jane Lang who is an experienced and capable advocate of long standing. We are very fortunate to have somebody of this capability and capacity. This proposition is simply to reappoint her for a further 3 years so that she can continue the excellent work which she has been doing in the past. She is currently the Deputy Chairman of the Police Complaints Authority. I, therefore, move the proposition.

The Deputy Bailiff:

The proposition is made. Is it seconded? **[Seconded]** Does any Member wish to speak?

8.1.1 The Deputy of St. Martin:

I have always appreciated the work of the Complaints Board but I know when I have spoken to the Minister before about the matter... and I have just asked the Minister may I take the opportunity while we are debating this particular proposition... is that I had expressed concerns that when a complaint board had produced the result of its review that there is no explanation as to why it came to that conclusion or that decision that was made. I know the Minister said he was looking into the matter. Is the Minister able to give us an update on where he has got with the particular issue that I have raised with him?

8.1.2 Deputy M.R. Higgins:

Can I just ask the Minister to confirm again that there is no salary paid?

8.1.3 The Deputy of St. Mary:

It just occurred to me following that last intervention. It is customary I think when we are dealing with appointments to have some idea of the scope, like the number of meetings the Police Complaints Authority has and how many cases they handle in a year.

The Deputy Bailiff:

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

8.1.4 Senator B.I. Le Marquand:

Dealing with the last point, what happens is that complaints go through the chairman who then allocates them to individual members, who then deal with the individual case. So there is not a question of meetings as such. I am afraid I do not have any statistics with me as to numbers because I did not think it relevant to this. We have had no upturn of numbers which would require increased numbers nor great downturn, so I do not have the relevant statistics. In relation to the whether there is a fee, I do not think there is. I am not 100 per cent certain of that, but I do not think there is. My understanding is the work is done voluntarily but I am not 100 per cent certain of that. I am sorry that I am not 100 per cent certain but I am 95 per cent certain, if I may put it that way. In relation to the issue quite properly raised by the Deputy of St. Martin, I have raised this issue with the current chairman. I am strongly of the opinion that some form of statement of reasons should be given in relation to matters but I have not in fact checked with him that they are currently doing that. I have raised the issue but I have not checked what they are doing, and I do need to do that. I maintain the proposition.

The Deputy Bailiff:

The proposition is proposed. Would all Members in favour, kindly show? The appel is called for. The vote is on the proposition as to whether or not to reappoint Advocate Deborah Jane Lang as a member of the Jersey Police Complaints Authority for a further period of 3 years. I invite Members to return to their seats and I invite the Greffier to open the voting.

POUR: 45		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator A. Breckon				
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. Martin				
Connétable of St. John				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				

Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy 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 J.M. Maçon (S)				

LUNCHEON ADJOURNMENT PROPOSED

Senator P.F. Routier:

I propose the adjournment.

The Deputy Bailiff:

Before we go to the next stage, can I just announce that the Speed Limits: revised policy - P.167 - has been lodged in the name of the Minister for Transport and Technical Services. The adjournment is proposed. **[Aside]** I am sure that I should take that in the spirit in which it was made. **[Laughter]** The States stand adjourned until 2.15 p.m.

[12:38]

LUNCHEON ADJOURNMENT

[14:15]

The Deputy Bailiff:

We now return to the Public Business on the order paper.

9. Draft Community Provisions (Bovine Embryos) (Jersey) Regulations 201- (P.115/2010)

The Deputy Bailiff:

The Draft Community Provisions (Bovine Embryos) (Jersey) Regulations 201- (P.115/2010). I ask the Greffier to read the citation of the draft.

The Deputy Greffier of the States:

Draft Community Provisions (Bovine Embryos) (Jersey) Regulations 201-. The States, in pursuance of Article 2 of the European Communities Legislation (Implementation) (Jersey) Law 1996, have made the following Regulations.

Senator J.L. Perchard:

Sir, before the debate proceeds I think I need to declare an interest as I still have an active role in the dairy farm at St. Martin.

9.1 Deputy R.C. Duhamel (Assistant Minister for Planning and Environment - rapporteur):

World trade in animals and animal products must be controlled by legislation to mitigate against the spread of disease and to ensure animal welfare is well catered for. To trade animals and animal products with E.U. (European Union) member states, we in Jersey are obliged to comply with relevant legislation as set out in Protocol 3 to the Act of Accession of the United Kingdom to the European Communities 1972. Additionally, in the case of bovine embryos, many third countries base their import requirements on compliance with E.U. Council Directive 89/556. Trade in genetic material including bovine embryos has, to a large extent, superseded the trade in live cattle export of which played such an important role in Jersey for over 100 years up to the mid 1980s. The change has come about because there is less risk of introducing disease to the importing country by embryo than live animal, and any risk of adverse welfare during transport is negated. Coupled with these major influencing factors it is obviously cheaper and easier to transport embryos than to transport live cattle. To ensure the risk of disease transmission is minimised the Council Directive lays down health standards for both female donors and for the semen used to produce the embryos. Semen must meet the standards of E.U. Directive 88/407 and this E.U. Directive governing trade in bovine semen is enacted locally by the Artificial Insemination of Domestic Animals (Bovine Semen) (Jersey) Order 2008. Additional to the health requirements for the female and male donors of the genetic material, the regulations lay down standards governing the collection team and procedures during collection, processing, production, freezing, storage and transport. To protect the welfare of donors and recipients, preparation of donor females is carried out under veterinary supervision and under the Veterinary Surgeons (Jersey) Law 1999. Only a non veterinary surgeon who is authorised by the veterinary officer may collect and transfer embryos. The procedure is carried out using an epidural anaesthesia. Sale of embryos has been identified as a potential income source for pedigree breeders. The R.J.A.&H.S. (Royal Jersey Agricultural and Horticultural Society) has received interest from Jersey breeders in Argentina, India, New Zealand, South Africa and Australia. The interest was generated when breeders from all over the world were in Jersey for the World Jersey Cattle Bureau Conference in 2008. At that time herds were inspected by world class breeders but lack of suitable legislative controls, which are now brought before the Assembly, has prohibited trade. This month and next, visitors from South Africa and Argentina to Island herds will select donor cows in anticipation of the regulations being adopted. This trade is predicted to provide an income source for pedigree source. Adopting the regulations will provide the necessary legal framework to approve processes, premises and personnel, which meet the required standards and, consequentially, official verification for international trade. In this era of reducing public financial support for the rural sector as new markets develop, it is incumbent upon us to assist business development and ensure that this necessary framework is in place to make breeding Jersey cattle for worldwide export an option for our cattle breeders in the Island home of the breed. With all those points in mind, I put the preamble to the regulations.

The Deputy Bailiff:

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

9.1.1 Deputy R.G. Le Hérissier:

I wonder if the Assistant Minister has quantified the economic benefits? Could he give us a more precise figure?

9.1.2 The Deputy of St. John:

Driving in this morning I was listening to the radio while stopped at the traffic lights. I heard a comment by the reporter about the milk from herds or from embryos that have been produced then

gone on to become young cows and the like, and that the milk would go to the dairy and be processed and the like. Can the Assistant Minister confirm ... the reason I have concerns is I happened to be cycling to the Parish Hall several weeks ago early one evening and I nearly fell off my bicycle when I was confronted by a herd of about 12 to 15 black cows. Having lived in the Parish of St. John most of my life and having had a family bringing up Jersey cows and had some myself at one time, I was taken aback. I knew we had one or 2 of these black animals on the Island but I did not expect to be confronted by a whole herd of them. It triggered something in my mind. I sincerely hope that these black animals, the milk from them is not getting mixed with the milk from our Jersey cows that we have had for generations. Can it be confirmed that they are solely for meat? I was not around in the House when they had the bovine debate and all the rest of it. But I would hate to think that we may be getting our genes mixed up with the brown cows and the black cows because it is of concern - not only to me; I mean to others as well - that we are seeing a much larger number of these black animals around the Island. Therefore, I think we need somebody to put our minds at rest that we will not see cross-breeding and the like on the Island. I see a Connétable who was a farmer with cattle. But I am still concerned if a young buck gets loose and finds a young heifer, things might happen. Therefore, we might see brown/black cows in the fields. It is of concern and I would like to have my mind put at rest.

9.1.3 Connétable J.M. Refault of St. Peter:

On a very similar vein... I can assure you I was not listening in the same car with the Deputy of St. John to the radio but I did hear it as well. Neither was I on my way back from the pub nearly falling off my bike, but I think the Deputy may have been. Clearly the item on the radio this morning has raised some issues for me. The person being interviewed did say that should any embryos be imported into Jersey which were not of a pure *Jersey Herd Book* then the dairy would not take milk from them. This in itself sounded quite good, but then I went on to think would that necessarily stop an independent dairy farmer bringing in other embryos to have a different breed and sell his milk directly to the public without going through the Milk Marketing Board, as we have one other farmer currently doing. Moving on from that, there is also a supposition that bull calves would not be imported because they were not viable for the dairy herd. However, with the amount of intensive farming required for dairy herd, does it create the opportunity for, for example, a farmer to import an Aberdeen Angus embryo to be brought through a Jersey cow and then reared in Jersey and sold as Jersey-reared beef for the meat export. I would like the Assistant Minister please to give me some assurance that the Jersey model of the dairy cow, and the Jersey dairy cow is in some way protected, and we are not going to see a whole raft of opportunities arising by importing other embryos to not necessarily come into the dairy industry but just to come into even the meat stream.

9.1.4 Deputy M. Tadier:

Listening to the Deputy of St. John reminded me of a French joke I heard about this other Jersey person who had never seen these black and white cows that they had in France. They asked what kind of milk they produced. It was said that it was café au lait, so the mixture of black and white. I am slightly wary today that we may be going down the route of asking whether or not these new black cows that have been introduced to the Island should have to be here for 10 years before they can be qualified to give milk to Jersey Dairy, but thankfully I do not think that is really the debate we are having today. I do have some questions though about the legislation. I understand that the legislation or the regulations here will allow for export and import of embryos. It is simply to ask the Minister first of all whether it is envisaged that Jersey will be exporting more embryos, or how the dynamics and the percentages will be carried out and whether Jersey is looking to import more or looking to export more. Then, consequently, is it simply that Jersey is being set up to trade in embryos? Are we shipping them in and out without any extra value being added in Jersey, or what is really the purpose of this apart from purely financial, if that is the argument? What ethical arguments have been taken into account, which we are ultimately dealing with the creation of life

here? It would be interesting to hear whether any consultation has taken place or any input from the Dean on this particular issue. Even though it does not relate to human ethics, it does relate to humans playing God in that sense, and to do with the creation of artificial life. It would be interesting to see if there were any comments from our pastoral leader on that one. I also had a question about some of the regulations. Regulation 2, if the Assistant Minister can just clarify what is meant by the transfer of nuclei. I think that means to do with cloning. It says: "These regulations do not apply to embryos derived by the transfer of nuclei." What happens in that instance? Also Regulation 3, part (2(a), says that ...

The Deputy Bailiff:

We will come to those, Deputy, when we debate the regulations.

Deputy M. Tadier:

I will raise those particular issues when it comes to the regulations. I think the Assistant Minister has noted the other areas I have asked about.

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

I would just like the Assistant Minister to enlarge upon the definition of embryo, as given on page 12 of the proposition, and to tell the House up to what age an embryo may be extracted, and to also enlarge upon a brief conversation that the Assistant Minister had with me moments before we entered the Chamber when I think I understood him to tell me that the embryos are extracted from dead animals. I would like him to speak to that please.

9.1.6 Connétable J.L.S. Gallichan of Trinity:

It is interesting when something like embryos comes on the market, I suppose. But the basic thing here, this is to help and diversify the dairy business in Jersey. There is a demand for embryos to be sold now. As it stands, I think the reason is basically if you want to export you have to have in the law you have to import. The idea is not to really import. It is one of those things. You cannot have just a one-way street, if you know what I mean. It is basically to add an extra income to the dairy farmers to export embryos, which there is a demand in the market now in the U.K. They are importing them from all over the world. Why should Jersey not benefit from some of this import? Basically things have moved on. I think the major debate was about 18 months ago where we imported the semen. This is far less contentious than the semen.

[14:30]

We have had that debate. Unlike the Deputy of St. John, I do have some black animals at the side of my road as well, which I must say look extremely well. The beauty with that, we know the difference with the Aberdeen Angus, the only heifer or calf you will get out of an Aberdeen Angus cross is a black animal so at least you know what is pure Jersey and what is not, and who will be in the meat market. The other thing is I believe that only the purebred Jersey animal will be recorded in the *Herd Book*. That is the main thing we have to think about. The herd in Jersey will be safeguarded, but this is just to add an extra string to the dairy farmers' bow hopefully which may add to the income of the dairy herd, which is under increasing difficulty at the moment. I am sure you all realise the potato business has now revived and rents are increasing. It is increasingly difficult for the dairy farmer to compete with rising rents. I fully support this and I hope the Assembly will also support it.

9.1.7 The Deputy of St. Mary:

It is just hearing what others have said about moral issues really. It had occurred to me. I know in a conversation I heard that there was some welfare issue around breeding larger versions of cow from the very small Jersey cow. I wonder if there are animal welfare issues there and whether those have been addressed in the thinking behind these new regulations.

9.1.8 The Connétable of St. Clement:

Very briefly, I am in support of the regulations and the preamble. I think Members should be aware, if they are not already, cattle embryos can be imported now. But there is no demand from the dairy industry to import embryos because none of it has ever happened. The Deputy of St. John is obviously quite right to be concerned but the reality is that the rule of supply means that any cattle born from embryos imported cannot be entered into the *Jersey Herd Book* and, therefore, under the rules of supply, cannot have their milk supplied to the Jersey Dairy. Of course as we know, there is one cattle farmer who does produce his own milk and sell it privately. Nothing can be done about that. But the pure breed of the Jersey cow is maintained by the rules of supply to the Jersey Dairy. As I say, embryos can be imported now. From the economic point of view, they cannot effectively be exported because we do not have the required health regulations until these regulations are approved by the States to enable the export of Jersey embryos, which there is deep-down a great demand throughout the world. The Assistant Minister indicated some of those countries. It is anticipated in the early stages, up to 200 embryos per year could be exported, which would be worth something like £400 to £500 per embryo to the dairy industry. An important filler to the industry. We can export live cattle, which I think is morally less good than exporting embryos, which we cannot do at the moment but will be able to do if these regulations are approved. I hope the House will be supporting them.

9.1.9 Deputy M.R. Higgins:

Just a question arising from some of the questions and answers that have arisen from other Members. As Jersey is attempting to get E.U. regulations for Jersey butter and Jersey milk and the all the rest of it, can we have some assurance ... it will be from original Jersey cows; the brown cow rather than the black cow. If you are allowing milk, even if it is from a farm, and they produce their own butter or cheese or whatever, would it still come under the Jersey logo?

9.1.10 Deputy K.C. Lewis:

I may have misheard, but I believe I heard somebody say earlier that the embryos were extracted under anaesthetic. The Assistant Minister says the animal is deceased. Would the Assistant Minister please clarify?

The Deputy Bailiff:

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

9.1.11 Deputy R.C. Duhamel:

Starting with Deputy Le Hérisier. He asked how much this new business will be worth to the Island's dairy industry. I was going to give some of these figures when I was going to explain the regulations, but it is only right that I give them now. It is difficult to quantify the overall benefit but the estimate at the moment is that a very high grade embryo from a Jersey cow could achieve as much as £700 per embryo. As we all know a cow can only get pregnant once every 9 months or whatever, then it lactates for a further period. The number of calves that can be produced by a cow is generally of the order of one, although there have been some instances where twins have been born. If the ovaries are encouraged to super-ovulate then the eggs that reside within the ovary can be harvested and sold on as further potential animals. Indeed this is what the business is all about. As I said, the overall price for a top notch embryo will be of the order of £700, but I am being told by the department at the moment that a more reasonable sum to put on the price of an embryo will be of the order of £400 and possibly even slightly lower than that. I am also told that there would be a market at the moment for some 200 embryos to be sold, so multiplying the 2 together gives you an extra potential revenue to the industry of some £80,000 per annum at the moment. But this is just an estimate. It might well be that the demand for the Jersey genetics from the Island breed in its Island home are more in demand than perhaps they might be at the moment. Those figures could obviously climb. The Deputy of St. John, I had a little bit of difficulty understanding what

his beef was. **[Laughter]** **[Aside]** That is right. But I have worked it out. He should know, and I think he does know, but he was just putting his name in the paper perhaps. The black cows at the moment are crosses. They are brought in. It is Aberdeen Angus crossbreeds and they are primarily for beef at the moment. The *Dairy Herd Book* is closed to purebred Jersey cows. The milk, there is a special stipulation that will not allow any milk from any imported breeds that come into the Island and are generated over here to be sold through the dairy. The Constable of St. Peter was probably right to raise the possibility of the sale of milk from other breeds of cow that could ostensibly, by this law, be brought into the Island, but then again it can be done now. The argument is to the effect that the Jersey dairy farmers would not particularly wish to be doing this because their heart is in the Jersey breed, although potentially some people will do anything for money. There is a potential perhaps for some milk to be sold to the public but it would have to go through an individual farmer's new dairy product or sold directly to the public, and indeed the quantities would be very, very small. Likewise some eyebrows have been raised as to perhaps the potential to bring in Friesian cows, which are generally larger. The whole of the Jersey herd has been sorted out in terms of its animal husbandry, with stabling and other things that are down to the smaller size of the Jersey cow. Reasonably for somebody to logically want to change the Jersey herd or supplant the Jersey herd with Friesians or any other breed of cattle, they would really have to be a mega multimillionaire and be prepared to go through all of the planning processes in order to change the size of the stabling blocks, and all the rest of it, in order to produce milk, which ostensibly could be produced for a cheaper price in countries that do have the space for dealing with cows of that particular size. I think that possibly answers the Deputies of St. John's and St. Peter's queries. Deputy Tadier raised the issue about whether or not cows resident here would get their housing regulations inside 10 years. I am not sure, and I am not being flippant, that the cows that we look after at the moment last for 10 years. It is a sad fact of life that most of the cattle these days do have substantially shorter lives. It is an economic fact. It is something that I am not particularly proud of, but then again picking up on his other point about ethical arguments, I think there are issues as to whether or not the Island home should be the place for cows, which are designed to go on and live out natural lives for as long as they like and when they become economically unviable perhaps they should be put out to pasture, like donkeys and horses, and other pet goats. **[Aside]** **[Laughter]** Or even politicians. I will answer the query about Regulation 2 later, although I had answered Deputy Tadier earlier to suggest that transfer of nuclei is bound up with cloning of animals. Basically the egg cells, once they have been fertilised, are allowed to grow to some 16 to 32 cells and under cloning processes they are then split and the split can be split apparently any number of times. So if you were a farmer and you did have an opportunity to have cloning legislation in the Island - which we do not have at the moment - then presumably your fancy cow, your super cow, could be replicated many times over. It is not an area that is being undertaken at the moment worldwide, and there is a long way to go before it becomes acceptable and, as I said, the ethical arguments I do not think are for today. I think we can take comfort in the fact that Regulation 2 disallows cloning at the moment. The Constable of St. Lawrence asked about what age an embryo will be extracted. I was not sure whether she meant the age of the cow or the heifer from which you were extracting the embryo or the age of the embryo. The embryo obviously cannot be too old because the cells start to differentiate and generally it goes up to, I think, 64 cells before you start getting into problems. In terms of embryo extraction, if they are being taken from live animals then generally the embryos can be taken from eggs that come from heifers, which are unmated cows or, indeed, cows that have gone through one or more lactations. There are problems with lactating animals. They are slightly more difficult to process for the egg extraction, so both routes are followed at the moment. In terms of the extraction itself, there are 3 ways at the moment for extracting eggs. One is called ova pick-up, so basically that comes from the cow itself and there are surgical procedures to flush the uterus, which has been specifically treated in order to produce more than one egg, and that is one method. The second method is with an ovariectomy, which is to remove the whole of the ovary from a live animal, while keeping the animal alive, presumably, that one would perhaps argue what is the point of having a cow without an ovary that is not capable of

producing anything else because the ovaries have been removed. The third method is to take the ovaries from any animals that have been slaughtered. So there are 3 routes, and I will refer to that at a later stage. The Constable of Trinity and St. Clement were both supportive, as I would have expected them to be, and suggested that the things that I have been telling the States at the moment are right, in terms of the requirement for pure breed animals to only have their names added to the herd book. The Constable of Trinity also suggested that usefully in the time of cutting back on monies to the dairy industry, and to agriculture as a whole, then this will give an extra income to dairy farmers to supplement the monies that are going to be otherwise withdrawn by way of subsidy elsewhere. Deputy Higgins asked about E.U. Regs for butter. I think at the moment if a Jersey logo... indeed we are going to see it with the Jersey Royals later on. If milk has come from a Jersey cow then it can have a special designation.

[14:45]

That does not necessary imply that no milk products could be made at the dairy, if indeed the dairy wished to go down that route to use milk from other sources to make other products, but they would not be able to be sold as being milk products from the Jersey animal in the way that potatoes, if they were grown elsewhere, the Jersey Royals, would not be able to have the Jersey Royal exclusive label on them. Deputy Lewis asked about epidural anaesthesia, and obviously if the eggs are being taken from the uterus of a live cow then for animal husbandry and welfare purposes the cow has to be anaesthetised, and there are injections of anaesthetic into the animal's spine in order to allow the eggs to be removed safely and without detriment to those animals. I think I have answered most questions. On that basis I put the preamble.

The Deputy of St. Mary:

Could I press the Assistant Minister to answer the question I raised about the welfare issues around embryos coming into the Island and then being planted into Jersey cattle, so that you get a cross. Is there a welfare issue there?

Deputy R.C. Duhamel:

In terms of welfare, you are absolutely right. The law is designed to ensure that the health of animals that are being produced by embryo import or export is held topmost in people's minds in order to achieve the best, not only for the cow, but for the farmer and for the industry as a whole. So these things are paramount.

The Deputy Bailiff:

The appel has been called for on the principles of the Draft Community Provisions (Bovine Embryos) (Jersey) Regulations 201-. I will ask Members to return to their seats and I ask the Greffier to open the voting.

POUR: 44		CONTRE: 3		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy S. Pitman (H)		
Senator P.F. Routier		Deputy M. Tadier (B)		
Senator T.J. Le Main		Deputy T.M. Pitman (H)		
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator A. Breckon				
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. Martin				

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

The Deputy Bailiff:

The principles having been adopted I ask the chairman of the Environment Scrutiny Panel whether you wish to call in these regulations for scrutiny?

The Deputy of St. John (Chairman, Environment Scrutiny Panel):

No, Sir.

The Deputy Bailiff:

Rapporteur, how do you wish to propose?

Deputy R.C. Duhamel:

I am wondering whether I should milk the situation or not? I will not go there. A number of the explanatory notes that I have got to explain the regulations in detail have been asked already, but I think it is probably only fair that we do go through it in pieces.

The Deputy Bailiff:

May I suggest that you take Regulations 1 to 4 first?

9.2 Deputy R.C. Duhamel:

Yes, that is what I was going to do, Sir. **[Laughter]** Part 1 is the introductory remarks by way of definitions. It provides the definitions in terms of words and states the meaning of the community provisions directed 89/556 under which this is brought. Regulation 2, as mentioned earlier for

Deputy Tadier, makes it abundantly clear that regulations do not apply to embryos derived from transfer of nuclei, i.e. it does not allow us to clone animals. Regulation 3 and 4 lay down the conditions for export to and import from member states. As I mentioned earlier, conditions include the health standards of both the donor female and the semen used to produce the embryo, whether by artificial insemination or in vitro fertilisation. It is useful to note that embryo transfers has been under development since 1949. It is not just used for cows. It is also used for humans, as well as goats and pigs and sheep and a whole host of other animals. Obviously for human medicine I.V.F. (in vitro fertilisation) or test tube fertilisation is the normal method. I mentioned earlier that there were 3 methods: ovum pick-up, ovariectomy or from the slaughterhouse. It is stated in my briefing notes that while of necessity provision for such methods is included in the regulations it is considered by the department very unlikely that collection of ova from live donors will be carried out for economic and practical reasons. The person collecting the embryos can only do so if they are either a veterinary surgeon or a competent trained technician operating in an approved team under the responsibility of the team veterinarian. The conditions for collection, processing, storage and transport are detailed in Schedule 2, which we will get to later on, and include the premises for collection, siting of laboratory facilities, sterilisation and record keeping. After collection the embryos must be examined for quality and graded. Not all of them are viable. Following grading they are washed in a special fluid, in accordance with internationally recognised procedures, re-examined and if suitable placed in a sterile container, sealed, and labelled. All the equipment used for collection processing and storing must be sterilised before use or be disposable. The freezing agents must not have been used previously for other products of animal origin, obviously for disease problems. It is a requirement that embryos exported from Jersey to member states are accompanied by an animal health certificate, signed by an official veterinarian, and in parallel with conditions described for exports/imports from a member state must also fulfil the same conditions and be accompanied by animal health certificates signed by similar personnel. In order to comply with our obligations under Protocol 3, we are unfortunately unable to prohibit imports, either for a destination in the Island, albeit an unlikely scenario, as referred to by, I think it was Deputy Tadier perhaps, for the scenario of transit through Jersey. So it might well be that business develops, that embryos are brought into the Island to be crossed or whatever with our animals, and then we become a staging post for the worldwide dissemination of Jersey embryos. But it is not considered that that trade is necessary likely as yet. The *Jersey Herd Book Rules* do not permit registration of calves born from implantation of an imported embryo and the *Jersey Dairy Rules of Supply* also prohibit acceptance of milk from herds which do not comprise 100 per cent milking cows registered in the *Jersey Herd Book*. That is about it.

The Deputy Bailiff:

Rapporteur, I wonder if you would be good enough to propose Schedules 1 and 2 at the same time because the vote on Regulation 3 are included on those schedules.

Deputy R.C. Duhamel:

I would agree, Sir, and that is a good idea. I propose Schedule 1 and Schedule 2, which are complimentary to those regulations.

Deputy M. Tadier:

Could I ask for Regulation 3 to be taken separately and I would like to say something and ask some questions on Regulation 3?

The Deputy Bailiff:

Yes, we will come to Schedule 3, when we come to Regulation ... I am sorry, Deputy, I misunderstood you. Did you say Schedule 3 or Regulation 3?

Deputy M. Tadier:

Regulation 3, is that the right ... it is on page 13. It will be Article 3, is what I meant on page 13.

The Deputy Bailiff:

Regulations 1 to 4, Schedules 1 and 2 are proposed. Are they seconded? **[Seconded]** Deputy Higgins, did you wish to speak? Does any Member wish to speak? Deputy Tadier, did you wish to speak on Regulation 3?

9.2.1 Deputy M. Tadier:

There is some confusion here. I am looking at page 13, it is number 3, I have just got a few questions and a few comments. Where it says under 3(2) that: "The embryos must have been conceived as a result of artificial insemination or in vitro fertilisation with semen" why is it that there is no provision for natural conception for embryos to then be extracted? Is that not possible? That is my initial question, is why there are only those 2 options available, and then there is no provision for extraction from natural conception. Maybe there is a technical reason for that. Also 3(2)(b), can the Assistant Minister just confirm that when it refers to domestic animals, does that mean local animals or is it just talking about ... does domestic mean farm animals in that context?

9.2.2 The Deputy of St. Mary:

I am still looking for the Minister's proof in the regulations that the health of the animals is paramount. It is a nice sentiment, I agree with you entirely, and I would like to see whereabouts that sentiment is guaranteed in the regulations.

9.2.3 The Deputy of Grouville:

This is a bit of an odd one because we have just done a Rural Strategy Scrutiny Panel review but it was the Minister for Economic Development that responded to it. But this shows this sort of either joined-up or confused government that we now have. This particular part is headed up: "Trade with European Community." One of our recommendations that was not accepted was to review the subsidies that are received by our European neighbours in the E.U. This recommendation was not accepted by the Minister for Economic Development, and I just wonder if we are expecting our farmers to trade with the E.U. why this piece of work cannot be undertaken.

9.2.4 Deputy I.J. Gorst of St. Clement:

I hesitate to rise because I am not certain that it is with regard to the regulation we are discussing, but then a question has been asked about an unconnected issue with regard to animal welfare. I simply wanted to make the comment that the animal welfare, of course, is paramount to the farmer and the farmer, when deciding what bowl to use to create the embryo or where to sell the egg or the purchaser of the egg, would consider the animal welfare because they have to consider the size of the animals that are going to be produced, whether the heifer can ... whether it will be suitable for that, the lactations that are going to result from that, and generally the length of life of that animal. The welfare of the animal is paramount to all decisions that the farmer is making.

9.2.5 Senator B.I. Le Marquand:

Sorry, I was not going to speak, but just to assist Members. The issue of health of the animal is in Schedule 1, and thus mentioned in Regulation 3(2)(b) as health history of the donor animal and as health of donor animal on day of collection. That may save the Assistant Minister from having to explain that in detail. But if Members care to look at page 23, Schedule 1, all that information is there.

9.2.6 Deputy T.M. Pitman:

I just wanted to ask the Assistant Minister whether he agreed that when money is involved there is no guarantee that animals' welfare always comes as a top priority? Does he not agree with that because to me it is absolute nonsense? You only have to look at the evidence around the world, and that is not casting any aspersions on any Jersey farmer.

The Deputy Bailiff:

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

9.2.7 Deputy R.C. Duhamel:

I would like to thank Senator Le Marquand for referring to the answer to the question that the Deputy of St. Mary posed about the health in animal. If one turns to page 23, Schedule 1, we do have a whole host of conditions applying to donor animals for embryo collection in terms of the animal health. The welfare of animals is also covered by the Animal Welfare (Jersey) Law 2004, which is I think referred to somewhere within the document as well, but it is certainly there on the statute book. It prohibits all unnecessary suffering of animals kept for food or other purposes. Deputy Tadier, referred to 3(2) about the embryos must have been conceived as a result of artificial insemination or in vitro fertilisation with semen, and asked why not naturally serviced animals and whether or not those animals could also be used for export. Apparently the reason for going down the route of ensuring that the health of the donor animals are paramount, and those are the females, and indeed that the semen comes up to scratch is to ensure that we do not pass over any bovine type diseases, which could be present with natural methods.

[15:00]

Under the artificial insemination in vitro fertilisation processes, because we are dealing with a biological process that only goes as far as a certain number of cells, there is a protective covering, if you like, around the egg cells, called the zona pellucida, and apparently that in itself, if the egg does not break out like an ordinary chick coming out of a chicken egg, then the actual animal inside is protected to a certain point against any other diseases. This is one of the reasons that embryo transfer technology is being undertaken if the business deals with the animals at an early enough stage in their biological development, then extra safeguards can be introduced into the process to ensure that animal type diseases do not get a look in. Deputy Tadier also asked a question about the word “domestic” animals and I think I have got a note here saying: “Domestic animals means domesticated bovine.” I think under 2(b) on page 13 it has: “Must have been collected from domestic animals of the bovine species.” So quite clearly it is cattle species in the Island as opposed to non domestic bovine species, such as bison or buffalo or whatever. Deputy Labey asked whether or not we were joined-up in our thinking. As Assistant Minister for the Environment, I deal with the animal welfare and the environmental issues, and to a lesser extent with the issues that concern the Economic Development Department, although the Rural Economy Strategy was, I think, one of the first attempts by this House to work together or to put the work of 2 different departments together to come up with a more holistic offering. I think personally I would support, if I am entitled to offer an opinion in this respect, a full review of the subsidies received by our E.U. competitors, and indeed, there may well be issues that have to be taken on board to consider ways to ensure that our agricultural industry remains viable. I do not think we should be burying our heads in the sand like ostriches, or whatever, and turning our backs on other states under whose legislation we are being governed. The final issue I think - 2 other issues - animal welfare from Deputy Gorst. As I referred to earlier, the animal welfare issues are tied-up in another law, the Animal Welfare Law, as well as this on health grounds. Deputy Trevor Pitman: he was not sure that I supported the idea that, or could give a guarantee, animal welfare was at the top of the agenda. Indeed, in looking at the specific schedules, I am not really sure how anyone could come to the conclusion that the animal’s welfare in terms of health is not at the top of the list when we are dealing with them. In terms of ethical issues, I think it is very difficult to get inside the mind of a cow - although on occasions I might be accused of being there - I think there is an issue obviously morally and ethically as to whether or not these things are acceptable, but that said, it is the way of the world. We are a society which is trying to punch above our weight and wants to be accepted as a member of that world. Indeed, on those grounds, it would be very difficult for us to come forward or not go forward with particular legislation for trade that is deemed to be acceptable by many millions, if not tens of millions, if not hundreds of millions, of other persons worldwide,

and then little Jersey comes up and says: “Well, we are not necessarily going to do it because we do not believe in it.” I think that covers all the questions and I put the individual paragraphs forward.

The Deputy Bailiff:

Deputy Tadier has asked that we take Regulation 3 separately, so the vote now is on the adoption or otherwise of Regulations 1, 2 and 4 and Schedules 1 and 2. All those Members in favour kindly show. The appel is called for. I invite Members to return to their seats and I ask the Greffier to open the voting.

POUR: 44	CONTRE: 2	ABSTAIN: 1
Senator T.A. Le Sueur	Deputy S. Pitman (H)	Deputy M. Tadier (B)
Senator P.F. Routier	Deputy T.M. Pitman (H)	
Senator T.J. Le Main		
Senator B.E. Shenton		
Senator F.E. Cohen		
Senator A. Breckon		
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. Martin		
Connétable of St. John		
Connétable of St. Saviour		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Deputy R.C. Duhamel (S)		
Deputy of St. Martin		
Deputy R.G. Le Hérisssier (S)		
Deputy J.B. Fox (H)		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy of St. Peter		
Deputy J.A. Hilton (H)		
Deputy P.V.F. Le Claire (H)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy I.J. Gorst (C)		
Deputy of St. John		
Deputy A.E. Jeune (B)		
Deputy of St. Mary		
Deputy A.T. Dupré (C)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy M.R. Higgins (H)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		

The Deputy Bailiff:

We now come to vote on Regulation 3. Those Members in favour of Regulation 3 kindly show. Those against. Regulation 3 is adopted. Assistant Minister, do you now wish to propose Regulations 5 to 14 and Schedules 3 and 4? [Aside] Did he? We can go back over that. I invite Members to return to their seats and ask the Greffier to open the voting on Regulation 3.

POUR: 43	CONTRE: 2	ABSTAIN: 1
Senator T.A. Le Sueur	Deputy S. Pitman (H)	Deputy M. Tadier (B)
Senator P.F. Routier	Deputy T.M. Pitman (H)	
Senator T.J. Le Main		
Senator B.E. Shenton		
Senator F.E. Cohen		
Senator A. Breckon		
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. Martin		
Connétable of St. John		
Connétable of St. Saviour		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Deputy R.C. Duhamel (S)		
Deputy of St. Martin		
Deputy R.G. Le Hérisseier (S)		
Deputy J.B. Fox (H)		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy of St. Peter		
Deputy J.A. Hilton (H)		
Deputy P.V.F. Le Claire (H)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy I.J. Gorst (C)		
Deputy of St. John		
Deputy A.E. Jeune (B)		
Deputy of St. Mary		
Deputy A.T. Dupré (C)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy M.R. Higgins (H)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		

The Deputy Bailiff:

Assistant Minister, would you like to propose Regulations 5 to 14 and Schedules 3 and 4.

9.3 Deputy R.C. Duhamel:

Part 3 is about approvals and certification. I think a lot of that is straightforward. There are going to have to be the necessary checks and balances to ensure that there is a proper paper record to ensure that the people with the necessary qualifications do have those qualifications and, indeed, are properly approved in order to carry out the services that this law provides for. Regulations 7, 8 and 10, are doing similar things, but this is for the different styles of embryo transfer being in vitro fertilisation techniques. Regulations 11 and 12 are similar in effect to those kind of previously mentioned and lay down requirements for storage of bovine embryos and provision for variation and withdrawal of approval by the Minister. Regulation 13 makes provision for the applicant to apply to the Royal Court, which is important for a review of the decision from the Minister when the approval is refused or, indeed, conditions are opposed on any embryo collection team or production team, or an embryo storage facility. Regulation 14 sets out the requirements for animal health certificates, which may be issued by the official veterinarian and is a condition of the despatch to a member state, as laid down previously. I propose Regulations 5 to 14.

The Deputy Bailiff:

Schedules 3 and 4?

Deputy R.C. Duhamel:

Schedule 3, indeed, is the necessary schedule laying down the conditions for approval of the embryo production teams.

The Deputy Bailiff:

Schedule 4?

Deputy R.C. Duhamel:

And Schedule 4, yes.

The Deputy Bailiff:

Are Regulations 5 to 14, Schedules 3 and 4 seconded? **[Seconded]** Does any Member wish to speak? All those Members in favour of adopting ... the appel is called for. I invite Members to return to their seats and I ask the Greffier to open the voting on the adoption or otherwise of Regulations 5 to 14, Schedules 3 and 4.

POUR: 44		CONTRE: 3		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy S. Pitman (H)		
Senator P.F. Routier		Deputy M. Tadier (B)		
Senator T.J. Le Main		Deputy T.M. Pitman (H)		
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator A. Breckon				
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. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				

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

The Deputy Bailiff:

Assistant Minister, would you like to propose the remaining regulations?

9.4 Deputy R.C. Duhamel:

I would, thank you, Sir. Part 4 is about third country imports. As mentioned earlier, Regulations 15 and 16 state the health conditions that have to be met and the checks to be carried out on embryos imported, as can be done now from a third country. It is not permissible to cherry-pick unfortunately parts of the E.U. legislation governing trade in animals and animal products. This means it is generally down to we either accept the legislation as a whole or we do not. I think we are moving along the path of we are. The industry zone controls described during consideration of Regulations 3 and 4 make the importation of embryos not particularly likely in order to cause massive disturbances to the Jersey breed at home. Controls mean imports can only take place from third countries which have been listed by the E.U. as being of a required health status, and with appropriate controls to meet the standards. In order to verify the compliance, the embryos must be accompanied by all the animal health certificates that we have just discussed, and have to have been subjected to the veterinary checks at the border inspection post authorised for such imports. Border inspection posts are designated entry points for animals and animal products imported to the E.U. from third countries. Border inspection posts are the only permitted entry points and individually authorised for specified animals and commodities. Part 5 is control measures and enforcement. The regulations allow the official veterinarian or any other person duly authorised by the Minister to enter premises for the purpose of checking compliance with these regulations. Obviously we would not expect businesses to be flouting the rules and opening-up the breed to particular disease fronts, or indeed exporting diseases without the proper checks and balances being made. There is also provision to enter premises where there are reasonable grounds for suspecting an offence has been committed contrary to these regulations, and the person entering the premises may inspect relevant equipment and animals and carry out tests and investigations. There are similar powers of

investigation given in the other animal welfare laws. It requires the person in charge of the premises or their employee to provide the relevant information. Regulation 18 requires the holder of an approval issued under the regulations to provide information as and when required by the Minister to monitor compliance. Regulation 19 makes it an offence to contravene Regulations 3 or 4, which govern export or import to member states, or Regulation 15 governing import from a third country. It also makes offences and provides penalties for anyone obstructing or hindering permitted investigation or refusing or neglecting to provide legitimately required information. Regulation 20 states the responsibilities of the office holders and members of corporate bodies, where the offence against these regulations is committed. The closing provision, Regulations 21 and 23, that provides powers for the Minister to amend any reference in regulations to a community instrument by order to ensure regulations may be kept current if changes are implemented by the E.U. We have to be kept up to date. The Minister may, by Order, prescribe fees, which is in accord with the States user pays policy. The final provision cites that the title of the regulations is whatever it is, and gives notice that they come into force 7 days after they are made. It is stated that we are hoping that this particular legislation will be cost neutral, and there is an opportunity for funds to pay for the necessary veterinary inspections on a full cost recovery basis. I think that is probably it.

[15:15]

The Deputy Bailiff:

Regulations 15 to 22 are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak? Deputy Le Claire.

9.4.1 Deputy P.V.F. Le Claire:

I would like to speak. I sense, probably as most Members do, that as usual with legislation of this nature, it can be difficult to get one's attention into the finite detail of lengthy legislation when you are wholly supporting the principles, as I do, as other Members do. The Assistant Minister is weathering, as other Members are, when there are a particularly intricate set of proposals and a lot of work has gone into this because they are regulations and laws. I do not wish to be critical of him, but I would suggest to the Council of Ministers, perhaps, and also to Privileges and Procedures, that when briefing notes are circulated to Ministers in accompaniment of legislation such as this type, that it might serve the Assembly better if those briefing notes were circulated to States Members and we could just raise issues based upon those briefing notes, because I have sat through countless debates and primarily I do not point the finger of blame in the Assistant Minister for Economic ... it was a Freudian slip. They do often come from Economic Development and areas of that nature with lengthy legislation, comprehensive briefing notes. Sometimes we surge forward moving items *en bloc* and, in this particular instance we have not been able to, quite rightly probably because of the fact that it is important, we do have members of the agriculture industry in the gallery, and obviously we do have to take cognisance of the other industries in this Island. But I would suggest, having stood to raise this, that it would serve the Assembly's time better in the future if briefing notes were circulated when they have been circulated to the Assistant Ministers, rather than them sitting there and reading them out to us, we could read them ourselves and we could just raise questions on the issues.

9.4.2 Deputy A.T. Dupre of St. Clement:

I just wonder how often the inspections are going to take place and what sort of fines can be imposed on people who are not obeying the rules?

9.4.3 Deputy M. Tadier:

I do not know if this is the point to raise the issue, but the reason I voted against initially is I have concerns about the implications of this kind of practice. Clearly, any milk or any beef that comes from such artificially fertilised embryos cannot be classed as being organic. I think that is the case.

I would like to hear back from the Assistant Minister on whether those products, first of all can be called organic, and secondly, what the safeguards are in place because I know you can buy organic Jersey milk, but how is anyone to know whether or not that particular cow, that milk has been mixed up with milk from other cows. If one chooses a lifestyle where one wants to endorse and consume organic food, which I believe generally Members seem to be in favour of an organic market. I think the issue also Deputy Trevor Pitman tried to raise earlier about economics simply superseding the natural process. I think the Assistant Minister has already drawn attention to the fact that cows in Jersey are not living as long as they did in the past. There has to be a reason for that and maybe the Assistant Minister can embellish on that. But I suspect what we have seen is a very professional job and a very professional presentation from the Assistant Minister, but I cannot help feeling that he has reservations when he talks about Jersey trying to punch above its weight, and the whole ethical argument not being for today. I do not agree. I think the ethical argument and the moral argument is today and it is a shame that we have not heard from many Members of the Assembly who profess to be Christians, when we are told we are supposed to be guardians of the planet, but quite irrespective of that, whether or not you come from a Christian tradition or not, we know that we are here and that there is a very finely balanced ecosystem in the world, and that I am looking forward to the day that simply in Jersey we start to export and import human embryos because we can simply make a few quid from doing it.

9.4.4 The Deputy of St. Martin:

I just may help out Deputy Tadier, because I think the big difference today is that possibly in his grandfather's time, who I worked with, it was very much a way of life. Farming was a way of life. You knew all your cows. I know the Constable of Trinity will concur, as indeed will Deputy Le Main, where you had a name for every cow you knew and they had so many lactations, and then that dreadful day was you took them down to the abattoir. It really was a sad day because you are going to see the end of it. Those cows could have lived for 17 or 18 years. But now what we have is an industry. It has to be streamlined and no doubt it is just a fact of life. I would rather go back to those lovely old days where you had your cows, all had their personal names. But now it is an industry and for the industry to survive it must be very much looking to see maybe half a dozen lactations and then unfortunately that is the end of that cow's life. It is a fact of life. We have moved on. I would like to go back, I am sure some of us would like to go back, to those good old days, but we never will go back to those good old days, so really it is not a case of being cruel, it is just a fact of life. The cows no longer have a life probably after about 5 or 6 lactations. The gentleman up the top in the gallery may well be nodding yes or no whether 6 or 7 lactations is about the maximum. It is a fact of life, we have moved on, we are now looking at an industry rather than a way of life.

9.4.5 The Deputy of St. Mary:

I am very concerned about Article 15, page 18, about the rules for the importation of embryos from a third country. Of course this goes both ways and the whole point of part 4 and part 5 seems to be to make sure that, going past what the Deputy of St. Martin just said, okay, we are in an industrial situation, even then we have to safeguard the prime health status of the Jersey breed in its home. That has got a very big value. Putting it at risk is a serious matter, and it seems to me that exporting from here can be relatively easily controlled. As the Assistant Minister has pointed out, there will be a user pays set up with an independent vet inspecting, having the right to inspect, and so on, and one has confidence in the breeders in the Island anyway. There is a kind of knowledge that that is going to be or should be all right, and we certainly should not be threatening our own industry. But when we come to importation from a third country the alarm bells go ringing because there we are relying on the E.U. to vet entries into this country of embryos, which will then become part of the Island herd. I just wonder whether there has been a proper risk analysis of that, whether the Minister's department knows what the risk is of embryos crossing into the E.U., what these border controls consist of at the point of entry into the E.U. and then, as I seem to see in the

explanatory note, when it comes on through Heathrow there is another border inspection and so on. We all know these border facilities are under pressure. They are under pressure from God knows... terrorists, these days, let alone having to find the staff to deal with embryos and so on. I just find this a very risk laden area. I would like assurance from the Assistant Minister that this has really been gone into properly, because I do not see the evidence in this document, but maybe he can reassure us all.

9.4.6 The Connétable of St. Clement:

Just briefly, what the Deputy of St. Mary does not seem to have grasped, today it is perfectly possible and legal for a dairy farmer to import embryos from a third country. The difference is, as of today, there are no controls, no health checks, no regulation whatsoever. What the Assistant Minister is proposing is to bring in controls on any imported embryo. But also what the Deputy does not seem to understand, no embryo has ever been imported, despite the fact that there is no restriction on so doing, because it is not in the dairy farmer's interest so to do, because any cow born from an imported embryo cannot be entered into the *Jersey Herd Book*, and if there is one milking cow in a herd that dairy will not accept the milk from that herd. The rules of supply are quite clear. The only reason this article is in here is because, as the Minister said in his comments to the regulation, we cannot pick and choose which regulations we introduce. The fact is, we now have some control over any embryo which might be imported, but there is no reason why any embryo should be imported because it is not in the interests of the Jersey dairy farmer.

The Deputy Bailiff:

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

9.4.7 Deputy R.C. Duhamel:

Deputy Le Claire mentioned how helpful it might have been to have had the same briefing notes that I had sent to all Members. I think that is a valid point but in mitigation and in defence of the department, I think meetings were offered to all Members at which the ... what was written in those notes would have been offered and shared with Members had they bothered to attend the meetings. The meetings were attended. We did not have a full take-up and those who were essentially interested, or more interested than others, turned up and had the benefit of the briefing. But I think as a general point, yes, if indeed we are trying to raise the level of debate in this House it has to be done on the basis of knowledge, and if background information is not fully shared then some of the things that perhaps we say or have to say in the House might not make a lot of sense. I do take that on board fully. Deputy Dupré wanted to know about the frequencies of inspections. It is down to the risk, and at the moment it is difficult to pinpoint to say that they will happen every Thursday afternoon, or whatever, and indeed probably if they happened every Thursday afternoon you would probably find those who wish to flout the law doing it on a Monday or a Saturday. I think it is a bit difficult to specify the absolute frequency of the inspections other than to say it is the intention by the legislation to allow for a compliance to be enforced or ensured by these inspections. She also asked about the fines imposed, and I am not sure about that, to tell you the truth. I think it is ... I did not see it and perhaps some other Member who has read it a bit more closely would be able to tell me what the level of fines ... **[Aside]** Is it? That is right, level 4, beg your pardon. It is level 4, there you go. Deputy Tadier raised an interesting point about whether or not the taking of embryos and the transplantation of embryos was indeed an organic process. As far as I am aware, I thought the designation of the organic labelling was pretty much down to animal husbandry, and the extent to which what the animal ate or was fed or, indeed, the amount of hormones you did not ... or artificial kind of this, that and the other, you fed to the animal over and above where the animal came from via hormone treatment. I think there is probably a good debate to be had as to whether or not organic could be properly applied to any animal that has come from an embryo transfer. Certainly organic means what it means, it is based on carbon. It has overtones of naturalness and all the rest of it, but I think some of those overtones are not necessarily the definitions that perhaps

would be applicable in a court of law. Cows not living as long as they did in the past: yes, I think the Deputy of St. Martin indicated some of his experience in the past and, indeed, I have had experience of cattle as well. It would be nice for the old ladies to live as long as they want and to put them out into pastures for the rest of their lives until they die of natural causes, but unfortunately the world we live in does not treat the animals in that particular way, and it is not just cows. It is sheep, it is goats, it is horses; it is even people, potentially. I think there are interesting ethical questions and moral questions that should be discussed by this House, and I think today is probably not the time or the place to discuss ...

The Deputy Bailiff:

Let me give you some guidance, it is definitely not today. [Laughter]

Deputy R.C. Duhamel:

Thank you for that helpful advice, Sir. That said, I do think that Deputy Tadier is absolutely right, that perhaps there should be a place in this Assembly to discuss whether or not, as a society, we wish to treat our animals or our people, or whatever, in a slightly different way to as is most economically beneficially, as is the want of other places. Those debates generally have not taken place in the States Chamber and perhaps the P.P.C. could consider bringing propositions of that nature to the Island so that we could all be supportive of pulling in the same direction.

[15:30]

It is interesting to note that if you are a Bible reader then man was given dominion over animals, but there is nothing there that said that we should not embark along embryo transfer or anything else for that matter. So it is a difficult one. The Bible is probably silent on that. The Deputy of St. Mary on Regulation 15, as referred to by the Constable of St. Clement, the law is in place at the moment for embryos, if they have met the requirements of the law from the E.U., to come into the Island. We had a similar debate with the importation of semen. Exactly the self same issue was raised as to whether or not in setting up a system that allowed importation of semen, whether or not the exclusivity of the Jersey herd would, in any shape or form, be disadvantaged. I think generally the support of the House was that if a reliance was placed on the authorities and the record-keeping authorities from elsewhere then, indeed, that was probably as far as we could go, and I think the *Herd Book* in allowing semen imports or whatever, does go back over a number of generations and any genetic material that is coming to the Island, there has to be an evidence-based proof to show that the things that are being claimed in terms of the exclusivity of the genome or whatever, for a particular breed, is really true. Should we support this? I cannot really see any other way forward. If we did not accept E.U. legislation and other people's record capacities, then indeed we would probably be not allowing anybody to come to the Island and for us not to be doing anything. I think that is probably unrealistic. Again, along the lines of Deputy Tadier, I think there are probably ethical and moral questions that need to be addressed in a wider forum, but ...

The Deputy Bailiff:

But not in relation to Regulations 15 to 22.

Deputy R.C. Duhamel:

Absolutely right, Sir, and thank you for finishing my speech. I would like to propose the final regulations.

The Deputy Bailiff:

If you have finished your speech ...

Deputy R.C. Duhamel:

I have.

The Deputy Bailiff:

You have?

Deputy R.C. Duhamel:

Have you finished, Sir?

The Deputy Bailiff:

The appel is called for on Regulations 15 to 22, and I invite Members to return to their seats. I will ask the Greffier to open the voting.

POUR: 40		CONTRE: 3		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy S. Pitman (H)		
Senator T.J. Le Main		Deputy M. Tadier (B)		
Senator B.E. Shenton		Deputy T.M. Pitman (H)		
Senator F.E. Cohen				
Senator A. Breckon				
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. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

Deputy R.C. Duhamel:

Could I just thank all Members for participating.

The Deputy Bailiff:

Do you move the regulations in Third Reading?

9.5 Deputy R.C. Duhamel:

I do, Sir, yes.

The Deputy Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak on the regulations in Third Reading?

9.5.1 The Deputy of St. Martin:

Just to make a few comments, particularly just compare today's debate with a very heated debate we had 2 or 3 years ago, and certainly, as a son of a cattle breeder, I know how much pressure I was put on, and I am sure other Members here were put under pressure about supporting the importation. I always believed we should import because that is the way forward as we go, but again there were serious concerns expressed during that last debate and I think, to be fair, apart from the odd hiccup, those concerns have not come to fruition, and I think we have got to give a lot of credit to the dairy industry itself. It has kept its word [**Approbation**] and it has self-policed itself. It has always sought to build not destroy its industry. Again, the results we have now got, we still have a very viable industry within the Island, which is respected, acknowledged and appreciated and valued worldwide, and I think that is very important. Today is just another chapter, the chapter in the history of the Jersey breed. I think there are very few, maybe 25, 30, maybe 35 cattle breeders left in the Island, and I think on behalf of the House we wish them every success to continue, to keep that Jersey breed alive. The way we can do so is by maintaining our support and be forward thinking. When the industry does come forward with suggestions and ideas, as indeed we have seen today, that we give it our support, and I shall be giving it my support. Thank you.

The Deputy Bailiff:

Does any other Member wish to speak? Assistant Minister, do you wish to reply?

9.5.2 Deputy R.C. Duhamel:

No, Sir, just to thank everybody for participating as much as they have been able to. The Deputy of St. Martin is absolutely right. It does represent another chapter in the book of the Jersey herd, and I just hope that there will be many more chapters written to take the breed to higher and higher heights.

The Deputy Bailiff:

The Community Provisions (Bovine Embryos) (Jersey) Regulations are proposed in Third Reading. The appel is called for. I invite Members to return to their seats. This is going to become known as the Deputy Maçon request, I think. [**Laughter**] I ask the Greffier to open the voting.

POUR: 40		CONTRE: 3		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy S. Pitman (H)		
Senator P.F. Routier		Deputy M. Tadier (B)		
Senator T.J. Le Main		Deputy T.M. Pitman (H)		
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator A. Breckon				
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. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy 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 J.M. Maçon (S)				

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

The Deputy Bailiff:

We now come to the Health Insurance Fund (Miscellaneous Provisions) (Jersey) Law 201-, P.125, and I ask the Greffier to read the citation of the draft.

The Deputy Greffier of the States:

Draft Health Insurance Fund (Miscellaneous Provisions) (Jersey) Law. A Law to withdraw money from the Health Insurance Fund for 2011 to enable the withdrawal of money from that fund for 2012 and to authorise the withdrawal of certain expenses from that fund.

The Deputy Bailiff:

Minister, do you wish to propose the principles?

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

The proposition before Members today can be thought of in 2 parts. I will firstly set out my reasons for proposing to transfer £6.13 million from the reserves of the Health Insurance Fund in 2011 and, as yet, an unspecified amount in 2012. I shall then move on to the matter of ensuring that preparations to introduce effective governance and systems to ensure appropriate standards of care in primary care, can be adequately resourced and progressed in a timely manner in accordance with P.36 approved unanimously by the States in May of this year. I do not bring forward the proposal to transfer monies out of the Health Insurance Fund lightly, however I can assure Members that I am convinced of the need to do so. This transfer of £6.13 million, as described in

Article 1 of the draft legislation before Members, is entirely in accordance with the Business Plan agreed by the States in September this year. The total consists of 3 parts identified in the Business Plan. The first is £4.9 million to fund growth in Health and Social Services expenditure, in addition to £930,000 described as a cost transfer in respect of primary care services provided by the hospital. My colleague, the Minister for Health and Social Services, will describe for Members the very vital existing services and essential growth that this funding will enable in 2011. Added to these 2 amounts, is £301,000 to remove the need to increase user pays charges in respect of diabetic supplies and dietary oxygen and incontinence products. Article 2 of the legislation will allow the Minister to bring regulations to the States next year once an appropriate sum has been identified and agreed for transfer in 2012. There can be no doubt of the very real need for a full and comprehensive assessment of primary and secondary care services delivered in the Island and the development of a healthcare strategy. Without that healthcare strategy none of us can say for sure what services should be provided, who should provide the services, how much the services should cost, never mind how they should be paid for. Against this background, forcing Health and Social Services to make cuts of the magnitude originally envisaged, and at the pace required to balance the States' books would be foolhardy. Equally so, asking the taxpayer for more money without having done the work to justify why, is not acceptable. However, it is important that we do balance the books. It is clear to me that we need to provide breathing space to the Minister for Health and Social Services and her team to develop a comprehensive healthcare strategy for the Island with the appropriate professional expertise and, importantly, in full consultation with Islanders. In the meantime, Islanders and their employers have been contributing into the Health Insurance Fund for the provision of primary care services. While the long-term sustainability of the fund will need to be addressed once we know the roadmap for future health services, the fund currently has in reserve a total of £80 million. The Health and Social Services Department currently funds a number of primary care services delivered directly or through third party partners. Using the primary care fund for 2 years, only to meet the costs of these primary care services while the long-term sustainability of funding health care is resolved, allows Health to then meet the vital growth necessary in secondary care services in those years, without adding to the States deficit in those years. Surely it makes sense to use a limited, yet admittedly significant, amount of our savings in recognition of the fact that Health currently funds primary care to allow us time to undertake the work necessary to decide once and for all what healthcare provision should look like, what it should cost and how it should be paid for. I would agree that this strategy is long overdue but that it is not a good reason for us not to do the work properly now. Seeking recrimination and passing blame around will not help. We must demonstrate leadership and move forwards. However, I cannot sign-up to an open-ended commitment, and it is for this reason that, in partnership with the Minister for Health and Social Services and the Minister for Treasury and Resources, I have put forward a proposition of a strictly time-limited nature: one that allows the savings in the Health Insurance Fund to be used to fund growth in Health for 2011 and 2012 only, and only with the express agreement of Members and only to the extent primary care services continue to be delivered through the Health and Social Services Department over that period. In addition, I have only agreed to do so based on the assurances of the Minister for Treasury and Resources that he will tightly control the release of the sums transferred once he has confirmed that expenditure relates to primary care services. I know that some fellow Members, in particular my close colleague at Social Security, will put up very strong arguments to say that the money in the Health Insurance Fund was not collected for the purposes of propping-up the Health and Social Services Department and that we should not use our (that is Social Security's) funds to bail out another department. I cannot disagree with the strictly and legally correct statement that the contributions have been collected for anything other than those items strictly prescribed by legislation. Indeed, I fully support the sentiment that funds can only be used for matters intended. It is for this very reason that this decision must rest with States Members.

[15:45]

However, I also believe that those who contribute to the Fund generally see matters a little differently, believing that they have contributed to mitigate against the costs that they face in accessing primary care services generally and would require us to deliver that assistance in the most effective manner. There are other Members who strongly believe that there are other demands that should be satisfied from the Fund, such as dental or ophthalmic benefits, the potential for which exists within the health insurance legislation. Those Members may believe that agreeing to this proposal will bankrupt the Fund, such that these other pressures cannot be funded. That is not the case, simply because this is a time-limited deal that draws upon the reserves of the Fund yet does not affect the long-term annual position of the Fund. Other than those 2 years, it commits the States to no additional expenditure without fundamental changes to legislation and States debate. Likewise, there are other Members who want to see a full debate of healthcare strategy and direction ahead of any funding being committed. I entirely agree with this principle which is why, again, I am only prepared to support this holding position that commits us to nothing beyond those 2 years. My commitment is strictly time-limited and I confirm to States Members that I will keep the pressure on for the delivery of a strategy and a roadmap for the future. I turn now to Article 3, the second part of the draft legislation. Members will recall agreeing unanimously to P.36 in May of this year, as I have said previously. The report that accompanied that was, in itself, a straightforward proposition to increase the medical benefit for G.P. consultations represents a breakthrough towards the modernisation of primary care service delivery in the Island as we start to play catch-up with the U.K., not only in delivering an effective government regime for G.P.s in line with the requirements of the G.M.C. (General Medical Council) but, for the first time, also highlighting changes to be made to the system of remunerating G.P.s in the Island, such that payments will reflect not only the number of consultations the G.P. gets through but also the quality of care delivered. This way forward has not been imposed by Government but has instead been undertaken in partnership with G.P.s, heralding a new era of partnership working. I applaud the Health and Social Services management for continuing to involve G.P.s in representing themselves on the Corporate Management Group for Health and Social Services. All doctors wishing to practise medicine in Jersey must meet the requirements of the U.K. General Medical Council to establish a framework of local accountability required by the G.M.C. Key but limited legislation will need to be drafted. This will require G.P.s in Jersey to participate in, among other matters, annual appraisal, local clinical governance, audit and complaints procedures. It will also require G.P.s to be in good standing with the G.M.C. These regulations will form part of the updated primary care law and will be brought to the States in due course for the consideration of the Assembly. The regulations will establish a small team, led by a primary care responsible officer. This will allow arrangements to be put in place, consistent with those used for G.P.s in the U.K. I am satisfied that a locally-based team of this nature is not a nice-to-have or an attempt at empire building, but is a necessity to meet the requirements of the G.M.C. The strategy for governance in the Island is not to replicate layers of regulation but to use the systems in place with partner organisations in the U.K., and provide only the barest minimum required locally by the G.M.C. itself. As I explained in P.36/2010, the expectation is that the costs, which will not exceed £200,000 per annum, will be met from the Health Insurance Fund. However, ahead of bringing forward that legislation, funding is needed to develop the systems and arrangements to introduce governance locally. Accordingly, this legislation proposes that it be made explicit that the associated development costs will be met from the Health Insurance Fund in line with the intentions of P.36. The report within P.36 not only laid out the high level plans for introducing improved governance of general practice in Jersey but also a framework for improved and demonstrable quality of primary care through the introduction of payments dependent upon performance against a set of clinical and organisational quality standards. Providing a modern primary care service would be ineffective without the establishment of a new central repository of patient records that will enable the compilation of health records and disease registers at a single location, will enable the provision of robust data to guide the future development of health strategy and policy and it will provide patient records to be accessed electronically by the G.P. Out-of-Hours Co-Operative and,

therefore, delivering a significant improvement in the quality of care that can be delivered by the G.P. Out-of-Hours Co-Operative. It is anticipated that this system will eventually be integrated with the new Health and Social Services computer system. P.36 again set out that this central repository of G.P. patient data would also be funded from the Health Insurance Fund. An exercise in respect of scope and feasibility of such a project is currently underway. I hope that Members can agree to these principles, one of which furthers commitments made to move forward the governance of primary care. The other provides a pragmatic solution to help fund existing primary care services performed by Health, thus ensuring that urgent growth in Health and Social Services is undertaken in accordance with the approved Business Plan while a strategy for healthcare is progressed. I maintain the principles.

The Deputy Bailiff:

The principles are proposed. Are they seconded? [**Seconded**] I call on the Minister for Health and Social Services.

10.1.1 The Deputy of Trinity:

The Health and Social Services Department funds a number of primary care services, some of which are provided directly and some through third parties and, in particular, Family Nursing and Homecare. Some of these are included on page 9 of the annex. First of all, I would like to pay tribute to those, especially Family Nursing Services, for the excellent primary care that they provide to Islanders. In order to provide my department with the full value of its proposed budget for 2011, it is necessary to bring this proposition to draw on funds currently held in the Health Insurance Fund. The 2011 Business Plan identifies a £4.9 million contribution from the Health Insurance Fund to fund growth in Health and Social Services expenditure, and a further £930,000 for primary care service cross-transfer from the fund as part of the Health and Social Services 2 per cent comprehensive spending review proposals. It is further proposed that an additional £301,000 should be met by the transfer from the Fund to partially fund diabetic supplies, dietary, oxygen and continence products. This would remove the user-pays element from within the C.S.R. 2011 proposals. The draft law provides a transfer of funds in 2011 for the total sum of £6.1 million. Article 2 of the draft law allows the Minister for Social Security to return to the States and seek a similar transfer in 2012. The value of this transfer will be determined during 2011 and would need to be approved by this Assembly before it can take place. But there is one particular important caveat. This is a temporary measure only. I must stress, it is not an open-ended proposition. It is not a blank cheque. There is no provision made for any further transfers and I have made a very clear commitment to address the issue of primary care health services within this 2-year period.

[17:15]

Legislation to replace or substantially revise the current Health Insurance Law will be brought forward before 2013. In the interim, my department have consulted on and delivered - and you will be delivered - a new strategic roadmap that will shape the future of health and social care services in the Island. This is vital. As I said this morning in Questions without Notice, this is an important piece of work and we need to move forward with it. The transfer enables the department to manage the short-term financial pressures while this strategy is developed. Given the continuing pressures on health services, this is likely to include a requirement for increased contributions to fund a modern primary healthcare service. I wish to ensure Members that the release of the £6.1 million to the Health and Social Services Department in 2011 will be tightly controlled by the Minister for Treasury and Resources. The Minister for Treasury and Resources will only sanction the release of funding upon receipt of evidence from the Health and Social Services Department confirming expenditure in respect of primary care services. The financial implications are for the years 2011 and 2012 only, and will be met within the accumulated surplus in the Health Insurance Fund, which amounted to over £77 million as at the end of last year. The balance of the cost of primary care services administered through Health and Social Services will continue to be funded directly from

the Health and Social Services Department revenue budget. The 1967 Health Insurance Law medical benefit is linked exclusively to services provided personally by G.P.s; so there has been a tendency to develop and separate primary care services from within Health and Social Services Departments. This has meant that care provided by G.P.s and other community-based services have evolved in entirely separate ways and they remain poorly integrated, despite similarities in the service they provide. We need to change. We need to move into the 21st century. We need the G.P.s. They are fully supportive of this amendment. A lack of integration has hindered improved outcomes for patients in a number of areas, including that of disease prevention. If this proposition is not approved there will be big issues for the primary care governance infrastructure. The G.M.C. would not be able to be recognised as a U.K. equivalent. This would mean our G.P.s could not even be considered for revalidation and would lose their G.M.C. licences to practice. Jersey could be left with hospital-only care. This would be an unsustainable situation. If you need examples of how the primary care bodies should change then the answer to the waiting list comments that I sent yesterday to Members is a brief outline of how things could be improved with the waiting list times. In May this year the States Assembly took the very important first step towards establishing a framework for the improvement of health and primary care for the community, developed in partnership between the States and the G.P.s, by unanimously agreeing to P.36: an increase in the medical benefit from £15 to £19.

[16:00]

The next step will enable my officers to develop a longer-term strategy for Health and Social Services that will shape the future development of both hospital and primary care services that will be safe, of appropriate standard and offer value for money and I hope that is what we all wish for. The roadmap is an important piece of work but we need to have this 2-year support with our funding to be able to get all the points and the roadmap through consultation to enable us to move forward. I would like to thank the Minister and his department for working closely with my department and my officers in bringing forward this proposition and I hope Members will support it to allow us to move forward to the benefit of health for every single one of us.

10.1.2 Deputy A.E. Jeune:

I stand today to address the Assembly as the Deputy of St. Brelade No. 1 District. I am not here for myself. I am here as their representative. I have, from the very day that I was aware of this proposition, been absolutely honest with the Minister for Social Security, the Minister for Treasury and Resources and the Chief Minister that there was no way my conscience would allow me to agree a raid on a ring-fenced fund. Since its inception, the Health Insurance Fund has received monies from employees and employers. They have contributed in the knowledge that this was protected: a ring-fenced fund; a fund that would give assistance to the costs of their G.P. contacts and their prescription costs. While the law allows for medical, dental, ophthalmic services and prescriptions, it is the medical service and prescription costs that have been funded to date. If the States of Jersey ever did anything right it was to ring-fence the funds that provide for our pensions and, as most people view it, our visits to the doctor. Last December this fund took on liability for laboratory costs of insured people who have their blood tests sent by G.P.s to the hospital laboratory for analysis. At that time I said - and I quote from Hansard part of it: "We are simply taking over a cost which has been previously funded by the taxpayer. So this is a win/win for the Health Department. The Minister for Health and Social Services says the costs have been borne by her department, but they will have been paid annually in the Health Department's budget." Following on from what I said, Deputy Martin misquoted me when she said I had said that the taxpayer is paying for this and asked: "Does the taxpayer not pay into the Health Insurance Fund every single week?" Well, you may well pay into the Health Insurance Fund but you may not necessarily pay tax. The facts are now as they were then. The Health Department has been funded to provide these services. They are not giving back to the Minister for Treasury and Resources £6 million-plus. They are keeping that. They are not doing anything new and they are demanding,

or will probably demand next year, a further £6 million-plus from the ring-fenced fund that was not set up for purposes that the Health Department wants this money for. After all, we know what happens to the monies allocated to the prison mental health, but I will remind Members. In 2008 £200,000 was allocated in line with the business case. However, due to cost pressures elsewhere, this money was redirected. This proposition today comes about as simply a case of Health not having balanced their books and, therefore, looking around, taking sight of the Health Insurance Fund and saying: "Oh, look, here is a pot of money. We will have that." Because Health can shroud-wave instead of managing properly and taking difficult but good management decisions, they expect the Minister for Treasury and Resources and the Minister for Social Security to roll over and cough-up. But the law does not allow for that. This is a ring-fenced fund. But: "Well now, we could do it if we changed the law." So here you have it; a change to that law. Where is the Scrutiny Panel? What are they doing in respect of protecting ring-fenced funds? I look forward to hearing from them in the course of this debate. Is this Assembly prepared to go on record that they have voted a raid on a ring-fenced fund because it was in a healthy condition? I am not and, as I have said, my conscience will not allow me to do so. At the risk of being called paranoid, I would go so far as to say that when we decided to let samples from G.P.s that were sent to the hospital laboratory for testing last year - I think P.184 or 185 - that was Health just putting their little finger in the pot as a tester, so to speak, before going in with their great fist for a great deal more as they are doing so here today. Have we forgotten P.36 - although the Minister did remind us in his introductory speech - which we debated in May? While I supported that basically, it was giving G.P.s an extra £4 for each visit made by persons who were covered under the Health Insurance Fund for a period of 2 years. But the report also made it very clear on page 9 of P.36/2010 that while the Health Insurance Fund currently has a healthy accumulated surplus in excess of £76 million and is running at an annual surplus, existing pressures upon the fund are expected to result in an annual deficit within 5 years. It is estimated that the extra investment proposed above will bring forward to 2012-2013, the year in which the Fund will move into annual deficit. Given that the accumulative surplus is sizeable, the proposals mean that the Fund would not be exhausted until the early 2020s. Estimates are subject to actuarial review. Clearly, before 2020 this would need to be addressed and contributions increased. So now we must ask ourselves: "When will that be?" One thing is for sure; it will not be long because right now we are looking at £6 million-plus, times 2 remember. It is not like me to say in a paragraph that which can be said in a sentence, but I do want Members to understand what is being put forward today, and I expect there will be strong opposition coming along to discredit what I am saying but not surprising, given that from day one I have been honest in that I will oppose this proposition. In the report it states that the law specifies that the Fund is to use the contributions received to meet primary healthcare costs. Well, my search of the law has not shown me the use of the words "primary healthcare" anywhere. It really was not a term used when the contributions were introduced. While it goes on to say that primary care services are delivered by the hospital, what are they? What is done? What are those costs? Could it be provided more efficiently and effectively elsewhere? Senator Ferguson stated during the Business Plan debate a few months ago: "Now, what concerned me is that this is like Court and Case Costs. There is too much of this furtive raiding of funds without a plan and based on figures which I have grave concerns about. Further down the report is reminds us that this draft law provides for a transfer of funds in 2011 in the sum of £6 million-plus and allows the Minister to return to the States to seek a similar transfer in 2012." Here is what I said earlier about times 2. In the next paragraph it states: "There is no provision for any further transfers and the Minister for Health and Social Services has made a clear commitment to address the issue of primary healthcare services within this 2-year period." Well, how many times have you heard about *New Directions*? Probably a great many more than I have because I think, to date, it has been seen by 4 Ministers for Health and Social Services. So I am not holding my breath. Page 5, paragraph 2: "The ring-fencing of social security and health insurance funds is of paramount importance and the agreement with the Minister for Health and Social Services to propose this draft law has not been undertaken lightly. However, given the ongoing requirement for additional funding across primary and

secondary healthcare, the transfer of agreed sums to be allocated to the funding of specific healthcare services currently funded by the Health and Social Services Department is considered to be reasonable in the circumstances. It will allow funds to be released from existing H.S.S.D. (Health and Social Services Department) budgets to meet the cost of essential growth in Health and Social Services Department-funded areas as set out in the 2011 Business Plan.” So they carry on regardless of costs, without clear detailed business cases, without good timescales, and the Minister for Health and Social Services, when she spoke a few minutes ago, said that there is a programme of work. So detailed business cases without good timescales, without giving outcomes, often not delivering what they say they will. They have had an Information Services Department for about 20 years, yet we do not seem to be able to get any good information when we ask for it.

[16:15]

This morning we heard the Minister for Health and Social Services say that monies for growth are in fact going to be used for recruitment, terms and conditions and middle-grade doctors, if I heard correctly; so not, as we may have thought, all the money going to hands-on medical and surgical care. We also heard the Minister for Health and Social Services say that they are getting an income from persons who are receiving care but are not covered under reciprocal health agreements, but we do not know how much that is. As for the Minister for Treasury and Resources tightly controlling the money if you decide to give it to him from a ring-fenced fund, well, why does he not use his reserves, which are not ring-fenced, instead of using the reserves of the ring-fenced Health Insurance Fund if he believes that is so important? What would his Fiscal Policy Panel say about dipping into ring-fenced funds for another purpose? Regulation and quality standards are also in the report. I thought that had been covered under P.36/2010, or do we now need more money in order to establish a team led by a primary care responsible officer, et cetera? So here we go; empire-building perhaps? While I am on the subject, what is happening about getting some savings by sharing some of these posts with Guernsey? My guess: very little. I hope someone will prove me wrong. I think I have gone on long enough. This is so very frustrating. How you can change a law to get money out of a ring-fenced fund just defies belief. Today the Health Insurance Fund; which one next: the Pension Fund? I leave Members to think about that when they decide how they are going to vote, remembering that this is money their constituents have put into what they believed was a safe and secure fund. **[Approbation]**

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

I first of all need to clarify that I declare that I am a diabetic. I have a few needles and what-not in the course of a year, but that is it. The rest of the time I am being cared for very well by the primary health care of my doctor, and I am with you today because of that. There is one other States Member who is not in the House and, therefore, I feel as though I need to say a few words on behalf of the diabetics and the Diabetics Association as I have knowledge, if that is okay with you, Sir.

The Deputy Bailiff:

Only if it is relevant to this proposition.

Deputy J.B. Fox:

Very relevant, Sir. Very relevant. I think I would first like to say that I personally have been a diabetic for many years; probably twice as long as I knew about, which is not uncommon in this Island. I have also been involved in the Diabetics Association for many years and at one time was a caretaker chairman during a period. I was also on a research group for a charity that was designed to promote the prevention and identification of people that had diabetes in Jersey. Hence a lot of work and a lot of fundraising was done and I shall just briefly touch on that, if I may. At this present time the people that suffer with diabetes especially - and they have expressed this through Diabetics Jersey - are very concerned about the comprehensive spending review and the

proposed 40 per cent reduction in the Diabetes Centre budget of £173,000 per annum affected, mostly, the 750 diabetics treated with insulin. Therefore, that is the reason that they wrote to the Minister to ask for it to be challenged; because of the seriousness of what the effects are. In brief, there are around 3,500 known diabetics in Jersey of which approximately 20 per cent (750) are treated with insulin. The majority of these people use the supported subsidised needle testing strips and lancets. I will not go into all the details, but basically the Association has offered to suggest that this support be reduced by £15,000 a year, which should cover the first year's requirement of this review. So they have gone some way to do their bit. The proposed reduction in this support has been calculated by Dr. Peter Bates, who is responsible for the Diabetic Centre and other things, to be at a cost of £950,000 per annum for patients treated with insulin or other needs that are tested frequently, such as for pregnant women. The professional staff know and are fully aware that the condition of diabetes, if it is not controlled, is a major cause of kidney failure and thus dialysis, amputations, heart attacks, congenital malformations, blindness and strokes; all of which I am personally trying to avoid with my treatment, which so far has been successful. All of these have been averted by constant monitoring by the patient, with regular help from the primary practitioners and the centre staff where appropriate. If these costs and more serious conditions are to be prevented then obviously it is essential that the funds are available for it. If people are not able to receive the treatments then, of course, many of these people would not continue to play an active part in the community, continue to be able to work and would be a further drain on the Island. The charity that was set up, Diabetes Jersey, has supported diabetes by just under £1 million over the last 10 years. That is a group of people that I was one of and, through a tremendous campaign, that has been very successful in reducing the effects of diabetes by identifying those people at the early stages, et cetera: the most successful screening programme undertaken by Dr. Bates at just under £400,000, subsidising the refurbishment of the new Overdale Centre at £200,000, and annual direct support to boost services which the department cannot afford itself to mention but a few. I think that is all I need to say on this particular subject; just to say that when I first was involved in this type of work and prevention I was on a police motorcycle. **[Members: Oh!]** I was required, on occasions to go to the hospital to get some medicine to take it within 4 minutes to one of our policemen, where the police surgeon gave the necessary medication that kept him alive and working, but on occasions needed that type of urgency. I was also involved with my family in supporting the Kidney Patients Association, which at that time had 6 patients. I suspect they have got well over 300 now, and it illustrates clearly that if we are going to do the prevention through the care that is being proposed by the primary care service then it is going to need some pump-priming to be able to get it going, like most things. I would suggest to you this is the only pump-priming that is on the table today and, therefore, I will support this proposition because it is a lifesaver to so many people, and it is going to save us an awful lot of money and a better quality of life for so many of our Islanders in the short, medium and long term.

10.1.4 Deputy T.M. Pitman:

I am glad we are talking about health because last month I found myself agreeing with Senator Ferguson and today I found myself agreeing with a lot of what Deputy Jeune said. So perhaps I need to get my mental faculties checked out. But, seriously, I fully support moves that push us towards or indeed maintain absolutely top-notch healthcare. Indeed, if I did not feel that way already, losing my dad like I did a few weeks back ... something like that really focuses your mind on to the value of this. Nevertheless, thinking about him - I mean he was 82 when he died - and his sort of generation and those younger indeed, listening to Deputy Jeune I could not help think too what those people had paid in over many years of work and effort and indeed, as the Deputy said, something that is ring-fenced. So I would echo that but then, on the other side of the coin, what I really wanted to flag-up was what seems to me to be the ideological schizophrenia that is evident within the Council of Ministers because certainly, when I listened to part one of the Minister for Social Security's speech, if you changed a few words then he seemed to me to be making an absolutely brilliant speech for a common sense approach to adopt a holding position and instead of

allowing us to adopt a hugely damaging increase of G.S.T. we could perhaps follow this idea and make limited use, for a limited time, of the Strategic Fund. I wonder why we have this schizophrenia within the Council of Ministers. I do hope the Minister for Treasury and Resources will tell us. I do hope the Chief Minister will tell us. He is not here at the moment. Why does it seem to be okay with something that is ring-fenced for something specific for a limited time? Shock, horror: we cannot do something that would absolutely prevent us maybe taking catastrophic decisions, throw people on the scrapheap, cost the Island an awful lot more, taxpayers, and get ourselves through that holding position to a final outcome where we can see fully, with all the information at our disposal, what action we should be taking. Where does this schizophrenia come from? If the Council of Ministers can support their Minister for Social Security why, oh why, can they not take the same view with a much wider issue of protecting the people, the ordinary working people, who present decisions are going to affect most? I do hope someone will explain that to me.

10.1.5 The Deputy of St. John:

Like many others, I have paid the full amount for 45 or 46 years of social security. It is an insurance fund and I do not want to see the 2 Ministers concerned cooking the books. That is the only way to describe it. They are cooking the books. At yesterday's briefing I was shocked when the Minister for Social Security was explaining this to us and that we would be putting in excess of £6 million this year, plus as much again next year; in total in excess of £12.5 million over 2 years. I just thought: "This is absolutely crazy." The people of Jersey have paid for an insurance policy that now wants to be dipped into. We have seen what has happened in the private industry with mutual societies and the like becoming public companies. Therefore, when the time came to get my pension at 60 for instance, I only finished with about 22 per cent of the real value of the fund because instead of the mutual society being ...

[16:30]

Deputy I.J. Gorst:

Sir, I wonder if the Deputy will give way.

The Deputy of St. John:

No, I will not give way, Sir.

Deputy I.J. Gorst:

Thank you, Sir.

The Deputy of St. John:

He has thrown me and I think that was done deliberately.

The Deputy Bailiff:

You were just about 60 and your pension.

The Deputy of St. John:

Yes. I was just getting my pension at 60, or several pension funds that I paid into, and I got approximately 22 per cent. Of course, then you start thinking back and you start making inquiries why the figures are low and then you find out, as I say, they have gone from a mutual society to a public company and the shareholders are taking the profits instead of the money being reintroduced within the society. Then you find that the government of the country concerned have had their hands in the till and, therefore, instead of monies going back within the society, or in the company that it is now, the Government have been drawing money out. I think: "Well, this is what happened in the U.K. with all the private funds. The Government had their hands in the till." This is exactly what is happening here today. If this gets passed we are going to be ... I am not giving way. Sit down, please.

Deputy I.J. Gorst:

Sir, I wonder if this is relevant to the proposition that is before us.

The Deputy of St. John:

I am talking on the proposition, Sir. I am just enlarging somewhat. **[Laughter]**

The Deputy Bailiff:

Deputy, will you sit down just a moment. I did not hear the Minister's objection.

The Deputy of St. John:

Yes, Sir.

The Deputy Bailiff:

Is it a point of order, Minister?

Deputy I.J. Gorst:

Yes, indeed it is, Sir, because the comments that the Deputy is making bear no resemblance whatsoever to the proposition before us. He is talking about private pension schemes. This is nothing whatsoever to do with either a private pension scheme or the States pension scheme.

The Deputy Bailiff:

The point of order is that it is not a relevant speech in accordance with the rules. The point of order is upheld.

The Deputy of St. John:

That is not a problem, if I may continue, Sir.

The Deputy Bailiff:

No, you may not, Deputy. That is not relevant. As long as you talk on something which is relevant that is fine.

The Deputy of St. John:

Yes, it is relevant, Sir. I am totally opposed that the Minister for Social Security wants to raid the pension fund of the social security ...

Deputy I.J. Gorst:

Health insurance.

The Deputy of St. John:

Health insurance, sorry.

Deputy I.J. Gorst:

Sir, I really must ask for another point of order.

The Deputy of St. John:

Health Insurance Fund of the people of Jersey and that is what they want to do. They want to bail out another department. In this case it is the Health and Social Services Department who has got a shortfall and it cannot be right. We saw the Business Plan and we have got approximately an 8-page report to tell us they want to take £8 million out of the Social Security... That being the case we need to see the full supporting documents; all the work that has been done. None of that has come to this Chamber. I am given to understand even Scrutiny are not going to pull this to make sure the work has been done. I do not believe it. I believe what is happening here is that the Minister for Social Security, the Minister for Treasury and Resources and the Minister for Health

and Social Services are driving a coach and horses through the 1967 Health Insurance (Jersey) Law which was set in stone to stop people having their hands in the till; because that is what it is all about. What we need is to see due process. That is what needs to happen. Let us see all the paperwork, all the reports put in place, to make sure that people are not going to be cooking the books. If we need to take £12 million out of Social Security let us have the documentation. Let us have the reports. I have not seen them. There is a lot more that needs to be done before I can support what is being proposed today. At yesterday's presentation I put some questions to the Minister for Social Security and the Minister for Health and Social Services. It is a known fact that we are talking about increasing social security contributions by 2 per cent, for the employer and the employee. Now, if the money is not being controlled or not going to be ring-fenced, I think social security contributors have a right to stop paying their contributions. I think it is wrong when something has been put in place and set in stone for the Ministers concerned to want to dip into this pot and, as far as I am concerned, it is totally unacceptable. We saw 3 years ago the Minister for Social Security of the day tell us all that he was going to cancel prescription charges, which was £3 million or thereabouts that went into the Fund. Why? The people of Jersey had got used to paying prescription charges of £2 or whatever the figures was; £1.80 or whatever. I am not sure what the exact figure was now. But we are being told that there is a likelihood it will be reintroduced at the end of next year for a cost of somewhere in the region of £5. I have got real concerns that Social Security are pulling another rabbit out of the hat by doing what they are doing here. Is this another election ploy, as happened 2½-3 years ago? That is how I see it. It is an election ploy because we are told it is just for 2 years: "Let us get the money out of this account to cover a shortfall at Health." To me it is not stacking-up and I cannot support something that has not gone through due process. I sincerely hope that the chairman from the Scrutiny Panel concerned, Deputy Southern, will pull this and let us have due process. We are also being told that some of the money is to go towards a G.M.C. centre on-Island. A lot of people in this Island - whether you are a teacher or whether you are a plumber, for instance - have to be revalidated and you have to pay yourself. Why should the doctors, who are in private practice, not pay for their own revalidation? Why should it come out of the taxpayers' money or a social security fund? If we have to set up a G.M.C. office this should be done from within their own business plans, not expect the taxpayer to be picking up these bills. Yes, they will probably eventually pick it up from within the general government tax system but not from social security. I have got some real concerns. As far as I am concerned this is a raid on our children's bank accounts and our parents' and our bank accounts, because that is what it is and, to me, it is cooking the books by any other word. We have got several accountants who are ... well, one of the Ministers is an accountant and I am sure he knows how to move money around from one part of a scenario to another. **[Members: Oh!]** I am sure he has had to do it for his clients from time to time. Yes, all legal and above board. I am sure it is. But it must be in the grey areas, and I do not want any of my money that I have paid into going into grey areas that are just about legal. As far as I am concerned, the money should stay where it is and let us not fiddle around with the accounts. The Minister for Treasury and Resources has to come up with the money from within other taxes or within our reserves. He has to come up with it. It should not come out of a fund that has been set up and ring-fenced. Sorry, but I am quite passionate about this and I just do not like seeing money move from this specific account.

10.1.6 Senator A. Breckon:

I think what has happened here is the Minister for Social Security, not of his own doing, has a treasure chest. As a result of having a treasure chest he is gathering lots of friends. This is nothing new because probably about 5 years ago *New Directions*, as it was then ... I do not know what direction it has gone in but it has not emerged at all really. Part of the plan of *New Directions* was to raid this Fund. At the time they had their eyes on it and said: "There are things we can do. We do not have the money. What can we do? This is where we need to go. But, of course, we need somebody to change the law and the regulations." So if we look at the basics of this Fund, which goes back to 1967 - and I think there are some things within the 1974 Law from my memory - and

not that many years ago, as somebody mentioned, prescription charges were removed. So, therefore, we have got plenty of money so we need not collect this £3 million; also laboratory costs, which was about £10 or £12, was done and then there was a temporary increase of funds for G.P.s. Some of that has some logic because it means we will have some adequate medical records but, again, that was on a temporary basis. Also what has been introduced is compliance. Now, the Minister for Social Security has mentioned a draft Business Plan. But I remember a draft Business Plan from about 5 years ago where in the Health budget was some money for compliance for G.P.s, which followed on from the circumstances following shipment, and that was identified then but it was never done. So there is a bit of a catch-up here. Also, some things now are coming under primary care, which look like there is some administration here, and there are bits and pieces. It seems to be a pretty appropriate tea chest to throw everything in like that old bogey man, Court and Case Costs. Well, that is it; that is what it will be charged to. The other thing that I said when I mentioned that the Minister for Social Security has a treasure chest, he also has a blunt instrument for raising funds, which has not been lost on the Minister for Treasury and Resources, because what has been proposed in the draft budget is that those earning about £44,000 will pay another 2 per cent. So, again, the friends of the Minister for Social Security are gathering because not only does he have this treasure chest, he also has ways of getting some more, and this money could knock £16 million off the States contribution for the contribution that we make. It would reduce it from about £66 million to about £50 million. So all this is very convenient but if we go back, why were these funds set up? It was not for any of these purposes. If you look - I think it is in the 1974 Law - there is a clause that has been left deliberately. We did put in medical and G.P.s but we did not put in optical and dental because it was said at the time that we could not afford it. So if this proposition had been about doing that, then perhaps it would get more sympathy. The reason I say that is because if we look at the Jersey Annual Social Survey, it says that many people do not go either to a G.P., to an optician or a dentist because of the cost. So if we do have a ring-fenced fund, then should that not be where it is targeted rather than what somebody else thinks, be that the Minister for Health and Social Services or anybody else, is the right thing to spend it on. Now, when people pay into a fund, they have an expectation that it will be used for that purpose and it is okay saying now that in the draft Business Plan of 2011, the people that have been paying for 40 years, like the Deputy of St. John, were not aware, and the Business Plan for 2011 did not exist. So what we have here is something that is retrospective. It says: "Okay, we have got this money. This will be very nice. That covers somebody's back for now when it is a temporary basis. Then we will look at something else", but maybe we should just address some of the problems because I would say this in conclusion, it does say in this report, financial and manpower implications: "The accumulated surplus within the Health Insurance Fund is designed to provide for the increasing cost of current medical and pharmaceutical benefits as the proportion of elderly people increases significantly over the next 20 to 30 years." Drawing funds down now and extending the scope of the law to fund a modern primary healthcare service will require additional contributions to be levied in the coming years. Well, why has the Minister not proposed that then now? I should declare an interest because down for 16th November, I will be proposing exactly some of that, to do some of these things that the Ministers for Health and Social Services, and Social Security have mentioned. Now, I think it is a little bit disingenuous for them to go along with increases and go along with budgets, and the rest of it, and then come in February or March next year and say: "Oh, by the way, we have to do this as well." I think we have to be up-front. Now, the Minister is going to say that he cannot prepare a response for what I am saying for 16th November, and the reason he cannot is because he has had this treasure chest and he has been consulting with everybody else instead of looking at what he is supposed to do as Minister for Social Security, and that is protect the welfare and the benefits that people are paying in rather than play the Ministerial game, which is to bring things into line to do the things that we have not yet agreed.

[16:45]

One was a tax on employment on some people and the other one is to use the money for purposes that it was not intended to do in the first place, and the same as that, other people have touched on the pensions thing. Again, if that is an issue, people do not want to work until they are 70. They would rather pay a few bob more. So, again, this is on the Minister's brief and he really should be getting on with these issues and not dancing round handbags with some of the other Ministers. I have my doubts about whether I will support this because I am not sure about the reason for this at all.

10.1.7 Deputy G.P. Southern:

What a pleasure it is to follow on from the bull semen debate with this particularly entertaining debate. What struck me during the Minister for Social Security's speech was how pleased I would be to have his manner: precise, calm and apparently logical throughout. However, I think, his manner tends to slide over what he is saying, and what he was saying is here we have got a prime piece of fudge. He kept referring to P.36/2010 and how it was unanimously adopted by this House back in May. Indeed, he wrote me an email - I think it was last night - to say: "And I talked to you about P.36/2010 way back and you were perfectly happy with it." Indeed, we were as a panel when he came to talk to us about it because it was concerned with one aspect of what we have before us today, which was the modernising of the primary healthcare and G.P. system in order to have it validated properly, and have a proper patient list so we would be able to deliver services more efficiently, and that was quite right. However, that is not what we have before us today. So forget about P.36/2010 back in May. The House unanimously endorsed that. This is not it. This is the follow-up which has rolled a few more items into the pot. How convenient. What we have got is a description, I think by the Minister for Social Security himself, about the proposed cuts to services and how they affect Health. He described them as: "We would be foolhardy to push those cuts on Health Services and not try and mitigate some of the effects." Remember, this is the Council of Ministers' decision to go for 10 per cent or £65 million worth of cuts now, including Health, and this is a consequence of that decision but described: "Foolhardy if we go ahead." So what have we here? Yes, we have some large scale cuts to services and what we have got is the Minister responsible for Health in a blue funk saying: "This is not what I should be doing. This will be massively unpopular. I have already taken a backward step on diabetes charges, on user pays for diabetes treatment. Perhaps I ought to be reconsidering what I do here. Where can I find some funding to avoid the worst end of the frontline cuts that I am about to deliver?" Now, the old hands among us, perhaps Senator Breckon, perhaps Senator Le Main, will recognise what I say next. It used to be that every good president of every good committee had what was known as a slush fund for the rainy day. Where have I got a pot of money hidden away that nobody knows about that when push comes to shove, I can dip into and use it? The manner I refer to, and the precise manner of the Minister for Social Security was talking about a hidden fund, a slush fund. Except in this case, the Minister for Health and Social Services' slush fund is kept by the Minister for Social Security because that is the way he is using the Health Insurance Fund. He is using it as a slush fund for Health to help them out. We have got a problem. We are making cuts to Health. They are looking very dodgy. They are very hard to deliver. Where can I get some extra funding from without affecting the bottom line because the Minister for Treasury and Resources is standing there and holding firm? From the Health Insurance Fund, that is where, and that is how this fund is being used. Quite frankly, I think that is an abysmal way to behave. Quite rightly, the Minister for Social Security has pointed to the fact that the primary healthcare provision, enabled by the law in 1967 to be delivered, contained medical services, dental services, ophthalmic services and pharmaceutical services. Clearly defined as primary healthcare that could be delivered. Now, this has come to my attention because we are about to issue a dental report from our Scrutiny Panel, which is recommending that we revisit dental provision on the Island, and the cost of dental provision on the Island because it has not been looked at. In fact, it has not been paid almost any attention to for 18 years and the costs of dentistry have spiralled. The assistance with those costs has just lain dormant. Nobody has paid it any attention whatsoever. So when we examined this particular

aspect, we quite rightly said: "Hang on, medical and pharmaceutical have been dealt with. We have been doing that for a number of decades. Dentistry has been left completely alone. Our recommendation is that you revisit it and consider the possibility of using the Health Insurance Fund to deliver better and more affordable services in dentistry." Lo and behold, here we have: "Ah, but we have found a new thing we can use this particular Fund on, one that was not envisaged by the old law so we have recreated and made a new area that we wish to service." The key question I asked yesterday, when I talked to the Minister as to why he was doing this and what the effect would be, and it was critical for me in determining whether I was going to support or not this particular proposition. And indeed whether, on behalf of my panel, I will choose to pull this in for scrutiny or not and the question I asked was: "You are currently delivering services which are effectively primary healthcare for free through the hospital and through hospital funding, through health funding. Under your new system, will you be delivering that same service more efficiently for free through G.P. surgeries?" I asked that question twice and I got what I described as a typical politician's answer, he did not say yes and he did not say no, from which I conclude that we will be receiving services through the G.P. surgeries but that they will not be free any more. In future, we are likely to see a charge. As far as I am concerned, if that is the case - and I await to hear from the Minister for Social Security, perhaps it is not, certainly if that is the case - then I cannot support this. This is underhand changing of charging and changing of service delivery and it is user pays by the back door. What we have got here, and despite the assurances that the Minister for Treasury and Resources will be keeping a tight rein on things, is a means of transferring funding from one fund, which is clearly ring-fenced, and I absolutely agree with the Deputy of St. Brelade, clearly ring-fenced for one set of purposes to another set of purposes to offset other costs within the Health Service because going ahead with cuts has been more difficult than it was envisaged. Again, we get assurances and if I had a pound for every assurance I have heard in this House, I would be a very wealthy man indeed, that come 2 years down the line, we will have a structure. We will have an equivalent of *New Directions*. We will have something organised and ready to go, and never again will this Minister or any other Minister for Social Security be coming to the House and saying: "Just one more year" or "Just another 6 months. Just another little bit of funding" from this particular House. Imagine it. An assurance that in 2 years' time, no one will be coming to this House and saying: "We set this up as temporary 2 years ago but we are having difficulties with it. We would like you to extend it for another year", and a whole new set of faces sitting on those benches opposite me new to the game saying: "Oh, just one more year, that is not a problem surely" and voting for it. I have seen it before. I am sure I will see it again. So no structure in place and in this case, no need for that structure in place. We are going for the money and we will put the structure on afterwards. Now, when I talked to him about dentistry and the possibility of more funding from H.I.F. (Health Insurance Fund) into dentistry services, he said: "Oh, yes, I will certainly look at that when we have got the structure in place, and we are delivering the primary healthcare services and we have got it organised, then perhaps I could do that." So one rule for dentistry, another rule for this emergency fudge, as I am calling it. Then finally we saw the advent of the shroud waving. It always happens as soon as we discuss the Health Service, in particular, and we are faced apparently with the possibility, as expressed by the Minister for Health and Social Services, that suddenly G.P.s are going to effectively be disbarred from practising if we do not give this £6.1 million into the Fund, that it is going to be very dangerous and that all our G.P.s will suddenly be effectively struck off. Wow, I cannot believe for one minute that that is going to happen and if it is a possibility, what an outright condemnation of the fact that the Minister for Health and Social Services has allowed that position to occur and that it is so critical to get this funding now. So for any number of reasons but, in particular - I have highlighted some of them - I believe that this particular action, particularly in rolling up a previous decision and piling in some new measures into the money, I think this measure particularly should be opposed, must be opposed, and I am still consulting with the membership of my panel to see whether I will pull this in and see, as the Deputy of St. John said, to see what the evidence is and to see what we should be

doing and what the way forward is in a more rational manner. I wait for that but I urge Members to oppose this particular measure.

10.1.8 Deputy J.A. Martin:

I normally am mostly in agreement with Deputy Southern but I think sometimes he is slightly too cynical, and I think that was one of his cynical speeches. I must address the Deputy of St. Brelade No. 1 who said she is here today for her concern for her constituents, although she is the Assistant Minister for Social Security as well.

[17:00]

Well, I am here today for the concern of all the people on the Island and she has exactly the same as me, one vote in this House, and I just cannot be concerned with one particular set of constituents who happen to live in St. Brelade No. 1. She mentioned this Fund with passion, and I can understand her passion for certain things. I could see the outrage ... a law that was made in 1967, it is called a Health Insurance Fund. Please note the first word "Health" Insurance Fund. Now, I have to quote her first because she said I misquoted her, this was in question time a few weeks ago, when I said: "Well, does everybody not pay tax?" and I said: "Well, as far as I know." Now, the Deputy in her speech said: "I would have to correct her. Not everybody pays tax but everybody pays social security", so what is the Deputy wanting us to do, say: "Oh, sorry, mate, you do not pay tax so you can just go to your doctor but you cannot have anything from Health because that is funded by the taxpayer." If you go down to logic, that is exactly what the Deputy is saying. Now, it is an old, old law. The Deputy - and I believe she is an ex-nurse - did not know what primary healthcare means. It says in here primary is normally the first point of contact where you come into dealings with health professionals, sometimes very often. That is at A. and E. That is at the hospital. We are getting very, very confused. I listened to Deputy Southern and Deputy Pitman who do not want to raid this Fund but they want to raid the 'Rainy Day Fund', but unfortunately, if you do not let this money, because it was collected and the Deputy said the people ... the Deputy of St. John said the people have been collecting this money. Have any of you - and I am the Assistant Minister for Health - had one phone call on this to say: "That money is for Health." Yes, precisely. That money is in a fund ring-fenced. It is not your pensions. It is for 2 years and it is to get things up and done in the doctors' surgery. We do not want the people down the hospital. I gave the example like Deputy Fox. I have ailing parents in the U.K., both high blood pressure, one coming up for kidney failure and they go regularly monthly to the medical centre. They are seen by a nurse and if the urine sample, the blood pressure and the blood tests are all okay, they have no need to see a doctor. They get their prescription refilled and off they go very merrily on their way. It is just up the road. It is not a £40 taxi ride to their nearest hospital, which is what my mum has to do once a year to see the consultant because of the kidneys, so where would your elderly people like to go? Would they not like to go to a medical centre if they could have treatment out in the country Parishes, or do they always want to come into town? That is what we do, that is exactly what we do. So people who put the law in place in 1967 did not see the moving... they did not see the moving of what primary care is but to me it is. It is the first point of contact when you come into Health and Social Services position. The Deputy also mentioned we do not know, and we do know because we checked this from tourism and people ... the target was set at collecting £400,000 and we are on target. We are very vigilant with people in our hospital that are not paying into any fund be it social security or be it paying I.T.I.S. (Income Tax Instalment Scheme) in Jersey. So it is about getting primary care, and Deputy Southern is very, very cynical today. He said what is going to be free? Well, if you turn to page 9, I will tell you what is free now and what I definitely know is free and what has gone up, because it was done sometimes by the G.P., sometimes it was done by the baby clinic, it took a lot of work for Public Health to get the G.P.s free to the child, free to the parent, for child immunisations and practically everyone is taken up. They have cards out, they have second call-ins and it is working fantastically, free to the person who is getting the injection, free to the child. Brook Advisory: for any one under 21, all contraception is free. There are other

things in there that are free or very, very low costs; smear tests are done for £10. When you go to a doctor, it is £35. In fact, I do not know why a couple of doctors - and I should not laugh - but they book you in for a double session. Anyway, I do not get that one but they do double book you. So definitely a lot cheaper down at Public Health Services, I can assure you. The other thing about where or why have we not done this, I have only been in the States for 10 years and 9 years ago, I was on the Health Committee then, and the world of G.P.s out there was so different. They would never sit round a table and the Deputy Medical of Health has worked tirelessly over the past 3 or 4 years [**Approbation**] with the practitioners and they have now a body. They want to engage. They are of a younger generation, and if Deputy Southern really thinks I or the Minister for Health and Social Services would stand up here and say this is not a ruling for the G.M.C., there are young doctors on this Island a bit concerned that they have to have the new revalidation to carry on practising. It has been put down by law. The Deputy of St. John said: "Well, let the doctors pay for it." Well, of course the doctors could pay for it but who are they going to pass it on to? They are going to pass it on to the patient. So it does not help anybody, especially the lowest paid and the sick and the elderly. It does not help anybody. So he makes it sound very, very simple. I just cannot leave this either with the Deputy of St. Brelade No. 1 today accusing us at Health [**Aside**] [**Laughter**] of doing nothing. Now, it is very interesting reading in the Social Security accounts. Yes, okay, it was not this Minister who did give free prescriptions but in 2008, there were 1,347,460 prescriptions given out and in 2009, 1,590,227 prescriptions. They went up like that because they are free and all the ...

Deputy I.J. Gorst:

That is not correct.

Deputy J.A. Martin:

Well, I am only quoting from the Minister's accounts ...

Deputy I.J. Gorst:

Yes, they did go up, Sir, but not for that reason solely.

The Deputy Bailiff:

Minister, if I may say so, you have a right to reply.

Deputy J.A. Martin:

Oh, yes, the Minister. Yes, they did go up. Well, he says for not that reason but the actual wording in the Social Security under this says: "The department continues to work with general practitioners on prescribing protocols and the selection of cost effective products." So to me, they do understand because it has got a value. Now, where you can see it is because the prescriptions are free, the cost to doctors only went from £5.3 million to £5.8 million. Nothing; and do not forget, all those 1.5 million prescriptions in 2007, they were getting £2 for. There is your £9 million there, £3 million a year that they have not collected. So it really does stick in my craw for one Assistant Minister to stand up and say that Health is not doing their work properly. Why is no one scrutinising this? This money is collected from ordinary working people. Do all the doctors just write into Social Security and say: "We have given out 1,000 prescriptions this month. We want X amount of money" and they get it? That is exactly what happens. There is no auditing. They have protocols. They try and work. It is going up and up and up. I am very sorry [**Aside**] ... I have nearly finished, the Deputy is going to sum up. The Deputy will sum up. I am very sorry. We know we are also supposed to be working together, and I did not want to bring that part up because it does show that perhaps Social Security should be doing more, Health should be doing more, and we are supposed to be all working together and this is it. We are all having a bun fight today over a fund that is called the Health Insurance Fund, and if you do not think people out there really care, as long as their healthcare is provided, where the money comes from because Social Security, tax, G.S.T., all they know is it comes out of their pocket and all they want to know is when they need

good healthcare, it is there, it is funded and it is available, and it should be available at medical centres and provided free of charge.

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

We have heard some very emotional and passionate speeches this afternoon, and I believe most of it was misguided with probably the exception of my fellow Assistant Minister for Health. The proposition lodged by the Minister for Social Security identifies nearly £7 million of primary care services as on page 9, primary care services that are currently funded out of the Health and Social Services cash limits, the lion's share of which goes to fund the excellent work carried out by the Family and Nursing Care body, caring for the sick, for the elderly and for the young in the community where it should be. So the demands on these primary care services grow year on year, and it is imperative that the cost pressures are met and that an appropriate and sustainable funding stream is identified to fund a modern primary care service. By example, if the Minister for Education, Sport and Culture was spending his secondary education budget on primary education services, we would expect him to realign his budgets accordingly. This is because he controls both budgets. This is not the case within Health and Social Services. Health and Social Services control the secondary care budgets but visits to G.P.s are funded by the Health Insurance Fund, and that is controlled by the good Minister for Social Security. It is right that Members want to know that there are safeguards in place to avoid the situation where it could be argued that the Health Insurance Fund would become a self-service buffet and these will be put in place. We are being completely transparent about this proposition. The Business Plan identifies the cost pressures in secondary care and that we need a way of funding this, and the way we are doing it is to say we currently fund some £7 million plus of primary care services and we want £6.1 million from the Health Insurance Fund for 2011 and probably a similar amount for 2012 to fund our growth. Yes, we are not giving up the money that we currently spend on primary healthcare because we are going to use that money to fund the growth that we have got. It is not new growth; it is not providing new services; it is merely trying to pay for the current services and the cost pressures that we have. This is not smoke and mirrors. We are being transparent. It is not a self-service buffet and certainly for my good friend, the Deputy of St. John, we are not cooking the books. Another accountant that knows the value of things, not just the price. These proposals are for 2 years only, enough time just to redraft the law to enable a modern primary care service to be appropriately and sustainably funded to allow both the Minister for Health and Social Services and the Minister for Social Security, and I point out that this is only a temporary measure. It is not open-ended. There is no provision to be made for any further transfers, and both Ministers have made that clear and a clear commitment to that. P.36/2010 of earlier this year was unanimously supported by this Assembly, and that was in support of us moving towards having a modern primary care service for the benefit of all our Islanders. Legislation to replace the current Health Insurance Law will be brought before this House before 2013. Given that we are seeing ongoing funding pressures, it is likely to include some type of requirement to increase the contribution for a modern primary care service which Islanders both want and deserve. The release of £6.1 million to the Health and Social Services Department in 2011 will be tightly controlled by Treasury and Resources. The Minister for Treasury and Resources will only sanction the release of the funding upon receipt of evidence from Health and Social Services confirming that the expenditure is in respect of primary care services. The financial implications are for 2 years only, 2011 and 2012 and it is coming from the surplus accumulated of some £80 million in the Health Insurance Fund. The balance of the primary care currently being paid for out of the cash limits of Health and Social Services will continue to be paid out of the cash limits of Health and Social Services. We are not getting a refund for all of the primary care services that we provide. In fact, we are the best part of £1 million short. If I can pick up some of the points raised. Deputy Jeune asked if we would be happy to stand up and go on record. Well, I am more than happy to go on record that we need to seek an appropriate funding mechanism for a sustainable modern primary care service, and I believe that is what the Islanders want us to do and that is what we are being asked to do today. Deputy Jeune says that this is very

frustrating and I agree with her, this is very frustrating, but I believe that she is misguided and misinformed and I wish she had taken up the numerous offers that we gave to her to come and talk to the new Chief Officer of Health and Social Services and the new management team. I believe that if she had done so then many of the concerns that she has would have been alleviated. Islanders believe that the Health Insurance Fund is to fund primary care and primary care some 43 years ago, as defined in the law, has moved on and Islanders' expectations have moved on and they expect that the ... I believe it is 4.5 per cent currently paid of their social security contributions goes into the Health Insurance Fund. They believe that those funds should be for primary care. Much of what I was going to say has been said by my colleague, Deputy Martin, so I am going to conclude. But I hope that we have been able to reassure the doubters among Members this afternoon that a sustainable and appropriate funding stream for a modern primary care service is indeed the Health Insurance Fund, and I urge Members to support the proposition.

10.1.10 Senator T.J. Le Main:

I am not going to try to repeat what has been said by the excellent words of the Deputy of St. Brelade or Senator Breckon, but I really urge Members to take heed of what these Members have said. Like Deputy Rondel, I paid social security in Jersey for 49 years and I think I only claimed once in all those years and my contributions and I well remember the J.J. Le Marquand days and Mr. Le Feuvre when they proposed the social security system, and I remember the demonstrations in the Royal Square and otherwise. In over 30 years as a Member of this Assembly, this is the first time that I have seen such an immoral act which is totally contrary to all the rigid laws and promises made over the years in securing a fund for a specific purpose and protected for a very specific purpose. I have great faith, and I have interest in Health as I sat on the committee for a number of years, and at one stage for a term I was the Vice-President of the Public Health Committee, and I appreciate very much the route they are taking in the provision of what is being proposed by the Minister for Health and Social Services. But this is the wrong way, in my view. If this is approved, it is just the start, in my view, of dipping into other protected funds. I have to ask, can I or my children trust any promises made in the future on taxed areas and for what they will be used. I believe that if this is approved today, it will set a very, very dangerous precedent. Only a government could try something on like they are trying on today because it is an easy cash cow for other departments' inefficiencies and overspends. I have for a number of years, while on Health, been involved as a representative of Family Nursing. Family Nursing, in my view, in the last 3 or 4 years, have got out of control. No one has looked at or scrutinised their operations. In my view, I believe that Family Nursing have a good heart. They do great work but they have expanded in areas, in my view, that is costing this Island much money and which could be done or otherwise, or not be done. Deputy Southern was quite right in claiming there is no structure in place by Health. Can you imagine going to the bank manager and asking him for a business loan? The first thing he would ask you: "Have you got a structure or a business plan in place?" I have not seen anything that gives me confidence that Health have this in place. This seems to me to be like a new management that has come in, and an easy way out of what is being proposed. As I say, I am concerned at the precedent. I ask Members to heed the wise words of the Deputy of St. Brelade No. 1 and Senator Breckon and others. Quite honestly, this is the thin end of a wedge and it will, in my opinion, set a precedent for the future for inefficiencies and otherwise. As I say, I have been a contributor for nearly 50 years to social security and certainly today it does not give me or other contributors any confidence in what is being proposed today. I believe that there should be a Business Plan, there should be a structure, as highlighted by Deputy Southern, and quite honestly, I believe that this government is trying to pull a stroke if they approve this today. I will be opposing this but, of course, I will give all the help and assistance [Laughter] [Aside] ... if required I will give all the help and assistance as a Member of this Assembly to the Minister for Health and Social Services in trying to get what she is trying to achieve, because I believe that is the way to go forward. But it is not the way to go forward before a structure is in place, before a plan is in place, and raid illegally, in my view, a fund of money, a fund provided by people in this Island who now

will wonder what is going on. I am going to oppose this, and I urge Members to seriously consider the issue and I urge also the Scrutiny Panel, the Scrutiny Chairman, to take it back and scrutinise it, and also in the future I believe there is a very strong case for some of these services being provided, Family Nursing and otherwise, to be scrutinised on the services they provide.

The Deputy of St. Martin:

I propose the adjournment, Sir.

The Deputy Bailiff:

The adjournment is proposed.

Deputy P.V.F. Le Claire:

May I, ahead of the adjournment, if it is going to be approved by yourself, Sir, just ask if it is possible through you, Sir, to inform Members that there was an amendment discussed by yourself and myself at lunchtime that has not yet been printed, due to my involvement in the debate this afternoon, which I wonder if Members or yourself would accept as being lodged but be on Members' desks tomorrow?

The Deputy Bailiff:

The Standing Orders are reasonably clear, Deputy, and they will be applied, and the position is that the amendment which you wish to put forward has not as yet been circulated, so I cannot announce it to Members. What flows from that will be for another day. The adjournment is proposed and the States will reconvene tomorrow morning at 9.30 a.m.

ADJOURNMENT

[17:27]