

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 4th FEBRUARY 2009

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

COMMUNICATIONS BY THE PRESIDING OFFICER

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

Just for completeness, to put on the record those comments that were presented late yesterday, there were 2 comments relating to the Energy from Waste Facility, P.8/2009, in the name of the Minister for Planning and Environment and the Minister for Transport and Technical Services. There was also a comment in relation to Woolworth Employees, P.9/2009, in the name of the Minister for Treasury and Resources.

PUBLIC BUSINESS – resumption

1. Role of the unelected members of the States: review (P.5/2009 Amd. (2))

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

It is, indeed, a narrow point. Here we are, 9 years of government reform and we have half done it. Many would argue we have half botched it, but the rest remains to be done. Here we are with a simple and straightforward proposal to work on the top level, the non-voting members in the States, and already we are told: “Hang on, we cannot do that. We cannot take a look at the role of the Lieutenant Governor; we cannot take a look at the role of the Dean. Let us merely deal with the 2, admittedly, most contentious areas, the role of the Bailiff and the role of the Attorney General, because we cannot afford it again.” That is very straightforward and many people have been saying: “Because we cannot afford it.” But let us have a look at the principle behind it. What do we do? Do we examine the role of the Bailiff and then we examine the role of the Attorney General and then stop? Is there no contentious issue around the role of the Dean? I believe there is. To stop there would be absurd. Of course we certainly have to look at those 3 and then we are told: “Oh, no, but there is absolutely nothing contentious about the Lieutenant Governor’s rôle”. That surely is to stay. Do not even lift that lid. Do not have the argument. Do not investigate any alternatives. But the Lieutenant Governor’s role is, indeed, a contentious one and does, in fact, need to be examined along with the all the others. I urge Members today to consider this amendment to limit the scope of what we are about to do after 9 years, to examine all of the roles, because that is the appropriate thing to do. If we are going to do this let us do it properly. The public out there expect us to do it properly and they expect us to get on with it. We have been too long dilly-dallying, shilly-shallying. We should get on with it and we should do it properly and reject this amendment to only half do it.

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

There were 2 comments made yesterday which I would like to address regarding the amendment and the proposition itself. One was to do with the Chief Minister mentioning that reviewing the role was rather wide, but the point of the proposition is it is asking the Council of Ministers, after consultation with the P.P.C. (Privileges and Procedures Committee), to come back. If we look at (b)(ii), the terms of reference of the panel, therefore, if we are just looking at the role of those individuals within this Chamber, then that can be addressed in the terms of reference. So, it does not have to be so wide. Secondly, in terms of cost, it was slightly alluded to yesterday, although we have not had the debate on things like the incinerator. When we are looking at the scheme of things and the waste of money elsewhere, the sort of money that we are looking at to look at the reform of this government is nothing. In fact, they have lost that already and euro exchange rate was the first 2 tranches to cover the cost of it. So, I would suggest to Members that it is a red herring to talk about cost in the way that they are.

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

Just looking at this proposition, going back to the period of time when we were going around the parishes at the end of last year campaigning, this item did not come up once at all and the public at the moment seem relatively content with the performance of the House in the way it is constituted

at the moment. Certainly, I think right now to consider spending upwards of £500,000 on doing what some would consider a navel-gazing exercise, particularly when you have people like we have in the gallery this morning who have an interest far closer to their hearts. I think Deputy Judy Martin's comments which were recorded yesterday saying there is never a good time, I personally do not believe that this is a good time for this House to continue navel-gazing and spending monies which are probably better spent elsewhere in these difficult times. **[Approbation]** Therefore, I will not be supporting this proposition.

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

That speech really was more aligned to whether or not one supports the proposition rather than speaking or addressing the amendment which is before us. It could be argued later that the review will be expensive. It could be argued later that the review is unnecessary. It could be argued later that this has not been brought up many times by the electorate while people trudge around the parishes. I do not know how out of touch Members are if they think that the electorate are speaking to them about what they feel, because 90 per cent of the electorate do not want to talk to politicians period, about anything. The reality is that Members are out of touch, and unless we have comprehensive reviews of the system of government in Jersey we will continue to be out of touch. At the moment there are issues regarding the Lieutenant Governor's role, the appointment of a British Military Lieutenant Governor and the appointment of an Anglican Dean for the States of Jersey. One small example would be when St. Thomas' Church, who currently have congregations of Portuguese, Polish and mixed nationalities in excess of 3,000 a week, have to beg and scrape to renovate their church and plead with the parish to get a £40,000 loan because they are not the actual dedicated church or the state church, and here we have the Dean's church, or the States church, receiving millions of taxpayers' money with a handful of the congregation in the church every week. Is the Dean representative of the vast majority of the Island's religious attendees? Does his moral guidance extend from his religion through to all people in Jersey? Are these questions necessary to us? Can they be satisfied? Unless we have a review they will not be satisfied. The functions of the Dean and the functions of the Lieutenant Governor are well understood and, as a past member of the P.P.C., I can attest to Members that we were furnished with a full comprehensive report of the activities and the issues of the Dean. So, that work has already been done. If one wants to look at cutting costs that section is not necessarily going to add any burden of cost. But for some unknown reason to have a review, which one can argue, one can support or not support, and then pull out 2 key players in that review is bizarre. The only feeling I get is it is because it is tending to be: "Well, let us try and knobble the review in the beginning by getting these 2 out." What a bizarre set of circumstances we would have if the review came back and said: "Remove the Bailiff, remove the Deputy Bailiff, remove the Attorney General, leave the Lieutenant Governor in place and leave the Dean in place because we have decided not to review their positions." How bizarre would that be? We are rid of the Bailiff; we are rid of the Deputy Bailiff; we have a British Military Lieutenant Governor sitting next to the Greffier of the States perhaps and the Dean still in the States. The Lieutenant Governor and the Dean are both eloquent and hard-working and very nice individuals. I personally like them both, but it is not about whether or not we like these individuals, and 9 times out of 10 we are going to because these sorts of appointments are made to capable individuals, affable people. It is not about the individual. It is about whether or not we have a fully functioning democracy in Jersey. How can one argue that a fully functioning democracy is being represented when we are not willing to do a review, or we are but with one hand over one eye? So, I will be supporting the review and I will not be supporting the removal of 2 key components of that review. There is a cost to maintaining Government House on a yearly basis. There is a cost to the taxpayer, through the Parish of St. Helier, to maintaining the Dean in his current role, through the Parish of St. Helier and into the States. There are ongoing costs in having the appointed church being supported by the States of Jersey. How do the taxpayers feel? How do the Roman Catholic taxpayers feel of St. Helier when they cannot get £40,000 to maintain St. Thomas' church and they watch £4 million of taxpayers' money go to maintain a church that

has a handful of the congregation? These are all intertwined and interlinked with the appointments and the representatives of the States. Because if you pull them out of the equation, other individuals from among our community could fill the role of the Lieutenant Governor. If we are going to have moral guidance, is it right in this day and age that we appoint a particular religion to give us that moral guidance because that particular religion happens to be hundreds of years old? That moral guidance and that political direction and that Christian direction may suit me, and largely the advice and the contributions that the Dean has made do suit my way of thinking, but they do not necessarily suit the entire population's way of thinking. Therefore, we need to review it because if the review comes back and says: "Right, we are bustling, we keep them in", then fair enough, we keep them in. That is fine. All well and good and we can stand strongly up in front of people and say: "We have reviewed it, came back; we are keeping them in." If we pull them at this stage it is going to look all fixed. It is going to look fixed: "Get these 2 out; we will get the Bailiff out next." How ridiculous would it be? We approve this amendment and we go on to have a review, if we go on to have a review. Throughout the review the questions will be: "Do you want to see the Bailiff removed?" "Well, I am not sure. Who is going to be left?" "Well, you will have Deputies", "Yes", "Constables", "Yes" Senators", "Yes, okay", "The Dean", "Oh, hang on." The Dean can still speak but the Bailiff cannot.

1.5 Deputy M. Tadier of St. Brelade:

This is a point of clarification because I have spoken already. I would like to hear from P.P.C., because I fear this debate is going in the wrong direction. It could well be that we are all singing from the same hymn sheet but from different angles. Is P.P.C. saying that we do not need a review because we are agreed that the role of the Dean and the Lieutenant Governor are obsolete because we recognise that they are controversial and so that we will bring individual propositions before and in respect of the review? Is that what we are saying?

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

The Chairman, I am sure, will deal with that in her summing up.

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

I am not very good with pop music and songs, but I am aware of a song that says you do not know what you have got until it has gone. I think that particular line is absolutely pertinent to the debate that we had yesterday and the debate that we are having this morning. We have heard, and I have heard, many speeches from what sounds to me people who have already made their mind up and I am starting to suspect that the request for a review is either a red herring or people are looking for a rubber stamping of their already arrived at opinion. We have heard one speaker in his opinion feel that the States wastes money and has wasted money on other projects, and I was not sure what the rationale was for saying: "Okay, well, we will waste some more on this particular project" but there we are, it is a matter of opinion. In light of the fact that some Members, I believe, have already made their mind up, I am this morning going to nail my colours to the mast quite firmly. I see no conflict at all with the role of the Lieutenant Governor and the Dean. I am absolutely 100 per cent behind the position of the Crown and the established church in this community. This is our history. We should not just turf it out, turn it aside; it is the bedrock upon which this society and this community was built. I am, and I recognise that I am, an incomer; I have married into a Jersey family. Perhaps that puts me in a position of wanting to support and fight for the traditions of this Island in a way that some people who have been here for generations perhaps do not. I come from a society where I recognise that its traditions have been laid aside in the name of progress, and yet I think if you speak to many within that society they fail now to see the progress and they are asking themselves why they have made such hasty moves. I recognise, however, that there are concerns and there are legitimate issues to be addressed regarding the role of the Bailiff and the Crown officers in this Assembly and obviously we will be discussing that when we come to the main debate, but I am firmly behind this amendment and I ask that Members will consider it seriously

before they reject it. There is in my mind no need to remove, or even review, the role of the Lieutenant Governor or the Dean which equates to the role of the Crown and the established church within this Island.

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

I would like to try and make a couple of comments on what Deputy Le Claire said, and I will start by taking a leaf out of Senator Shenton's book and saying my good friend Deputy Le Claire pointed out that there was a cost to government and I have to say that I entirely agree with him. There is a cost to government and it is something that this Assembly needs to take hold of and understand. I think that when it comes to the cost of government this Assembly needs to look at what it has in its hand to spend and then needs to prioritise what it wants to spend it on. I think that if Members were really serious about wanting to control government spending they would do just that and they would look at this and say: "Yes, it is a nice thing to do, but it is not an essential thing to do." I think that the public have for a long time said they would like to see changes in the House, and I agree that changes are probably necessary, but at this moment in time, where we are today, with the pressures on spending today, I do not believe that this is the moment to be doing this.

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

I would like to say a few words because I am on P.P.C. We did bring this amendment and for one minute I would not have supported this amendment, and I am swaying now whether to because of the speech from Deputy Gorst and then all the foot stamping and the Council of Ministers agree that the review is welcome. Now, why is it welcome? Are we doing anything in this House that is not done in any other parliament? Yes, we are. We have all these different Members unelected, many allowed to speak and influence debate in this Chamber. Now, when Deputy Pitman brought her amendment to remove the Bailiff the main speeches were: "We must have a thoroughly researched review of his role and alternatives" and this is what this is proposing. The amendment, as I say, is taking 2 people out. Now, round the committee this was to focus on where we think we have the problem now, but certainly behind that, the next stage is definitely to look at the Dean and the Lieutenant Governor. Whatever you might think that this is where our connection with the Crown is, it might well be right, but that was my thinking on P.P.C. Also, Deputy Gorst says full support, he is proud of what we do. Again, I am sure lots of people in this room are proud of the way we think we do things, but the rest of the world, on one stage we want to be the rest of the world, a parliament and a government to be taken seriously, but on the other hand: "No, well, this is quaint old Jersey and we have done it this way since Canon times made the law and we had the church connection and we are going to do it this way." Well, I am sorry, I think a review ... and as it has been mentioned, the terms of reference have to be drawn up, the amounts of money, and it can be kept focused and it can be kept short. I think we decide as a parliament in this Island to look at who sits in this House before somebody outside, as they did in Sark, tells them: "You are not doing it right and this is not going to be continued. Sort yourself out or we will sort it out for you." It may be that people do not believe that this can happen. We do not want to get to that stage. So, seriously consider, because I may support the amendment but never under the speeches that I am listening to. These roles are not happy chappy and here to stay. As far as I am concerned, there is a review to be had and it is either all in one or it is piecemeal. That is the decision and it will come back.

1.9 Connétable L. Norman of St. Clement:

In his opening remarks this morning Deputy Southern was suggesting that some Members were trying to claim that this is something we cannot do, this review. Of course it is something we can do. The real question is; is it something that we should do? If we should, should we do it now? I am going to support the amendment because I think it makes a not terribly good proposition, and I suggest a very untimely proposition, quite a bit better. I was quite interested to note that really the most important role that the Deputy of St. Martin asked us to review is that of His Excellency, and

yet his report is almost totally silent about the role of the Governor. It was Deputy Higgins who suggested that we need only review the Governor's role in this Chamber. Well, we could do that but that really would be a total waste of time and money because all of us know exactly what the Governor's role is in this Chamber: he turns up regularly, he speaks once on the first occasion that he attends and then he speaks once at the very last sitting that he attends, just like one or 2 elected Members. **[Laughter]** That is the end of the story as far as his role in this Chamber is concerned. Why do we want to set up a review into that? But of course, that is not really what the Deputy of St. Martin and others want. They want a review into his wider role, his full role, and once we do that, that puts everything in the frame. Everything is up for grabs and I have just noted a few things: our Constitution for one, our relationship with the United Kingdom, our relationship with the Crown, our consular representation throughout the world, our defence situation and policy, our customs and immigration services, our foreign representation, and the list, I am sure, goes on and on. A review into all of that and all of the implications of that will not come cheap and, quite honestly, we have much more important things to spend the taxpayers' money on in these difficult times. The Dean? Perhaps not as complex as the Lieutenant Governor, but we know what the Dean does in this Chamber. He reads prayers. From time to time he gives us advice. Some of us might not like the advice. Sometimes I do not like the advice he gives and sometimes I do, that is what politics is all about, but he gives us his advice and that should be welcomed and from time to time he offers individual Members comfort in times of individual stress. That is what he does in this Chamber. Outside of this Chamber, just in case anybody does not know, he is a priest and he does what other priests do as well. Do we really want to spend money on reviewing what a priest does and the chap who reads the prayers and gives us comfort does? What an absolute waste of money. Now, we are told that there are people outside concerned about the role of the unelected members in this Chamber. That is absolutely true. Some people do have concerns, but in my own experience, which I am sure must be most Members' experience, the public are more concerned about the role of the elected Members in this Chamber. **[Approbation]** If we are going to have another review, as we did 10 years ago, that is much more important and much more fundamental to the wellbeing of this Island than these unelected members, and particularly the 2 we are talking about at the moment. The amendment is about the Dean and the Governor. People are talking about representation, about general elections and so on. Why can we not concentrate on the things that really matter to the people instead of these things which do matter but not to the same extent and which are really peripheral? I am certainly going to support the amendment.

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

Just briefly, being aware of the current economic climate, if we accept this proposition, could it be for a lesser cost or perhaps a fixed price? This is taxpayers' money. Could we build upon the work already done by *Clothier*? Would the Deputy of St. Martin please answer this in his summing up?

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

This will be summed up by the Chairman of P.P.C. for this particular debate.

1.11 Senator S. Syvret:

I do love these kinds of debates. After 18 years witnessing and listening to the kind of arguments that we have had this morning becomes ever more fascinating in a deeply ironic kind of manner. We have heard the usual diversionary nonsense about costs and how we need not bother looking at these issues because they do not really matter in comparison with the economic issues, for example, that the Island faces, as though the 2 areas of activity and study were somehow mutually exclusive. Of course they are not. Of course our prime concerns must be with the overall welfare of the community, peoples' jobs and the economy. We can have that concern and still undertake this comprehensive review of these kinds of issues. I will not especially address the issue of the Dean. As I was driving in I listened to the debate and I heard the speech of Deputy Le Claire and I think he made the case concerning the Dean extremely well. We are a multi-denominational, multi-faith

society now and the concept that merely one representative of one denomination has an official seat in this Assembly would appear to me to be certainly unsustainable, but nevertheless, even if Members ultimately agree or disagree with that view, what possible objection ... or let me rephrase that, what possible credible objection could there possibly be to examining the subject and taking a review of it? There is no credible objection. Senator Norman I was most fascinated by. He said: "We all know what the Governor's role is." Actually, no, we do not. Not by any stretch of the imagination. The role of the Governor, who he communicates with, who the friends in the corridors of power in Whitehall are, if I get the quote right, who he speaks to, what influence he brings to bear on the United Kingdom authorities in respect of what takes place in this Island, what communications he has concerning individual Members of this Assembly; we do not know anything about that. It is a role utterly mired in obscurity and historical lack of codification. So, to argue that we all know what the situation is and we need not do anything about it is patently absurd. On the contrary, there are plainly a number of problems with the role of the Military Lieutenant Governor, as Senator Le Claire referred to him. It may well be that the general overall public good and welfare of this Island would be far better represented, better protected, better safeguarded, by a straightforward civilian representative of Her Majesty in the Island. Moreover, one who was sent to take up the job perhaps with rather different terms of reference and codes of guidance than the current position carries with it, if indeed any. For example, not becoming immediately and persistently ingratiated with the powers that be in the Island from the instant you arrive to take up the post to the instant you leave and instead, in fact, have a greater engagement with the grass roots community in a meaningful sense. So, we just do not know anything ...

Senator P.F. Routier:

May I just ask the Senator to withdraw that? The Governors have a great grass roots connection with the public. They are for ever going around meeting people.

Senator S. Syvret:

I am withdrawing not one word of what I have said. I am sorry, but I do not regard a variety of charitable cosmetic glad-handing as proper engagement with the grass roots of this community. A proper representative, in my view, of the interests and the reputation of the Crown in this Island would, in fact, be listening to people's complaints, taking them seriously, ensuring such things as the proper rule of law was effective, the proper administration of justice was working, that what passes for the administration of justice in Jersey, in fact, did meet rudimentary well-established British jurisprudence, unlike at the present time. Those are the kind of real engagements that we ought to be looking for, but we just do not see them. So, there can be no question other than that these posts both need reviewing and it is absolutely counter to the public good not to review them. A further point which has been made by other people is that it is difficult to see this amendment as anything other than a wrecking amendment. It is designed to basically sabotage the overall thrust of the review. I will perhaps confine some of my remarks to the debate when we return to the substantive debate after the debate on the substantial proposition, but for the time being just let me finish by saying this: were I being mischievous I would vote for this amendment and against the substantive proposition and I will perhaps explain why later.

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

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

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

I would firstly like to thank all Members who have spoken on this amendment, but I think there are several recurring themes and so I will address these rather than address individual Members' contributions directly. Firstly, I would like to address one thing that the Deputy of St. Martin said, and that is that he found it strange that P.P.C. did not meet with him prior to lodging this

amendment. In fact, I contacted the Deputy on the day following the P.P.C.'s first meeting at which the proposition was discussed and advised him that P.P.C. was minded to make the amendment. At that time I inquired whether the Deputy would be prepared to defer the debate on the proposition for one sitting in order to allow him to meet with P.P.C. to discuss the matter. He declined to meet the Committee, advising me, as he was perfectly entitled to do, that he did not wish to entertain any such amendment. Several Members spoke of the potential cost of the review and certainly I said that P.P.C. considered it significant; £750,000, which is the smallest estimate I have seen, is surely significant by anybody's standards. I did not at any time, however, question the quantum of cost. Many others might have done so, but I did not. I said that what was essential was to ensure value for money. Of course, although the Deputy of St. Martin said that the review could pay for itself in a few short years simply by the fact that the future speaker would receive less remuneration than the Bailiff currently does, he does not make any assessment of the ongoing annual costs or other changes that could arise from other possible recommendations. We could well find the cost of this review is just the beginning, but we simply do not know that because the remit is so wide and varied, but the actual cost is not the factor behind this amendment. The key issue surely is what do we want to achieve by this review? Do we want to deal with issues that have been raised in the past concerning the unelected members of the States? Do we want to address these? I believe we do. Can we identify which of the unelected members have been the focus of the issues? Certainly we can. Should we target our resources at finding a resolution to these matters as a priority over other possible issues? I think that would be wise. Do we need to take note of the current economic climate and weigh up the potential gains from different levels of review against competing resource demands elsewhere, adjusting our viewpoint accordingly? I think Islanders expect and deserve that we will. What will the findings of the review be? Well, of course, at this stage before the terms of reference are defined we cannot hope to even guess at that but one thing is certain; no matter what the review findings are it will be up to this Assembly to implement them or not. Time and time again I hear talk of cherry picking. Well, the only way not to have to pick cherries is to stop planting cherry trees. Reviews can produce all sorts of results but if the terms of the review are not tightly refined, if the terms of reference are too broad, then we run the risk that the findings of the review will be refined instead on the floor of the Assembly when ultimately the recommendations are debated. That is just more cherry picking. Several Members on both sides of the argument have correctly pointed out that the terms of the proposition go beyond the roles of the Members in question within the Assembly, and I thank the Connétable of St. Clement for his contribution which was particularly noteworthy. As I noted in my speech, the role of Lieutenant Governor is complex and far-ranging and a review could encompass major constitutional issues; in fact it would. To coin a phrase, should we just cherry pick which areas of his role to review? Do we really need to be reviewing the nomination procedure for the Honours List, for example? Would that give us value for money, or would it just dilute the review? Deputy Le Claire did nothing in his speech if he did not illustrate the enormity of the reviews of the Lieutenant Governor and of the Dean and he opened up the whole question of the position of the church and the Crown in the Assembly. I think that just shows how difficult the review would be to be carried out effectively and well if those areas were initially included, and I also thank the contribution of Deputy Gorst for that. At least one Member mentioned the need for a once and for all review. On that we agree, but we apparently do not agree on how to ensure that that is what we achieve. I said that the review needed to be meaningful, and how is that achievable? We must have confidence in those charged to carry it out, which means we need experts in the relevant field. The review process must be transparent and public and the recommendations must be unambiguous and well presented. The consequences of accepting, or not accepting, the recommendations must be clearly set out and communicated to the public. Each of these things will either be costly or complex and most will be both. Set the terms of the review too widely and we will lose focus. We will risk achieving nothing. In short, we risk failure and that is what the public will not be able to accept. Deputy Trevor Pitman said that he had also considered an amendment to limit the terms of the review but had decided against it in the end. He asked the question: "How long has this gone

on for?" Well, I can agree with him that it has gone on for too long, but I would challenge him to examine why the previous reviews have failed to gain broad support. I would contend that they tried to encompass too much at one time and I would say that incremental change can often succeed where more radical measures do not. Other speakers questioned why a review was necessary, or why it could not be done in-house. The simple fact is that unless the roles of the Bailiff and the Law Officers are examined in depth and independently, questions surrounding those roles will continue to be asked and propositions will continue to be brought. During recent debates Members said they could not deal with such weighty issues without the backing of a review, and it appears that unless one is undertaken we will just continue to skirt around the issues. This all comes back to needing any review to be meaningful in order that it can take us out of this impasse. I would just say again that several speakers who spoke today did mention overriding factors of the cost. It was said that P.P.C. were saying that we cannot do this because we cannot afford it. I would remind Members that that was not in any way the thrust of the amendment and it certainly was not the thrust of my proposing speech. The public expect us to do it and get on with it, I was told. Certainly they do, but they do not expect a review for the sake of a review. They expect a review that will produce a result that will produce a change. That is the ultimate goal of any review. I must just touch on the contribution from Senator Syvret. He again illustrated adequately, and in fact very well, the role of the Lieutenant Governor as being a very complex matter. However, I will distance myself entirely from the remarks he made concerning, for example, the "constant glad-handing". I can be assured that many organisations in this Island are extremely grateful for the valid, the ongoing, the entirely meaningful contribution that the Lieutenant Governor's backing of their organisation gives them. **[Approbation]** To sum up in a nutshell, this Assembly is being asked to commit a large resource in order to produce a review that almost every speaker agrees is necessary, at least in part. I believe that we have a duty to ensure that such a review has a realistic chance of achieving positive results and of providing recommendations that can gain the support of Members of this Assembly and of Islanders generally and bring about the change that so many say they want to see. I further believe that the key to achieving this is to limit the scope of the review and I urge Members to support this amendment, either selectively or in total as they feel able, and I therefore ask for separate votes on parts 1 and 2. I move the amendment and I ask for the appel.

1.13 Deputy F.J. Hill, B.E.M., of St. Martin:

Can I seek a clarification from the Chairman of P.P.C.? I do not dispute the fact that the Chairman did ask me if I would put the debate back, but I sought clarification from her at the time what amendment, in addition to the amendment she was going to put forward, but the Chairman could not say what further amendment. So, that is the reason why. I would ask the Chairman if she would clarify that, that the Chairman did not know what additional amendment she was going to put to this amendment because she said she had not enough time to speak to the rest of her panel.

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

Thank you, Deputy. Would you clarify briefly, please?

The Connétable of St. Mary:

Yes, Madame, I am very happy to do that. I contacted the Deputy and asked him to attend P.P.C. to discuss the amendment.

The Deputy of St. Martin:

The Chairman did not. **[Members: Oh!]**

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

I think the Members should proceed directly to a vote on this matter. The first vote that Members are going to look at is paragraph 1, the deletion of the Lieutenant Governor. Any Member who is not in their ...

Deputy P.J. Rondel of St. John:

On a point of order, Madame, given there has been a contradiction by Deputy Hill of St. Martin on what has been stated, can we have that cleared up before we vote, please?

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

There is a disagreement, is there not, that the Deputy of St. Martin believes he was awaiting information and the Chairman of the Privileges and Procedures Committee believes that that information was never sought? Are you prepared to withdraw your allegation that you had sought further information from the Chairman?

The Deputy of St. Martin:

No, Madame, I was never asked. I made that clear in my opening speech. The Chief Minister will know that I wrote to him asking if I could meet to discuss my comments and I was refused.

The Connétable of St. Mary:

Madame, I can only say again what I said before. I telephoned the Deputy of St. Martin. I advised him out of courtesy, as I think it is only fair to do, of the nature of the amendment the Committee had mooted to bring at the meeting. I asked him if he wished to defer the meeting to come and discuss the matter with us, we would be very happy for him to do that, and he declined to do so. That was his perfect right. I respect that decision, but there is no doubt in my mind the invitation to attend the Committee was extended and declined.

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

I do not think this matter is going to be resolved here because we have the word of one Member against another. Let us proceed to the vote, please. The vote that the Members are looking at now, if you vote “pour” that means you do not wish to include the Lieutenant Governor in the review. I ask the Greffier to open the poll.

Deputy J.A. Martin:

Sorry, Madame, so you are splitting the vote?

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

There are 2 parts. You are first looking at Lieutenant Governor.

Deputy J.A. Martin:

All right. Thank you.

POUR: 32		CONTRE: 19		ABSTAIN: 0
Senator T.A. Le Sueur		Senator S. Syvret		
Senator P.F. Routier		Senator B.E. Shenton		
Senator P.F.C. Ozouf		Senator J.L. Perchard		
Senator F.E. Cohen		Senator A. Breckon		
Senator S.C. Ferguson		Connétable of St. Helier		
Senator A.J.D. Maclean		Deputy R.C. Duhamel (S)		
Senator B.I. Le Marquand		Deputy of St. Martin		
Connétable of St. Ouen		Deputy J.A. Martin (H)		

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

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

As we reset the system we will move forward to the second vote. A vote “pour” in this case will mean that the Dean will not be included in the review.

POUR: 31		CONTRE: 20		ABSTAIN: 0
Senator T.A. Le Sueur		Senator S. Syvret		

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

Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				

2. Role of the unelected members of the States: review (P.5/2009 (Amd))

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

The Assembly moves to the other amendment. This is an amendment to paragraph (b) in the name of Deputy Trevor Pitman of St. Helier, and I invite Deputy Pitman to propose the amendment. I will ask the Greffier to read the amendment first of all.

The Assistant Greffier of the States:

In paragraph (b)(ii), after the words “subsequent report and recommendations” insert the words “which publication date shall be no later than one year after the appointment of the Chairman and members of the panel.”

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

Having warned me about my language and the mention of political underpants yesterday, I am going to bite my lip.

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

Do not repeat those words, please. Thank you.

Deputy T.M. Pitman:

I will not. Where to begin? I do not feel I have to speak for long because, certainly in light of the vote we have just had, I think the case is just reinforced for the deadline that I am suggesting. What I would like to read out is the quote from the brief report: “Men and women cling passionately to old traditions and display intense reluctance to modifying customary modes of behaviour. As innovators at all times have found to their cost, the dead weight of conservatism, largely a lazy and cowardly distaste for the strenuous and painful activity of real thinking, has undoubtedly retarded human progress.” I think it is a very apt quote. I am going to refine my comments just to the issue of the deadline and save the rest for the debate. Why a 12-month deadline? Well, as Deputy Le Hérisier really put in a nutshell yesterday, so much of the evidence is there: *Clothier*, Deputy Pitman’s dual role proposition, very helpful, informative comments and information relating to Sark, even a similar proposition by former Senator Ted Vibert. Especially after the vote we have just had, to make out that this is unmanageable is, quite frankly, a red herring. What we are really being asked to do is a scrutiny review. Let us not fool people with talk of experts. I can look around this Chamber, and although it is not full, just as an example of the experts available I can look at Deputy Le Hérisier, I can look at Senator Syvret, I can swivel and look at the Deputy of St. Martin. There is a huge amount of expertise just within this Chamber. To convince ourselves that it is going to be difficult to do this review, or needs any longer than a year, is quite frankly without any credibility whatsoever. We talk about funding being a problem. Of course nobody wants to waste the taxpayers’ money, but I think things of great significance and importance come at a cost. If you do not have a deadline, of course costs do spiral. Let us just consider the figures relating to the Energy from Waste Strategy. Huge, huge, sprawling amounts which certainly are not the fault of the current Minister. Twelve months is not only entirely possible; as every one of us in this room could not deny, a deadline does focus the mind when you have to get a job done. Yesterday I quoted our own font of wisdom in Deputy Martin and I think her words are even more relevant. The truth is that for some in this Assembly, and past Assemblies, it seems it is never the right time for change. Worse than that, it is never even the right time to consider change. I just wish instead of referring to tradition Members would be, in my view - and it is just my thoughts - a bit more

upfront and say: “We just do not want change. We like it the way it is.” What is tradition? It was tradition not so very long ago to hang and burn witches. Would any of us suggest that that is still a good idea worth retaining? **[Interruption]** I have another little quote which I found: “Just because something is tradition does not make it right.” Now, everybody seems to be saying the same thing: “Yes, we know there are flaws in it. We know things need to be looked at”, but again, it is never the right time to do it, ever. If we accept this amendment and have a 12-month term maximum for review the advantages that gives us are huge, to my mind. For one thing, whatever comes out of it ... and it might be that the conclusion is that everything is hunky dory. Quite frankly, I think I will throw myself off the pier if that came out, but **[Interruption]** Is that that I should throw myself off the pier? I do not know; that is irrelevant. We do need to review; everyone is saying it. Let us for once just grasp the bull by the horns and do it. The funding, again I say it, nobody wants to waste taxpayers’ money but this is of huge importance. We just seem to have a very haphazard grip on what is important in spending money. Very shortly the Deputy of St. Mary will be offering this House a great opportunity to save millions of pounds with his proposition on the rescindment of the incinerator. Also to protect our health and environment, but that is another matter.

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

Deputy, I do not like to interrupt you but your proposition is about a time limit on the review.

Deputy T.M. Pitman:

I think I am going there within the time limit. To sum it up, there is so much evidence already there. We have the expertise to do it and the funding, quite frankly, is not a huge stumbling block some people would make. I suggest it is entirely doable to stick to this 12-month review. It is essentially a scrutiny review. We have just taken the decision to cut down the work even more so; really that should take the wind out of some people’s sails, I would suggest. So, I would just move the amendment.

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

Is that seconded? **[Seconded]**

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

I think basically it is a no-brainer. I think this can be done in 12 months. I will address in the bigger debate the whole issue of finance. It has been a total red herring, as the proposer has just mentioned. It can be done and I ask people to reflect on the painful, torturous process of government reform. Basically, the issue is not with a report; you can produce the most elegant of reports, you can get the most eminent of experts. I would ask people to contrast what happened in Jersey and Guernsey. Jersey I thought did a good thing - it did not work - when it brought experts from the U.K. (United Kingdom) and married them, so to speak, to local experts to give the thing local credibility. Guernsey did it entirely as a local affair headed up by a local lawyer and it reached a totally different conclusion, one that a lot of people here wished for: a strengthened committee system with a patina of a council of government on top of it. So, as far as I was aware, that was done locally, it was done quickly and, oddly, a totally different conclusion was reached essentially on the same evidence. The big issue is the politics of this Chamber. It is not the elegance of the report. **[Approbation]** We could have Abraham Lincoln writing the Jersey Constitution, we could have the founders of the American Constitution, we could have the progenitors of the French Revolution writing the Jersey Constitution and it would count for nothing when it hit the buffers of the politics of this institution. Thank you. **[Approbation]**

2.3 Deputy G.P. Southern:

Yes, I was going to use the word “no-brainer” so I will not repeat it, but this is obvious and we should do it more often. We should put a timing, a timed target, on everything that comes through this House because without it, it is meaningless. There are 2 advantages to this: one is that there is

a definite end to it but, not only that, the “T” for timed in “smart” almost automatically affects the other initials in “SMART target”: achievable and realistic. It will also help trim the scope of the review, as we have been told before. It is very important to make sure it is doable, achievable; it is limited because in a year how far can you go down a track? At very worst, settling on a year’s target means that you produce a report in the year if necessary. It says: “We have not looked at this bit and this bit, they may need further examination, but we can come this far. These are our conclusions so far.” So whatever happens, I do not believe there is any disadvantage in saying: “Report within the year and let us see where we are.” I think that is achievable; that is doable. I do not think we need that much debate on it. This should be fairly straightforward.

2.4 The Deputy of St. Martin:

If Members would look to the proposition and look at (b)(ii) it was asked to come back to a terms of reference and a proposed target date for the start of the review and the publication of a panel’s subsequent report and recommendation. It was in my thoughts that 12 months would have been long enough. I did not be prescriptive simply because I felt that would be a decision maybe for the panel when it came back when it was appointed. However, I would have thought 12 months would have been sufficient. Anyway, now we are only doing a part review 12 months should be quite sufficient. I am one of the few Members I suppose - not a few Members; there are few more now - who have some experience of scrutiny and if anyone knows anything about scrutiny one will know that you always scope what you are going to do beforehand. Dare I say we have it now almost down to a fine art. We know what we want to do, we then look at our terms of reference and we look at our timescale and we look at our cost and we know that we try to work within that timescale. We know and, in fact, we have the Connétable of St. Mary and the Connétable of St. Lawrence and Deputy Pitman who know full well that your best laid plans can sometimes go awry because the unexpected comes along, and we have to work within that and if we have to overrun, we have to overrun. I think that is generally accepted, but I think it is important that if you want to run anything, you want to be businesslike, you want to be efficient, you want to be timely, so you ought to get yourself geared up to giving yourself a period of time to work within. I think it is fair to say that 12 months really would be quite sufficient, particularly now we are only doing a part review. *Clothier* took almost 2 years and it was almost like a licence to continue until they were ready. It became very, very costly. Again, if we had a timely, efficient, well-run, businesslike review - again I would support what Deputy Le Hérissier says - we do not have to go out too far to get expertise. Even if the cost of one so-called expert was imported from outside the Island, that would be as much. As I say, we have 400,000 red herrings floating around this morning and I do not think we need to add some more. Certainly, I think there is a lot of merit in what Deputy Pitman has before us and I would ask Members to give their support.

2.5 Senator S. Syvret:

How long would such a review take? Well, let us run a little experiment. I will tell the Assembly what I will do: I will do the review for you now. Consider the roles of the Attorney General and the Solicitor General. They have 3 overlapping and often conflicting roles at the moment. They are advisers, legally, to this Assembly in which frequently certainly political elements enter their speeches ...

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

Where is this going, Senator? We are looking at the time limit ...

Senator S. Syvret:

This is looking at the timescale because Members are going to be arguing that it cannot be done in 12 months and I am just going to show how simple the issues are. The Attorney General and the Solicitor General are advisers to the Executive. Now, that will often put them in a conflict between giving impartial advice to this Assembly and advice to the Executive. We have already seen a great

degree of conflict between the questions of legal advice to the Executive and to Scrutiny and perhaps most fundamentally they are Directors of Public Prosecutions. They are effectively the Crown Prosecution Service in Jersey. Now, how ...

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

I beg your pardon, how does this relate to the time limit? This is what we are talking about.

Senator S. Syvret:

I am illustrating the simplicity of the issues; that is how it relates to the time limit. Directors of Public Prosecutions, there was very clear guidance given to the Directors of Public Prosecutions on the Crown Prosecution Service website about the objectivity and impartiality required to be observed, yet we have a situation here where on the one hand you have an Attorney General who is giving day-to-day legal advice to the Council of Ministers on issues such as what to say and not to say in order to avoid possible compensation claims for abuse survivors, and the next day determining and deciding upon where the prosecution should take place. Therefore, the Attorney General and the Solicitor General as presently structured are manifestly completely incapable of properly fulfilling their 3 roles. Those are the obvious conclusions, the evidence is out there, it is well established, the jurisprudence is there so, there you go, that is the role of the Attorney General and the Solicitor General reviewed - done and sorted. Bailiff and Deputy Bailiff: again, the very substantial, very substantial, bodies of jurisprudence which I have researched about the need for the impartiality and the objectivity and the appearance of objectivity in all judicial processes is absolutely clear, consistent and overwhelming. It is not remotely credible for us in the 21st century to have this overlap between legislature and the judiciary. We need a completely independent judiciary that is fire-walled from all executive and legislative functions so that it can meet, as it does not at the present, the test of meeting the appearance of objectivity. It has to do that, not only on the basis of British case law but also on the basis of European Convention on Human Rights case law in principle. We have to change. The current position is wholly unsustainable; simply absurdly so. There you go, that is both posts reviewed - done, sorted in a few minutes. So, if Members are seriously saying we cannot have a review of these issues within a timeframe of 12 months then I think, as a previous speaker argued, we cannot be just taking them seriously. That would essentially be, in truth, a political objection to the review rather than a practical, meaningful one.

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

That last speech appeared to be based entirely on the premise that some Members would argue that this review could not be done within 12 months. I have heard nobody in this Chamber or outside suggest that to me. Certainly, from the Council of Ministers' point of view, I have no doubt that it can be done within 12 months. I would agree with Deputy Southern this is not a subject we need to discuss at any great length. I have heard nothing to the contrary from anybody and so I will leave it at that and urge everyone to support the amendment.

2.7 Deputy M. Tadier:

Hang on a minute before we make any rash decisions. I will remind you who is bringing this proposition: it is Trevor Pitman from the Jersey Democratic Alliance and I would speak ...

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

Deputy, I think you will find it is Deputy Pitman.

Deputy M. Tadier:

Sorry, Deputy Trevor Pitman, from the Jersey Democratic Alliance. Are we really sure that we want to be supporting this because, after all, they are an enemy of Jersey, and I would speak to the 11 Constables who constantly vote against the J.D.A (Jersey Democratic Alliance). Be careful here, there could be an ulterior motive. Why does he want to bring it within a year? It sounds very

plausible but I suspect that he might be planning to overthrow Jersey in some Machiavellian way that we have not thought about yet, so I would advise caution.

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

I do hope you are not imputing improper motives on Deputy Pitman.

Deputy M. Tadier:

On Deputy Pitman? [Laughter]

Senator S. Syvret:

On a point of order, how could the overthrow of the Jersey establishment possibly be considered an improper motive?

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

Please continue, Deputy.

The Connétable of St. Mary:

May I just raise a point of order? I feel that my voting has been questioned and my ability to think objectively and make my own mind up has been questioned by Deputy Tadier and I would formally object to that.

Deputy M. Tadier:

I apologise, it was certainly not my intention to impute any wrongdoing. I am sure all the Connétables, like any of the Assembly Members, always vote with their conscience and they vote objectively and they do not vote along any kind of party lines. Of course, we do not have parties in Jersey, so how could I possibly be imputing those kind of false motives?

The Connétable of St. Mary:

I am sorry, I do not consider that to be a withdrawal. I heard the words: “the 11 Connétables who always vote against” or: “who all vote in the same way” assuming some sort of collusion and I would respectfully request that the Deputy withdraw that.

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

I think you do need to withdraw that comment, Deputy.

Deputy M. Tadier:

I do not think I have been imputing any ulterior or wrong motives.

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

You did state that you believed that the Connétables voted together; now please withdraw that comment.

Deputy M. Tadier:

I am purely using empirical evidence. I have only been in the States a few months and empirically ...

Connétable D.W. Mezbourian of St. Lawrence:

If the Deputy will give way, if I may say I have been accused on many occasions of voting with the J.D.A. and I believe that the Deputy has no evidence at all to make the, I believe, accusation that he has made and I ask again that you ask him to withdraw it.

Senator S. Syvret:

Before you do that, on a point of order, methinks they do protest too much. Yesterday I was accused of making political capital out of trying to do my public duty to expose the malfeasances

which led to the tragic death of a patient. Now, if that is the kind of remark as was deemed by the Chair to be perfectly okay and there being no requirement to withdraw it, a little dig at the Constables surely must be of completely nowhere near as grave a remark.

Deputy M. Tadier:

Notwithstanding the Senator’s comments, I do wish to withdraw those comments because I do realise that certainly they have taken offence and I would like to wholly retract those comments but I will continue, if I may. So, let us be careful here. It sounds like a perfectly logical and plausible argument indeed like many of the arguments that we have heard, but that in itself is not the litmus test. I think they could well have an ulterior motive here. Let us be cautious with this. That is all I have to say really, so I would be very careful. We could regret it. Let us leave it like that.

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

It is not often I stand up and agree with Deputy Pitman, but on this occasion I have to agree with him and I think a year is absolutely fine.

2.9 The Deputy of St. John:

Could we get down to the vote? It is quite simple.

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

Does any other Member wish to speak? I will ask Deputy Pitman to reply.

2.10 Deputy T.M. Pitman:

What to respond to? I would just say that I plead guilty to Deputy Tadier that if the vote does not go the way I want I am going to dig up Norman Le Brocq’s tanks in Grand Vaux Woods and start a revolution. I have heard nothing that suggests we cannot do this in 12 months. It is certainly very much more simple than some people would have us believe, as Senator Syvret has said. I welcome the agreement that it could be done in 12 months from the Chief Minister. Indeed, I am shocked but deeply moved that he agrees with me. I am thrilled that the Deputy of St. Martin came up with the same 12-month period and I move the amendment. Please support it. Could I ask for the appel, and is that the J.D.A machine guns that just started up outside already?

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

The vote is for or against the amendment of Deputy Pitman that there should be a time limit on the review of 12 months.

POUR: 36		CONTRE: 3		ABSTAIN: 1
Senator S. Syvret		Senator F.E. Cohen		Connétable of Grouville
Senator P.F. Routier		Connétable of St. Peter		
Senator B.E. Shenton		Deputy E.J. Noel (L)		
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Connétable of St. Ouen				

Connétable of Trinity				
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 J.A. Hilton (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 T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

3. Role of the unelected members of the States: review (P.5/2009)

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

Very well, the Assembly returns to the main proposition as amended by the second amendment. Does any Member wish to speak on the proposition as amended? Senator Ferguson.

3.1 Senator S.C. Ferguson:

I am constantly amazed at the way States Members can dream up ways to spend money. This proposition feels remarkably like rearranging the deck chairs on the Titanic or fiddling while Rome burns. We have important matters such as the Redundancy Law to legislate for and debate and here we are thinking about spending money, taxpayers' money, with gay abandon. As Deputy Le Hérisier said, the *Harwood Report*, the Guernsey version of *Clothier*, had the same problem and came up with different conclusions. Their Chairman was a local Guernsey lawyer, I understand. We had a U.K. civil servant hell-bent on instituting a system like the indescribably bureaucratic local government assemblies. I hate to say it, perhaps I should whisper it: perhaps Guernsey got it right. The Deputy and his proposition make much play of the McGonnell and the Sark cases. I have read McGonnell, but I think it is best summed up by paragraph 4 of section 3 of the *Harwood Report*: "The final judgment given by the European Court did not, however, follow the recommendations in the report of the Commission. In particular, the judgment affirms that there is no legal basis for contending that there should be a separation of the judicial and parliamentary roles of the Bailiff." I have also skimmed the Sark judgment. I have a copy of it here if anybody wants to look at it, but it seems to me that there are a number of significant facts which make the case a less than sound precedent for us. I am not going to go too far into the legal matters, I am not a lawyer, but I would suggest with great respect that the Deputy has perhaps misunderstood the judgments. There is a saying in America with which we are all familiar: "If it is not broken, do not fix it." It is best practice that you should not start changing things unless you have studied how they work. It is also good maxim to inquire why things are being done as they are. I have heard criticisms of the traditions of this Island. Indeed, I ventured a few of my own when I first came here some 40 years ago, like most immigrants. My Jersey friends whose families have been resident for some 1,100 years put me right and suggested I look at how things work before I promulgate change. For a start, we need to ask what is the collateral damage? We have a number of new Members who are advocating change without seeing how the system works in practice. I would also ask them to consider the rationale behind the views taken by certain existing Members and certain members of the legal profession. I do not think that Islanders are hung up on these changes. I do not know that they want them. As those of us who went around the parishes to the hustings know, this was not the main concern during the hustings. States spending, for example, figured much higher as a concern. As I have said, I think we are fiddling while Rome burns. When the new Members consider the system as it works, I think they should perhaps note the attitude of the Chairman of this Assembly. Frankly, I think he has the patience of a saint as he deals with fractious Members and I am not at all sure he should not have been canonised rather than receiving his "K" but that is another matter. But I would also ask Members to consider the alternatives and look at the webcasts of the U.K. Parliament. We certainly do not have unelected officials in this Assembly who go around submitting a £4,000 bill for taxes for shopping for a start. I suggest that we have other matters to debate which are a great deal more important than this proposition. As Bill Clinton said: "It is the economy, stupid" and I ask Members to reject this proposition.

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

Does any other Member wish to speak? Deputy Southern.

3.2 Deputy G.P. Southern:

I rise to my feet following that speech from Senator Ferguson to remind Members that what we are debating is not your opinion of the Bailiff or any Members' opinions or Members' opinions of what should happen, but what shall we do and shall we do it? So, do we proceed with this work or not? A simple yes or no is where we are at. Not pre-empting the outcomes and suggesting that there are dangers here, there and everywhere; that is for another debate. Let us decide today whether we proceed or not. It is simple. If we can do that during this debate perhaps we might get it done by lunchtime, otherwise I fear we might be here a very long time. Really, that is all I want to say. I believe the public out there do want us to get on with electoral and government reform. Where we start it does not really matter. This is the first proposition that has come before us on this issue and is a very simple and straightforward one and says: "Make a start here at this level." That does not say that we do not do anything else in the next 3 years or in the next year. The people out there want us to also start looking at, for example, a general election as a move forward and then looking at the consequences of that as a move forward. Because if we do nothing else apart from deal with the recession and other things, if we end up with the same form of government in 3 years down the line as we took to the electorate this time around, we are in deep trouble, I believe, because people out there are crying out for change. The Senator was mistaken, I believe, when she said government and electoral reform were not hot issues. They might not have been on her agenda because she concentrated solely on spending cuts all the way through the campaign, but there were 21 other candidates there and almost every one at some stage addressed the issue of electoral reform and almost every one said: "We must start moving and must start change. We have done half of *Clothier* and we must make some effort to change our system." So it is not either/or and it is not a waste of money. It is something that is deeply needed and we should get on with it, but I urge Members to stick to the issue of: shall we proceed or shall we not, and not have opinions about this Bailiff, another Bailiff, or whoever it might be. Thank you.

3.3 Senator B.E. Shenton:

I will be brief. I just want to make 3 points. Firstly, last year the Bailiff and his learned colleagues carried out a review looking at what the Island would have to do if it was to seek independence. The review clearly stated that there would have to be a separation of powers between the legislature and the judiciary and that the Bailiff's role in the Chamber would have to be removed. This is the recommendation of the Bailiff himself. Secondly, from a point of costs, we sit far more often these days than we used to, certainly a lot more than we did when States Members were not paid; I am not quite sure if there is a connection there. But we have to ask a question whether it is good sense to have a Speaker in the Chair that costs about £250,000 a year to preside over us. The third point I would like to make is that I have a proposition next week where the Bailiff and the judiciary are conflicted and it is going to cause a few problems. So I think this is a very important issue and we do need to review it sooner rather than later because it seems to me that all rational thought should lead towards a separation of powers and we should carry out the review as soon as possible.

3.4 Deputy M. Tadier:

I will try and restrict any irony this time. We heard before about fiddling while Rome burns and that there are more pressing issues than sorting out government issues like the dual role of the Bailiff. First of all, I do want to defend P.P.C. I am a member of P.P.C. and I think that a lot of wrong motives have been attributed to the current P.P.C. I cannot speak for the previous committee, but I know that everyone on the P.P.C. was acting within good faith and they were trying to do the best thing. As I mentioned before, when we looked at the review certainly we were looking at costs; we wanted to get value for money. I think arguments have come out since and there may be differing opinions within P.P.C., which I believe is healthy, but I think it is wrong to say that P.P.C. automatically are trying to bar any progress. That said, I suspect the same cannot be said of the House as a whole. First of all, for the listeners at home, I would just like to draw attention to the fact that there are 5 Senators seated; there are 5 Connétables seated out of the 12. If the same proportion had been sitting as Deputies we would currently be inquorate. It is quite a

commonplace thing, about 11.00 a.m. people go out for a cup of tea. Perhaps this is one of the traditions, the famous traditions we hear about, which we must fight for at all costs. Sorry, the irony is creeping back in again. I really do not know how to vote on this one. I went into it thinking: "It is all or nothing." I agree that we do need a review of the Bailiff on the grounds that it is a very controversial issue. I do not think that we should tamper with traditions willy-nilly. I think you do tamper with traditions not at your peril, but you do have to take the weight of tradition and history into account and I agree with that. But I want to comment on Senator Ferguson's comments that there are more pressing issues. If you cannot get the basics right then everything else will be wrong; if you get the basics right then everything else follows. Democracy is not optional. We have great democratic models to look for around the world. You have the U.S. (United States) which not everyone agrees necessarily with the internal policy; hopefully that is changing now. You have great nations like France and great republics and even the U.K. The idea of separation of powers has been entrenched for several hundreds of years and there are good reasons for that. You do not have a judge who sits in your parliament. It is nonsense. You can say that the judge is a good person, and I am sure he is. I have no quarrels with the Speaker, any of them; I think they do a superb job. But this is not the issue. We have to differentiate between the role and the individual. You have chess and you have a game of chess and likewise you have the Bailiff and you have the person and the Bailiff, and I have no quarrel with the personage, and the same can be said for the Dean as has been said before. But we just heard a speech with which I must take exception from Deputy Gorst. I do have respect for Deputy Gorst, and that is why I was very surprised when he said that there is no area of controversy with the Dean. This is complete nonsense. It seems that in Jersey we function on pre-Copernican principles where the rest of the world, politically speaking, is round but in Jersey it is flat. So it is okay to have these things in Jersey because this is the way it has always been. I think it makes a mockery of our Island when people look at us from the outside, and I say this effectively as a Jersey patriot because it makes me angry. We need to get these things done once and for all. Jersey has a thriving offshore industry. Now, I am not here to talk about the rights and wrongs of that but it does support many people in the Island. Unfortunately, people looking to invest in Jersey ... we recently had a Panorama programme about Liechtenstein, and I know that generally Liechtenstein are not perceived as a very good example. They see this effectively what is an autocracy ruled by a royal family and they do not have any credibility. That is going to put people off from investing in Liechtenstein, I am sure. Similar things could be said of Jersey. They look at us and they think we are basically a potato republic. They see we have this Parliament, and I do not want to repudiate it because I do not want to repudiate any people in the Parliament themselves because I do think that we have the right motives when we come here, but they look at us and say: "They do not even have separation of powers." I talk to intellectuals and friends in the U.S., in France and the U.K. and I explain as impartially as I can how our system works, and it was a system which I was brought up with at school. At La Moye School they taught us very well, in fact, about the traditions of the parish, about the traditions of the States, and we would often go and visit the parish and I was very proud of those traditions. However, there comes a time when you have to ask, as has been asked already: "Is tradition always a good thing?" We should not ask: "Is it traditional?" We should ask: "Is something good? Is it viable?" I suspect that we have come to a point in history where our current *modus operandi*, if you will excuse the Latin, is no longer viable. I think change needs to come. It is not necessarily something we all want but we must change before we are obliged to change. There was a philosopher, I cannot remember who it was, but he said: "A state without the means of change is without the means of its own conservation." So to those conservatives in the audience, and there is nothing wrong with a bit of conservatism, we need to change this part of conservatism. Yesterday's radicals are today's conservatives. Change is a good thing that needs to be embraced. But the question I have is if we needed a review of the Bailiff and of the Attorney General and of the Solicitor General, why did we not need one of the Dean? Is it because the Dean is not controversial or we all agree that the Dean is controversial? Apparently not. But, of course, the separation of church and state is another thing which is enshrined in most liberal democracies. It

does not matter if you are a Christian or not or if you have a particular faith, as soon as we come into the States, religion should remain outside and we should act as a secular legislature. I think that we could go one step further: is there a need for prayers here? I am not religious. I quite happily stand here and I remain silent during the time for prayers in respect of other people's beliefs. But that is very bizarre. If you go to any other legislature in the world, it is very strange to have prayers. I am not knocking it. Well, it is for me and they certainly do not have it in the great democracies that I can think of. Do they have it in the U.K. Parliament? Okay. There you go, but they still have an intertwining of church and state. They have the established Church of England, so they have the same problems. America do not, they have a separation. Interestingly, the U.S. do have it on their bank notes, which is a kind of contradiction. So I really want some feedback from other Members: what do we do? Do we go for all or nothing? I welcome a review of the Bailiff in particular. I do not think it could be done without a review because, as we know, as soon as anyone would bring a proposition they will say: "These are heavyweight things we are dealing with, we cannot just do it on the back of a fag packet", as the previous person who would stand in this spot used to be quite fond of saying. So really, yes, just some feedback, though, but that is what I have to say on the issue. Democracy is not optional. We need to drag ourselves out of the 18th century and into the 21st century and we need to put in place a system whereby people can feel represented and be represented.

3.5 The Deputy of St. John:

If I may help the previous speaker about the prayers, in fact, if he takes note our names are called twice and if you are minded not to want to be in the Chamber when it is called prior to prayers, then you come in on the second sitting. Although it has not been explained to Members on this occasion, I think it was explained to me, one of the very few things when I first became a Member 15 years ago, so that might help the Deputy. The purpose of standing, and I said this yesterday, 10 years ago *Clothier* gave us a report and he made recommendations that we should adopt, a review of our entire system. We reviewed it in part because it was presented to this Chamber several years after the review had been taken, it was debated, and we were told by the President - and I am repeating myself because it was a different part of the debate - that we should accept the entire recommendations or nothing. It was brought to the Chamber by the President of P. and R. (Policy and Resources) of the day, Senator Horsfall, who told us: "Accept this in principle" and it went through in principle by a small majority, only a small majority, because he said we would put the meat on the bones later on. I know one or 2 former Members in the Chamber who were very disappointed when things started progressing and the meat was never put on the bones; unfortunately, one or 2 of them are now deceased. Ten years down the road we are still trying to put the meat on the bones to do the job properly. I heard what Senator Ferguson said earlier, but as far as I am concerned all the meat needs to be put on the bones. Let us review it. We have reviewed part of it but there are lots of areas that have not been. The meat needs to be put on the bones. I ask you to accept this and make things happen because in the next meeting we have my report and proposition on government reform and I will be making a similar speech to this, only obviously with a bigger content. But please on this occasion vote for this particular reform.

3.6 Deputy R.G. Le Hérissier:

We look forward to the Deputy of St. John's bigger content with anticipation. Just a few points. I think we are in grave danger. Despite the rhetoric of Deputy Tadier of St. Brelade, we are in grave danger of going into stating our particular views on the whole process. I think what could derail this is the cost, and I have raised this concern with the Deputy of St. Martin. We have had totally over-the-top comments from the Minister for Treasury and Resources and the Chief Minister as to the costs. What it shows is this sort of inferiority complex that where we can bring local expertise to bear, we still have to run to daddy in order to sort out our problems. It is noticeable whatever you do think of the independent study group, and unfortunately it was sort of mishandled in the way it was put in the public domain, that was done as a local endeavour. There was an enormous

amount of work done, there was a lot of work that was never shown to people which should have been shown, but it all got mired in the politics of how the different options were studied and so forth and so on. That was all done by teams here and that is forgotten. I mentioned earlier the Guernsey example where oddly enough, paradoxically, they came with much more radical proposals re the electoral system. They came with much more cautious proposals re the Ministerial system. That was all done locally. It was all politically accepted and managed locally and no one became upset and a mature debate ensued. So this notion, I am really frightened because I do not want to go out to the public and have to defend £500,000 on this study, quite frankly, when I know it can be handled at a professional level but much differently. I really hope the proposer takes this to heart because it can be handled and it is absolutely ridiculous that that red herring was allowed to be planted in people's minds. The other thing I would say is one of the things when you are in this Assembly, I suppose, which I have been notably deficient in doing, as I have just told my friend the Constable here, is being able to read the political tea leaves. Part of reading it is, quite frankly, you have to grab every opportunity because, as Deputy Gorst intimated, change only comes to us very occasionally if at all, and the retirement of the Bailiff is that opportunity. If you cannot read the political tea leaves about what is happening and the fact that an opportunity has presented itself and that one should move instantly to deal with that opportunity, then you are truly a blind person in the land of the blind and I hope people will move with that. I totally agree with this view that tradition is often interpreted of just ... not willy-nilly because that may lead to the wrong use of words, but it leads to this view that tradition is simply the retention of what we have. It is the retention of what we should have. If we want to push Deputy Gorst's defence of the established church, why do we not go back to the link with Coutances? We have this terribly new link with Winchester; we have only had it since the 1500s. I would like to go back to Coutances. Why not, Deputy Gorst? Let us lead a campaign.

Deputy I.J. Gorst:

Would the Deputy give way?

Deputy R.G. Le Hérissier:

Indeed.

Deputy I.J. Gorst:

I have no problem at all. I will be right behind him with his campaign. **[Laughter]**

Deputy R.G. Le Hérissier:

Thank you, and the parish of St. Ouen will no doubt be in the forefront because of its link. There are 2 minor points; well, not minor. It was Edmund Burke who said: "To keep matters the same we have to change", which is interesting. The second point is there is this issue which the group will have to look at that in smaller jurisdictions it is all well and good imposing the principles that apply in larger jurisdictions, but we have to take note of the fact (a) the division of work is more difficult to deal with. That was something I think the Deputy of St. Martin drew the wrong conclusion from the McGonnell judgment. The conclusion was that it was possible to retain the role with certain limited changes. That, I understand, was the conclusion and the Solicitor General may wish to address that matter. The other thing is, of course, having made the changes, one of the interesting things in a small society is how things so quickly get politicised and personalised and how hard it is to keep these principles intact, and I think we underestimate that at our cost. Thank you.

3.7 Deputy S. Pitman of St. Helier:

I just wanted to start my speech with a question to the Treasurer. I wondered if now that the offices of the Dean and the Lieutenant Governor are not going to be reviewed, how much less this review would cost. Can the Minister give us some idea at this point?

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

Are you able to assist the Assembly, Minister?

Senator P.F.C. Ozouf:

Deputy, I was planning to speak. I am just looking for my notes. Will she just carry on with her speech and I will indicate when I am ready to give her the breakdown.

Deputy S. Pitman:

Last year I brought a proposition, as Members know, to split the role of the Bailiff and my proposition was voted against. During that debate Senator Ozouf, now the Treasurer, said that he agreed ...

Senator P.F.C. Ozouf:

On a point of order, I am the Minister for Treasury and Resources, not the Treasurer. That is a separate statutory office.

Deputy S. Pitman:

Said that he agreed that there should be a debate about the separation of the Speaker and the Chief Justice but that we could not have a debate or make a decision on the back of a 3-page proposition. Also during that debate, the P.P.C. chair spoke, and she said she could not vote for that proposition because there was no hard evidence. She is now the chair; she was on P.P.C. then. Now the Minister for Treasury and Resources says that we cannot do this because we are facing uncertain times financially, that we do not have the funds and so does the now Chairman of P.P.C. say the same.

The Connétable of St. Mary:

A point of order: I have not said that.

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

The Chairman is saying she has not made the statement.

Deputy S. Pitman:

That is my understanding.

The Connétable of St. Mary:

Then I am happy to correct what I said if the Deputy will give way.

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

Will you give way, Deputy? The Connétable of St. Mary.

The Connétable of St. Mary:

In my speech on the amendment I made it quite clear that I was not making any reference at all to the quantum of the cost. I was seeking value for money in the proposition and I have not yet spoken and, with respect, I have given absolutely no indication of how I intend to vote. Thank you.

Deputy S. Pitman:

Well, what I was trying to say is that the now Chairman did say during my proposition debate that there was no hard evidence. Now it is a case of we are not sure if we are going to get value for money. We do know that there are conflicts of the States Law Officers. We know then because we had the *Clothier Report* produced which addressed these issues in debate in great depth and the Bailiff in his own report supported the fact that his role should be split. I ask this House when the right time to do this is. May I suggest that we save the States money and implement the recommendations of the *Clothier Report* on the issue of the splitting of these roles?

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

Were you asking the Minister for Treasury and Resources for input immediately before he makes his speech or can you wait for his speech?

Deputy S. Pitman:

I can wait.

3.8 Deputy P.V.F. Le Claire:

Well, it is interesting now we are into the main part of the debate with 2 of the unelected Members having been taken out that we are now reverting to the argument value for money in terms of costs. I do not think it is disputable that the representatives, namely the Bailiff, Deputy Bailiff, Attorney General and Solicitor General, bring exceptional value for money in their roles. I for one in particular would like to go on record that they bring exceptional value for money in the work that they do. But what I am asking us to focus on is not so much the value for money determined by a review of these people but whether or not we are bringing value to government and value to the Island in general in determining for ourselves the future structure and operation and representation that the States of Jersey carries into the future. If we are going to carry a banner in front of us in these uncertain times saying: "Backwards" then I am afraid that is going to be the wrong message that we need to send out. Did we not look intensely at the roles of the Bailiff, the Deputy Bailiff, the Attorney General and the Solicitor General when we reviewed their salaries recently? We did because I was privy to that review. The work that was undertaken by them, the comparative costs in the private sector, et cetera, was all undertaken. There was a body of work undertaken by Mr. Powell and others that determined through comparative examples the increases required to maintain parity, if it can be called that because a lot of it is service, and it is not for money that they do this. But a lot of this evidence was presented when the arguments were put forward to the States for increases in remuneration. I do not know in the future whether or not increases in the remuneration for these posts will come before the States Assembly and I do not know if the rationale will be there for us to determine, but it certainly has been there in the past. So, when you look at what was being lauded as a £500,000 review and then in the coffee room people are telling me when you start to look at the church you could be talking about £2-3 million - this is what I have been told in the coffee room by other Members: when you start to look at the intricacies of the established church going through to the U.K. other Members are telling me that you could have a review that could potentially run into millions - if you start going to the U.K. and you start trying to determine what the Lieutenant Governor does and what his role is, how he is appointed, then these are the sorts of costs that are lauded in front of you.

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

On a point of order ...

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

Is it a point of order?

The Deputy of St. Mary:

Well, it is a point of something. [Laughter] It is just that we are not talking about reviewing those roles because we already rejected that amendment.

Deputy P.V.F. Le Claire:

That was very helpful, thank you, the cavalry to the rescue. What I am trying to determine is whether or not there should be a review and whether or not we are focussing solely on the money. I think that a lot of the arguments in relation to this review have revolved around the money at a time when there was great fiscal pressure upon the Island. Well, wakey wakey, there is great fiscal pressure on the whole globe at the moment but that is not stopping the rest of the countries determining what their future will be. The United States of America is making huge progress in

changes to foreign policy. In my view, it is making huge progress. Dramatic changes in foreign policy; how it wishes to be perceived on the international stage, sending forward a new message to the international community so that the international community thinks and works with America in a new, enlightened and different way than it has under the Bush administration. We have just been through, and are still going through, one of the most appalling discoveries with the Haut de la Garenne issues that have befallen our community. Internationally, the media has chosen to ignore fact in many respects and relish in fantasy - sensationalism - to the detriment of the Island as a whole. That has damaged us internationally not only as a government and a place, as a financial offshore institution to do business, but also from a people perspective where we are perceived as some little backwater in the greater scheme of things. It has damaged us, it has damaged the Island, it has damaged the community. We have recently moved to a Ministerial form of government bizarrely cherry-picking much of the work that has been done by *Clothier* and not the parts that were unpalatable. Do we really believe that we can continue to walk into 2009 carrying the banner of backwards, look behind, let us hold on to what we had and succeed? No, we cannot. We need to have a review because it needs to be understood how in the future we move from this current position that we are in into a more modern functioning democracy if the States of Jersey is to survive as a governing body within the Channel Islands. On the international stage the Chief Minister needs to be understood and clearly representing the people of Jersey as the head elected Member of the Island. The appointment of the Bailiff was probably more relevant when there was a committee system. As the head of the Island it was clearly understood, although with much play it was clearly misunderstood in many circles, and the unwritten side of things is also worked in our favour: let us have a Bailiff, continue to be the head of the Island representing things at States functions and a dignitary, and he is in the States and he is in the courts and we will argue away this case with the European Convention, with the European community in the European Court of Human Rights and we will win it and let us just wait until the next one comes. Because there are future cases and the European Convention of Human Rights is a living, breathing entity. It will change, it is based upon current case law; it will be based upon future case law and the precedents that have been determined by other communities. We have recently seen in Sark that there has been a clear message from the European community that the role of the Seneschal there and the conflicted position in that particular issue needs to change - has to change. I have always been one to believe the Bailiff, as an individual, could lead the courts or he could lead the States. I would have no problem whatsoever nominating him for either role and supporting him in that role. But where I do have a difficulty is thinking of the future and believing the current practice will suffice. I do not think it will. Again, there was no slight upon the individuals in all of the positions that have been filled. They have been filled by some of the best people available in the community that have put themselves forward for these jobs. It is even wrong to call them jobs because they are more than jobs, they are vocations. However, the Bailiff, Her Majesty's Attorney General and Her Majesty's Solicitor General I believe require a review and they require a prompt review because given the time that it takes the States of Jersey to get from where we are today to the end of a proposed review it may be the time that we have to sit and think about whether or not we want to change. Some of us, I will give you an example, did not necessarily want to change to Zero/Ten. Some of us wanted to say: "No, we will keep the exempt companies. We will not introduce G.S.T. (Goods and Services Tax)." But we were told - bashed over the head - that we were going to have to take the medicine and lose the money because the international reputation of Jersey was at stake and in order to continue to function within the international community we had to be a modern finance industry that could survive. We had to take account of the outside pressure. So we took the hit in terms of cash and we took hundreds of millions of pounds in terms of a hit and we imposed new taxes upon people because we listened to what the outside world will say. If States Members do not wish to have a review then that is entirely a matter for States Members. But I would just as a word of caution end my speech by saying this. It is better that we know how to change in the way we would wish to change if we suddenly find that we need to change.

3.9 Deputy A.K.F. Green, M.B.E., of St. Helier:

I find myself in a little bit of a dilemma here today because I suppose by nature I am a traditionalist. I do not know if it is my army service that has made me such, but I also had the privilege of serving in the Youth Corps for 6 years, albeit as a lay member, but attended 2 Commonwealth Judges and Magistrates Conferences - one here and one in Toronto - to represent the Island. Much discussion took place after dinner or during dinner over Jersey's Constitution. As a manager I know that when a post becomes vacant, one takes the opportunity to look at whether that role needs to be filled; whether that role if it needs to be filled needs to be changed because circumstances may have changed during the time of the post holder. I am horrified today that we have spent so long. I know it is an important issue, but we spent so long talking about this because what I think we are doing today is not debating whether there should be a review but we are all attempting to carry out the review. **[Approbation]** The decision to me is quite simple: you either want a review or you do not want a review. Vote yes or no according to your conscience, but let us stop trying to do the review. **[Approbation]**

3.10 Senator P.F.C. Ozouf:

Very apposite comments. I would, however, want to agree with Deputy Green but simply alert the Assembly to the financial considerations, wearing my Treasury hat. I think I do need to explain to Members 2 things in relation to the financial considerations. First of all, what are the costs likely to be and, secondly, how will they be found? Firstly, on the issue of cost, of course it will depend very largely on the terms of reference and the nature of the makeup of the review. I need to say to Members that the figure ... and I know that it has been criticised by some, but I think that we are looking at a cost of in the region of £400,000. I will just explain very simply just a couple of elements of that. If we are to deal with, for example, a Q.C. (Queen's Counsel) in relation to the chairing - the leading - of such a review, one can easily imagine that 50 days costing £150,000 could easily be spent. In terms of the necessity of specialist advice for a panel dealing with such important constitutional and legal issues, quite easily 2 lots of 50 days of advice: another £150,000. Other costs of accommodation, the researcher, the assistants given for administration; it is quite easy, I think, for Members to envisage a cost of some £400,000. But it will depend very much on the terms of reference. I have to say that I am going to have to be a bit the grim reaper with Members about some propositions that are coming forward, of which this is one because it asks the Minister for Treasury and Resources under Article 11(8) of the Public Finances Law to bring back a proposition for expenditure. We have a process of expenditure set within this Assembly in the process of the Business Plan. That is supposed to make for orderly allocation of scarce resources. I am going to have to, I am afraid, fairly vigorously resist any suggestion, including this one under Article 11(8), to bring forward a proposition. I do not have the law exactly in front of me, but the law envisages that that arrangement should be for effectively urgent and unforeseen. That is not the wording of the law but effectively that is the spirit of it. Moreover than that, I need to say to Members where there is available resources; that is from the Consolidated Fund. The Consolidated Fund has, as Members will be aware, approximately £20 million in it. I am afraid that the latest calculations that I have made in relation to the demand on that money is absolutely enormous. Members will shortly have on their desks an exceptional request under Article 11(8) in relation to implementation of the Williamson Inquiry which we have been persuaded is going to be required. Members will also be aware of the ongoing costs currently unbudgeted in relation to the child abuse investigation, quite easily a figure that would equal that which the previous Minister for Treasury and Resources made of perhaps £4 million, £5 million, £6 million, £7 million in order to deal with that. Mindful of the other pressures I am going to have to resist very strongly any suggestions that requests can simply be made under those arrangements. I am sorry to be so negative but I need to be absolutely clear and honest with Members about the availability of resources that we have. What I have said to Members in my comment is that - and Deputy Green is absolutely correct - if there is a political will in order to carry out this review then we effectively have 2 options in order to fund it. The first would be that we reprioritise existing expenditure. There will have to be

conversations with all departments of whether or not we find the money from within existing budgets. I can hear Ministers screaming from various directions under their breaths in order to deal with that because departments are already under enormous stress. Secondly, there would have to be a discussion with Privileges and Procedures and the Chairmen's Committee to see if there were available resources within the scrutiny budget. The alternative, which I think is perhaps the more hopeful option in the short term - and again there is only a very limited possibility of this being available - is to look at the carry forward balances that we find available from the end of the accounts from last year. That certainly is an option. What I will say is that this is not easy, but I do understand and I will take this clear signal of the Assembly about whether or not they wish to carry the review and I will work hard with Ministerial colleagues and others in order to find a solution from within existing resources or carry forwards. From the latest information that I have, I think that that would certainly be an option for Members based upon what I think is available in the carry forwards for this year. I do understand the point that Deputy Le Hérissier made about reading the political tea leaves and the issue that there is a time in order to do that. Taking off my Treasury hat, I accept and support the need for a review and will be supporting the proposition but cannot guarantee that there is going to be an automatic solution in order to fund it. But I certainly will be supporting the proposition as other Members of the Council of Ministers have. **[Approbation]** I know that Deputy S. Pitman is looking surprised, and I will just simply conclude by drawing to her attention that there is a distinction, I would say through the Chair, between this review, which will come forward with a detailed terms of reference after mature consideration - which will not be the review, it will be setting out the process for the review rather than making it up - versus Deputy S. Pitman's proposal that we do the review by way of a 3-page report. There is a difference. On that basis I will be supporting the proposition.

3.11 Deputy A.E. Jeune:

I have rewritten my notes and rewritten them and rewritten them according to what I have been hearing. I am very conscious of the cost; the cost to taxpayers' money. I would very much wish to support this proposition, but I do not believe we should reinvent the wheel. We should build upon works that have already been done in an efficient and effective manner and bring the review back to this Assembly. I would very much ask is it possible that the Deputy of St. Martin could do this within a fixed budget that he could identify. That I feel would sincerely help me in making a final decision.

3.12 Connétable M.K. Jackson of St. Brelade:

Part A. I am weakly supportive of a review simply because there is always benefit in looking at situations to evaluate whether they can be improved. No doubt about it. I do not, however, consider that this is the time to do it, particularly in light of the world economic situation. Despite what some Members assert, I suggest that the majority of Jersey people are perfectly happy with the current regime and I see little to be gained from changing it. Once again, I feel that we are hearing just the views of a minority. I would rather that the status quo remained at this sensitive time so that the existing confidence in the government of this Island is maintained. Part B is, I suspect, not achievable in that people of the sort of calibre needed for a proposed review of this nature are simply not going to be available in the short timescale. Part C, I would really rather direct £500,000 or so or £400,000 to implementing redundancy laws or implementing recycling initiatives rather than waste it on what I consider to be an unwarranted review at this time. I suggest Members take a practical view and bring this back when we have an upturn in the economy and it becomes affordable.

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

I just want to clarify in the minds of the Assembly we have heard lots of things about tradition, the Island's quirks and other things which I think are more towards the debate on the role of the Bailiff. This is asking for a review of the unelected members. This is asking for information to be

generated. This is asking for analysis to happen and this is asking for recommendations to be made. This is not about what is going to happen to the Bailiff or to the other officers. This is simply asking for information to be generated, for analysis to be had and for recommendations to be made not for any perceived outcome. It is for that reason that I will be supporting it because it is simply doing just that.

3.14 Senator P.F. Routier:

I am struggling with this proposition mainly because of some of the words of my very good friend, the Minister for Treasury and Resources. To me, the comments which he made about the costs of the review I believe were reflecting on what the original proposition was. I do not know if there were any savings to be made with having a more restricted review. I have a real, real difficulty because I am aware currently there are a lot of issues which are not being funded. We heard yesterday in this Chamber about the lack of psychology support for people with autism; that that is falling by the wayside at the present time. We also have a very desperate need for more social workers for people with learning disabilities. While these things are out there I find it really, really difficult to go and be prepared to spend money on a review like this. Also I declare an interest in ... you may be aware that I am chairman of an organisation, Les Amis, which provides residential care for people with learning disabilities. That organisation is under immense pressure at the present time to provide services for people with learning disabilities to live in the community. There have been requests made to the Minister for Health and Social Services and to the Minister for Social Security to help with trying to get this funding to help us to continue to operate in an effective way. So, while these pressures are out there I find it extremely difficult. If you were to ask me to sit in a room to think how to spend £400,000, if it was on the one hand a review or on the other hand to spend it on those social needs, I would have to say spend it on those social needs. I just cannot see that the review would come as a higher priority. So I am afraid in the current circumstances as much as I want the review to go ahead, unless I was to get an assurance from the Minister for Treasury and Resources that these other things were going to be funded - perhaps he might like to say that; that would be great - I cannot support the review and the costs which are associated with it. So, I am sorry, the review is going to have to take second priority to these other social issues. [Approbation]

3.15 The Connétable of St. Mary:

What a difficult sentiment to follow. I am sure that is the way that most Members in this House are feeling. Scarce resources. That is where we have to take our responsibilities even more seriously. I have indicated that I believe there is a need for a review because I do not consider it to be helpful to the States of this Island to have questions continually raised about the membership of the States. In particular, the position of the Bailiff has come under increasing scrutiny. I cannot see that we will ever resolve this issue unless there is a review undertaken which is comprehensive and which all States Members can feel they have confidence in, which lays this to rest once and for all; either finds there are issues that need to be resolved and puts them forward for solution or finds that there are not, in which case those Members who continually raise them will presumably be satisfied and cease to do so. The reputation of this Island is something that has to be defended. While it is constantly challenged from within this House via the way that people are saying the government is - I have heard the words - not democratic, then we have to take some measures that will resolve that situation. However, now I will talk in abstract form at least about the cost. We have a duty to make sure we carry this out. I have said value for money all the way through. That is something I know I talked about enough with the amendment. We cannot do this on the cheap but we have a duty to make sure that we cost it responsibly. The funding, as has already been said, is not in my hands. The review must be done without embellishments. We must make as much use as possible of the work that has gone before. Now that the review has been streamlined in its focus, surely there is more scope for using existing local expertise. Independent does not necessarily mean external. I have one particular concern and I think it has been hinted at by the Constable of St.

Brelade. I am now very concerned by Part (b), that the approval must be no later than 31st March. I just consider that that may not be realistic. I am not saying that is a reason that that should not be aimed for; certainly it should. But if we are going to be talking about recruiting the right kind of people for the panel, if we are going to be talking about making sure that we explore all avenues of people who could be available locally, it just physically may not be possible to draw up the terms of reference and to publish them and to entice those people to apply within that short timescale. I would just like the proposer's comments on that. Perhaps bear in mind that if it turns out that this is all adopted, it would be wrong, I believe, to come back without ... it would be necessary to come back and ask for an extension to that rather than select the wrong kind of people. I just think that should be borne in mind by the proposer in his summing up. That said, the Bailiff himself said that he would welcome a review provided it was not carried out wantonly, i.e. carried out with a purpose in mind. The purpose has to be to strengthen the Assembly. That must be what we are all looking for. I fundamentally believe that although we have a terrific demand on our resources and I am not advocating this spend in any way wantonly, I just feel that we have to lay these ghosts to rest for the good of the Assembly.

3.16 Connétable D.J. Murphy of Grouville:

I am not going to repeat the arguments that have already been so well aired in this House. I have to say that in the first place I am extremely worried about the costs. There are many, many other things which I am sure we are all aware which this money could be spent on. The second point is that if we decide to have a review it will, of course, attract the press, the international press, and with the penchant for bad news, we will no doubt be attacked and the enemy within will be busy talking to them and giving them all the bad points about it. I think what we should do, in fact, at this stage is think to ourselves very simply: "What will the review achieve to improve the lot of the general population of Jersey?" The answer is nothing.

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

Much has been made about the cost from the last few speakers. We have done *Clothier* already and I believe there is a lot of information there that can be used. Therefore, there should not be lots of lengthy going over what has already been covered, so this should keep the cost down. At the senatorials I remember at the hustings a lot of people here said they wanted reform. We have to stop constantly putting things in the way of reform. Once the review is done we also need to take that on board instead of cherry-picking, as so often happens. So I will vote in favour of this. I do not think we can use the argument of cost because at the moment we do not know how much it is going to cost. If we use the information we already have, those costs should be kept down.

3.18 The Deputy of St. Mary:

I just want to be brief and make 3 points. The first is about cost. The second is about the reputational damage that might occur. The third is about why we need to do the review. First about cost. We have obviously talked a lot about that. I welcome very much the comments of the Minister for Treasury and Resources in this regard, that the review is important. Another angle on that is that the Minister for Treasury and Resources has announced recently a very large stimulus package to the economy, very large. We are talking millions. In her speech right at the beginning of this debate, Senator Ferguson quoted with approval the phrase: "It is the economy, stupid." Life is not just about the economy. I have just emailed this morning a little email to all States Members about the Strategic Plan Review. In that I pointed out that wellbeing is what we are seeking for the population of Jersey. The amount of money in your pocket does not determine how happy or how fulfilled you are. The aim of all policy, in my view, is that we seek to enhance the wellbeing of everyone. I suggest that part of wellbeing is good governance. It is justice. It is the rule of law. If you think you are going to be treated unfairly ... and I heard only this Sunday a complete out of the blue case of injustice. I will not go into that. It is just making the point that it is important. It is part of how we feel in our daily lives. We can always find something more urgent to be thinking

about. If we were thinking about the plight of people with autism and the withdrawal of psychological services, someone else would jump up and say there is something even more pressing and urgent and desperate. But the fact is that process is important. Process determines outcomes. If you always say put process on the backburner, we will look at that at our next meeting; no, we will not look at it this meeting; we will look at it in the next meeting; then you never get the process right. Of course it is an evolutionary process but it is important. I know what democracy is like. I know what it should feel like and I know how important it is. So that is the first point, that the cost should not be compared to some more urgent or more pressing immediate object as if to suggest that process is unimportant and does not determine people's wellbeing in another way; more indirectly but it is definitely real. The second point I want to make is very quickly that there is a reputational damage risk if we do not reform our institutions. As soon as the international media are interested in the Island, which obviously they are with Haut de la Garenne, then these things come out. "Oh, they do not have separation of powers. Oh, that is quite an issue, is it not? That looks a bit odd." Then the damage is done. We are an international finance centre. We have to have timely and overtly just procedures in order to reassure investors. So how that can be squared with the present situation I do not know. I do not want to stray into the subject of the review, but the point is we do need to look at those processes from the reputational damage angle. The third point is if we do not do this review in a timely fashion then from outside changes may be imposed on us as they were imposed on Sark, I believe. I think that is a risky road to go down. I would urge Members who are thinking of voting against this proposition to bear in mind that if they vote against this proposition, they are risking that outcome that change will be imposed. If that is what they want then they can go ahead and vote against the proposition, but I believe that this review is necessary. It is important to preserve our independence. I would urge Members to vote in favour.

3.19 Deputy T.M. Pitman:

The Deputy of St. Mary made some very valid points so I will not waste time repeating them. I will be brief. As my fellow progressive the Constable of Grouville has said, why repeat things? Senator Ferguson often remarked and reminds us that social justice costs money. Often when the Senator uses that quote I disagree with the context in which she does use it but here I am with her 100 per cent because social justice - of which the roles of Bailiff and Attorney General are a fundamental part - does cost money and we must surely be prepared to pay whatever that cost is. It is absolutely essential. I listened to the talk about funding. I have to say I very much welcome the Minister for Treasury and Resources' observations that he will be supporting the proposition, whatever his reservations. It just disappoints me that when so many Members who have been in this House a long time suddenly remind us about the taxpayers' money and protecting it that often they were many of the people who were happy to spend on things like the flying banana logo and stuff like that. It really has not done a lot for any of the people in this Island, I would have to say, and certainly will not do what a review of our system would hopefully bring about. If I can go back to the statements of the Minister for Treasury and Resources, I take on board a lot of what he said, but I do find some of his comments a bit worrying because if he cannot support things that ... I think he used the term "mature", "mature review". Well, if we do not follow this review then propositions are going to keep coming back, and I have the uncomfortable feeling that the Senator will be one of those who will reject those propositions and talk against them simply because they have not had that lengthy, in-depth review. So, really, it is a Catch 22. In fact, possibly without intention the Senator is setting himself up as some sort of veto mechanism for any possible reform in the future. I do not know, but I think it is a fear. Senator Routier spoke at length during the elections about how he was so disappointed that *Clothier* was not introduced and yet here we are again, 9 years after *Clothier*, and some people seem desperate to reject it again. I have to say that we have to find money for something like this. We have the rainy day fund. Maybe we should consider how we use that because democratically it is pouring down. As many speakers have said, it is going to get to the stage where if we do not bring about reform, someone else is going to do it

for us. I would like only to add that I really commend the Deputy of St. Martin for bringing this proposition. It really is worthy of support. If we have been really bold and taken a step to say, yes, if we are going to do it let us do it in a year, what that also gives us, unlike so many attempts to bring about reform, is that with that 12-month timescale, whatever comes out - and it might be nothing - those recommendations will still be in the hands of this House to do something with, to vote on. It will not be allowed to drift off again probably for some other bunch of politicians to sit around and talk about other excuses why we cannot have reform. I just think it is time we stopped focussing on obstacles and focussed on ways forward. It does seem to me that we get a lot of red herrings thrown up to prevent us doing anything. Social justice is important and I think it is a smokescreen to try and highlight other issues. I will certainly be supporting the Woolworths staff. That is about social justice. So is this and this is fundamental. If we cannot even reform our system I really think we should give up. If I can quote the phrase used by Mr. Obama: "Change we need." My God, we need that change. Possibly P.P.C. do not feel the same, I do not know. At the danger of just being a radical lefty, I would just ask all Members of this House, please give the Deputy of St. Martin's proposition the support it deserves. Let us grasp the nettle for once and do something. I am very tempted to have the debate about what I see wrong with the positions of Bailiff and Attorney General, but I am not going to go there because I think, as Deputy Green said, that is not really the case to be talked about. We are all saying that there is desperate need for change so let us do something about it, please. That is all I really want to say.

3.20 Senator S. Syvret:

A number of Members have mentioned the costs of this review as though that was some great reason not to support this proposition. Well, they may well be correct. Certainly in that it is entirely feasible that the exercise could indeed be carried out on our behalf for nothing; for no cost whatsoever. Indeed, I might even vote against the proposition. Probably not, but just thinking along those ways because we have a date for the permission hearing of the Justice for Families action against the Justice Secretary on 17th March in the court in London. Interestingly, the judge in chambers has already rejected an application by the government's lawyers to have our action held out. So we are quite optimistic about securing the judicial review of Mr. Straw's acts and omissions and failures to ensure the proper rule of law and the good administration of justice in Jersey. In this respect I would have to make reference to the remarks made by Senator Ferguson when she referred to the McGonnell judgment, for example, and indeed made some passing reference to the judgments secured by the Barclay brothers. It is true that these 3 judgments may not necessarily be absolutely applicable to the particular circumstances which prevail today in Jersey, but the whole function of courts is to come to decisions and settle cases and revise and make case law, often new case law. I can assure the Assembly that the facts that underpin the action we are taking are of the utmost gravity, well evidenced and crystal clear and indeed show convincingly and overwhelmingly that neither the prosecution service nor the administration of justice in Jersey is remotely capable of even getting on the radar screen of meeting the standards of the good administration of justice, the appearance of objectivity that is so crucial to all respectable judicial processes. That is simply taking British customary jurisprudence, let alone European Convention on Human Rights case law and other instruments of the Council of Europe. So the issue is not really particularly one about this Assembly. Members have spoken of this matter as though it were principally a debate about establishing a review that concerned Members of this Assembly. I have always had the view, and it remains my view today, that the questions concerning the roles of the Attorney General and the Solicitor General, Bailiff and Deputy Bailiff in this Assembly are far more judicial questions and concerns and problems than they are political because at the moment the administration of justice in Jersey cannot meet the test of the appearance of objectivity. Now, Members spoke about reputational matters and other such considerations before. It is worth echoing a remark made by some other Members. The vast majority of jurisdictions around the world, especially modern, democratic ones, have fully independent judicial systems and fully independent prosecution systems. Indeed, the same is true of most centres of finance industry

activity. Indeed, the Jersey situation could look peculiar and strange. Indeed, a complete separation of powers has been the accepted, normal practice in respect of democracies for many, many decades; even centuries in some cases. So the argument that we need to spend a huge amount of time and far too much money reviewing this issue is manifestly absurd. Indeed, as I said, whatever decision may be made by this Chamber may prove to be wholly redundant at the end of the day. What Members need to understand is that even if all 53 elected Members of this Assembly absolutely adored the Attorney General, the Solicitor General, the Bailiff and the Deputy Bailiff, if we agreed with them 100 per cent and they were our best friends, even if all 53 Members of this Assembly had those views, still the brute fact remains that their position in this legislature is utterly untenable. If we are serious about making Jersey fit for the 21st Century we have to face that fact.

3.21 Deputy J.A. Martin:

I will be brief. I think it is apt to follow Senator Syvret - and I may be the last speaker; I do not know - and go back to where we started with Senator Ferguson. Now, how many poles apart were those 2 speeches? I do not have the expertise of either of these 2 to say if it is not broke do not fix it and it is so far broke that it is in 1,000 pieces. So I want a review. That will be hopefully the case put to bed once and for all. Now, how do we pay for it? Well, in the summing up I would like the Deputy of St. Martin at least to mention some local names. I think we had one or 2 mentioned. It is all very good offering local names. Will they step up to the plate and will they do the work? We need to know that. So I really have little more to say except I did vote for the separation of powers under Deputy Pitman's proposition. Again, I did listen that the review needs to be done and possibly the review might come back and say everything is hunky dory. Will that change Senator Syvret? I doubt it. If it all needs to go tomorrow, I doubt from the other end of the pole it will change Senator Ferguson's point of view. But we have done the review and then we will have to stand up and be counted. So, I fully support it and I do hope when it comes back it will not be anywhere near the costs that have been quoted.

3.22 The Deputy of Trinity:

I will be extremely brief. As has been said before, this is a dilemma I am sure for quite a few Members and I am one of them. I am a traditionalist and I feel our tradition is important. It is where we have come from and it is the grass roots of our society. But I am very aware that Members feel that this is such an important issue. It will not go away and it will come back to us if we do not address it. It will come back time and time again. I have very much taken on board the comments from the Minister for Treasury and Resources that we need to find the money from either cash flows carried forward or from within departments, and that very much includes scrutiny. So I just ask if this proposition is approved then it will be a duty of every Member here to be supportive of finding where that money comes from, from which department, but very much so including scrutiny.

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

Does any other Member wish to speak? I call on the Deputy of St. Martin to reply.

3.23 The Deputy of St. Martin:

I almost forgot; I think it was some time yesterday afternoon I think we started. A lot has been said since. Can I thank everyone for speaking? I think it has been a pretty good debate and we have heard arguments from both sides. Maybe I will remind people really that this is not a debate about removing anybody. I keep coming back to that. It is really to give people a stamp of approval if nothing else. It is unfortunate we will not have that stamp of approval for the Lieutenant Governor or the Dean but that is not to be. We are now looking at the narrow issue of the 3 roles; the 3 officers. I will begin with Senator Ferguson, my good friend, who is a staunch supporter of human rights. She thought always better ways of spending of money. No doubt we can always find ways of spending money, but whether we can spend money on better things than this, who knows. She

made reference to the McGonnell judgment. Again, anyone who knows anything about human rights will know it is a moving feast. The McGonnell decision was made in 2000. We have moved on. It is unfortunate that when she did mention about the Sark judgment and she made reference to it, she did not read it properly. For the benefit of Members I will read from paragraph 153, which was part of the conclusions of the Sark judgment. It said: "For all these reasons I can conclude that the powers and functions of the Seneschal as an unelected member of the chief police and as president for life are such that the reform laws violate Article 3. They impair the very essence of the rights under Article 3 and deprive them of their effectiveness. Even if this was not the case, they are inconsistent with the principles underlying Article 3 and cause the reform law to fall outside the margin of error." It is quite clear. It says what Article 3 was saying there.

Senator S.C. Ferguson:

A point of clarification.

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

Will you give way, Deputy?

Senator S.C. Ferguson:

I think the Deputy will find somewhere in that paragraph it refers to the Seneschal being the sole judge on the Island.

The Deputy of St. Martin:

If the Senator would like to read out where she thinks I made a mistake. I have read it out word for word so again I have the benefit of the Senator. Not only do I do my homework, I should bring it with me. The Senator said that it was not an election matter. Well, I think it was. If I remember rightly, and I was away for most of the senatorial canvassing period but I did read the paper when I got home, and I think without doubt every Member on the senatorial bench said they were for reform. But, of course, that is quite a long time ago. It was October, was it? Yes. In fact, one of the reasons for bringing my proposition now is because I said it was part of my election manifesto, but also because it would have been fresh in people's minds. It is not going to go away. So, anyway, I will move on from the Senator because I do not think whatever happens she is going to change her mind. Deputy Southern mentioned about electoral reform, let us get on with it, and he was dead right. Senator Shenton reminded us of R.64/2008. Again, what was contained in there, those Members who have read it will have understood that quite clearly what Senator Shenton was saying was reminding us that there are more States meetings. It is something I said in my speech yesterday. More States meetings means more time that the Bailiff needs to be here and are we really getting value for money. If we do get the cost of a speaker there will be a great saving. That money in time will certainly pay for the review. He also mentioned about the conflict of roles. That, of course, came out in the Sark judgment. Deputy Tadier went a bit round the house and I was not quite sure what he was getting to at one stage. He told us that P.P.C. was not trying to stifle progress. Well, you could fool me, but never mind. Other P.P.C.s, of course, I have always believed have tried to stifle progress as well. But he did say let us get the basics right so I agree with him there. He also talked about the separation of powers, but in the end I think he said he welcomed the review because democracy is not optional. I agree again with him. The Deputy of St. John, as the wise old bird, reminded us of *Clothier*. Quite right. Ten years ago we made a commitment and here we are 10 years later still talking about it. He said "putting the meat on the bone" and he gives his support. Of course I am glad for that. Deputy Le Hérissier, probably one of the most learned people on constitutional reform, has said again totally over the top regarding costs and we do have this inferiority complex. Quite right. He reminded us that in Guernsey it was an internal review and certainly no need to go outside. He again reminded me to say keep knocking on about the excess cost. I will come to that presently when I refer to Senator Ozouf. But he said this is the opportunity for the review and if we do not do it now, when will we do it? Deputy Shona

Pitman reminded Members again of her proposition. She was dead right. It was rejected simply because people said: "We cannot go forward without a review." So now what we are doing is I am giving Members the opportunity to back up their judgment; what they said before Christmas. I hope with the new Members - a bit more learned - they will obviously give their support because they are quite right. We could not go forward without the review. We now have the opportunity. Deputy Le Claire talked about value for money. Again he was quite right. He was supportive of the proposition and I thank him for that. I think he also reminded us that people do not really understand the roles of individuals within here. Of course, I think there is very much the conflict of roles. The review will show us whether, in fact, there is that conflict. Deputy Green, a wonderful traditionalist along with the Deputy of Trinity, but he again was giving his support for it. Senator Ozouf, again I am grateful for him trying to come to grips with giving us the money. I do fully understand. He is dead right. He is responsible for the purse so he should ensure that the money is wisely spent. However, as I mentioned earlier, it is always difficult to come up with how much it is going to cost until you have your terms of reference; what the scope of the review will be. So, without any consultation with a panel chairman and indeed the panel, it is very difficult. So, really, I think he would be prepared to say it is a bit of a shot in the dark. It is a guesstimate. He is going to correct me ...

Senator P.F.C. Ozouf:

I am grateful for the Deputy's comments. I would be grateful on my part if he could agree my comment that I will be supporting Part (c) but subject to the fact that it is virtually impossible, in my view, to bring forward an 11(8), rather alternative sources of funding. But I take his point about the estimate. Would he agree my comment and that that is the basis on which we are accepting (c)?

The Deputy of St. Martin:

Yes, I will. We are very much on the same side, I am pleased to note. Of course, he is quite right. We should have value for money. But again I have to come back to this. It will be for the Members to decide on the terms of reference and, indeed, how much money we are going to be spending. So please, Members, do not have the turnoff by saying it is going to cost too much until we really know what the terms of reference are and who is going to be on the panel, because again I will come back to what Deputy Le Hérissier said. There is no need to have this huge, expensive body coming over from the U.K. Having looked at what *Clothier* expenses were, a lot of that money - a considerable amount of money - was spent on having, with the best will in the world, the experts from outside the Island. I certainly believe we can manage this from within the Island. Deputy Jeune followed very much on that. She had cause for concern but she said quite rightly it should not be that expensive because we should be able to build on the work we have already done. That has been a theme that has been coming through throughout the morning. She asked whether I could fix the budget. Again, I have to remind Members it is not for me. It is for Members to come back. What this proposition is about is asking the Council of Ministers to come back with the terms of reference, the panel, et cetera and also the estimated costs. If we do not like what is on offer, we can make our minds up, including Deputy Jeune. So it will be on Members to decide the cost. The Connétable of St. Brelade, I was rather disappointed. I would have thought as a Minister we would be looking a bit more positive about things, and here we had such a wonderful, negative approach. I am really disappointed. I thought we would have something positive. You know, let us wait for an upturn in the economy. Well, there is never a good time. I think the Chief Minister reminded us yesterday there is never an ideal time but if we just procrastinate nothing will ever happen. I hope that will not be his motto as the new Minister for Transport and Technical Services because I would hope we are going to have a positive move. Deputy Maçon I think had a very simple, short and pertinent speech which I thought was very helpful, very useful. He reminded us what this debate, this proposition, is all about. I thank him. I thank him for his support. Senator Routier. Where was Senator Routier? Our concerns have caused another negative Nelly. We concentrate on the £400,000 again without having any idea of how a Scrutiny Panel conduct a

review. Again, I would hope that he will support the proposition. The Constable of St. Mary, again we may have had a disagreement about who said what. I think we are both in agreement of a need for review. I thank her for that. She reminded about the constant challenges to our Island, that it is not democratic. She is dead right. We are going to be continually hammered about it. We cannot do a review on a shoestring. Well, it has not necessarily got to be a shoestring. Again, we can find a good internal body able to carry out the review. She reminded us independence does not mean external. Again, we are in support of that. She has concerns understandably about 31st March being the deadline. That was one of my concerns about us dilly-dallying about; not coming forward with this review. In actual fact, I did concede to the Chief Minister's request not to go for the first date of the sitting. I said I can come back 2 weeks later, give a bit more time. So I have had the support of the Chief Minister from the outset and so I was rather surprised and disappointed that I was not asked to come along and discuss my proposition with the Council of Ministers. Again, the Constable reminded us that indeed the Bailiff did say to Members at our swearing in that the Bailiff and the Crown officers welcomed the review. The Constable of Grouville, he must have picked up from his colleague in front of him; very negative again. Cost concerns. Concerns about the press. Well, I think in actual fact that he was picked up by the Deputy of St. Mary. I think to do nothing and for us to reject this will do more harm to the Island than what it would do good. So I would certainly hope that he could rethink his decision and maybe give support to us. Deputy De Sousa reminds us again not to go over all the old arguments, very much in the theme that Deputy Jeune said. So much is before us so, really, why should we have to spend so much time thinking about it? He reminded us all of our election promises. I think most of us were for reform and I hope we keep that. The Deputy of St. Mary had 3 comments and one again was about the cost. He said that life is not just about economy, it is about good governance. I think we will all support him on that. Again, he reminded us about the damage to the Island if we did not do it. He said changes from the outside could be put upon us. It has happened before that the Island ... we may well find that our Constitution is not right. Who knows? It may well come from outside so it will be imposed rather than us being masters of our own destiny. Deputy Trevor Pitman again was supportive and reminded us about the fact that people would not like to go forward without a review, but be positive and let us look for social justice. Senator Syvret again I think played out the part about the cost. I think he answered the comments made by Senator Ozouf and dealt with it well. He reminded us also about the Sark judgment and also the perception to the Island about current roles. So, again, I know he is going to support it. Deputy Martin reminded us about the poles apart from Senators Ferguson and Syvret. Again, she wants a review to put the matter to bed. I would hope we will have the review. Whether we put the matter to bed after we have had the review, who knows? But I hope we will be positive about it. The traditionalist, the Deputy of Trinity, again I think she is quite right. If a job needs doing, let us find the money. I would hope we are not looking anywhere near the £400,000. So, really, in summing up, I think I have covered the issues that have been raised. I have just one more here. Again, it is to remind Members of the proposition. We are asking Members to agree to a review and it says: "The roles of the unelected members of the States." We know who they are. We are going to ask the Council of Ministers to come back by 31st March. If indeed they cannot, no doubt they will come back and say: "Can I have a month's extension?" That will be for the House then to decide. But at the moment we are asking to keep within the confines of the review and to come back with a chairman and members. Again, we will be the masters of deciding who will be on that panel, who will be the chairman and who will be on the panel, and also decide the cost. I think the cost of doing nothing is far worse than even the cost of doing something, however that cost should be. But again I reiterate it should not cost hundreds of thousands of pounds. It can be done internally. We have the people in the Island with the skills and experience, so do not be blinkered by the possible cost. I think that is in our hands. I make the proposition and call for the appel.

Deputy S.C. Ferguson:

Madame Chairman, may I just make a correction? I think I may have been misunderstood or I misunderstood the worthy Deputy. I was, of course, referring to the fact that the Seneschal is not the sole judge on Sark. I apologise to Members if I confused them somewhat with that. I was, of course, referring to the matter where he sits as the sole court.

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

All right. Any Member not in the Assembly is invited to come very quickly back to their seats. The question is on the whole of the proposition together.

POUR: 37		CONTRE: 12		ABSTAIN: 0
Senator S. Syvret		Senator P.F. Routier		
Senator T.A. Le Sueur		Senator S.C. Ferguson		
Senator P.F.C. Ozouf		Connétable of Trinity		
Senator B.E. Shenton		Connétable of Grouville		
Senator F.E. Cohen		Connétable of St. Brelade		
Senator A. Breckon		Connétable of St. Martin		
Senator A.J.D. Maclean		Connétable of St. Clement		
Senator B.I. Le Marquand		Connétable of St. Peter		
Connétable of St. Ouen		Deputy of St. Ouen		
Connétable of St. Helier		Deputy of St. Peter		
Connétable of St. Lawrence		Deputy J.A. Hilton (H)		
Connétable of St. Mary		Deputy S.S.P.A. Power (B)		
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 Grouville				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S. Pitman (H)				

Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

4. Woolworths Employees: Payment of Statutory Notice Periods (P.9/2009)

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

The next item has been deferred. That is the Energy from Waste has been deferred until 24th February. So we pass on to P.9/2009. That is Woolworths Employees: Payment of Statutory Notice Periods. I invite the Greffier to read the proposition.

LUNCHEON ADJOURNMENT PROPOSED

Deputy G.P. Southern:

May I ask for some guidance from the Chair at this point? I personally find it very unsatisfactory when a debate - quite a significant debate, a controversial debate - is broken up by a lunch break. I am in the hands of the House. We are obviously going to go into the afternoon session. I wonder if it would be appropriate that we start the whole thing in the afternoon session; if necessary break now and we come back quarter of an hour early. I am in the hands of the House, but I would prefer it if we had the debate in one run.

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

Are you proposing the adjournment?

Deputy G.P. Southern:

I, therefore, call for the adjournment if Members agree.

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

Do Members agree to adjourn?

The Connétable of St. Mary:

Can I just clarify? Deputy Southern did say to come back quarter of an hour early. There are people who have arranged meetings during the lunch hour. I wonder if for the sake of 15 minutes whether we might just as well take a 15 minute extra lunch.

Deputy P.J. Rondel:

Could I declare an interest in this debate?

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

The States stand adjourned until 2.15 p.m.

LUNCHEON ADJOURNMENT

The Deputy Bailiff:

Before we come onto the next matter there are 2 papers which should be on Members' desks shortly. The first one is *Williamson Report: Implementation Plan - funding* lodged by the Minister for Treasury and Resources, P.17/2009, and the second one is *Williamson Report: Implementation Plan - approval and funding* presented by the Minister for Health and Social Services, R8/2009. They are going to be placed in the pigeon holes, apparently.

4. Woolworths Employees: payment of statutory notice periods (P.9/2009)

The Deputy Bailiff:

Very well. The next matter is P.9/2009, Woolworths employees: payment of statutory notice periods, lodged by Deputy Southern. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to request the Minister for Treasury and Resources (a) to enter into negotiations with former employees of the Jersey branch of Woolworths made redundant following the collapse of the parent company to seek agreement with them on the assignment to the States of any claims that they may have on the administrators of the company and, providing that these negotiations are successful, to further request the Minister to allocate a sum calculated under the statutory notice terms in the Employment (Jersey) Law 2003 to provide compensation to these employees and if this sum cannot be identified through the reprioritisation of existing heads of expenditure or yearend balances to request the Minister to bring forward a request under Article 11(8) of the Public Finances (Jersey) Law 2005 for the necessary additional funding to meet the cost of these payments; and (b) to seek reimbursement of the above sum from the administrators.

4.1 Deputy G.P. Southern:

I was going to start this debate by saying as far as I am concerned I think it is one of those that might be described as a no-brainer, but obviously not because in the light of the comments received from the Council of Ministers and the Minister for Treasury and Resources, there are arguments against and I must treat them with respect. So, we have a legitimate and, I believe, a very straightforward decision to make today as to how to spend some of our resources. The question before us today is whether a spend in a particular way I described in P.9/2009 is the best way forward or whether the alternative put forward by the Minister for Treasury and Resources and the Council of Ministers is an adequate and effective way forward. So, there is a choice, and why P.9/2009 in the first place? Why P.9/2009? Because nobody can deny that we have a problem. The recession is here and it has made its impact felt upon many aspects of our economy, but in particular, in this particular case, on the employees of Woolworths through their insolvency and

their redundancy. The question is how do we proceed with this immediate problem? When we turn to the weapons at our disposal we find that we do not have a redundancy law in place, and I have argued that we have a moral obligation to do something, not on the grounds that this House must be moral but on the grounds that we have delayed, deferred and ignored putting in redundancy measures for something like going on almost 10 years now and that was slothful of us and I believe negligent of us and it should be in place. The question is, as we saw last week, could we put some sort of temporary stop gap measure into place to deal with redundancy, and the House last time, in the last session, decided that it did not want to debate that, that that was the wrong way forward, and what I did was to go away and come up with an alternative. Being the original thinker that I am, I immediately pinched the Constable of St. Clement's ideas, got it down on paper and brought it back within a couple of hours. I thank him for what he often does in this House, which is to cut through some woolly thinking to the heart of the matter, and the heart of the matter is what can we do about this situation? The situation is on our statute book we have statutory notice periods so we can use that weapon, which was created and made more generous than the U.K. system in order to attempt to ameliorate the absence of redundancy law, so it is an accurate and good use for our statutory notice periods to use it in this way. It is on the statutory book; therefore, it is a legal move for us to do, there is no question about that. The question is how can we deliver that relief, that compensation, that support for these workers in a proper way and one which fits the criteria we so often hear from the Minister for Treasury and Resources of the 3 Ts: timely, targeted and temporary? Let us do that test. Is it timely? Do we have a problem now? Does this P.9/2009 deliver it in a timely manner? Yes, it does. Is it targeted to a group of people who are in need? Is it accurately targeted? I would say, yes indeed, it is well targeted. It meets these people and not a wide range of other people. Temporary: is it temporary? Less clear there, but in the sense that we know because the Minister for Social Security has told us that he has put the hurry-up on redundancy law and that he is doing his level best to get something in place on insolvency as soon as he can. Now, we do not know what that period is, despite several attempts to squeeze a timescale out of him yesterday, but, nonetheless, we know that it is in hand and work is already happening. So, is it temporary? Yes, because at some stage in the near, middle or distant future we are going to have a solution, address the redundancy and have an address to insolvency in place. So, therefore, is it temporary? Yes, it is. It is also temporary on the wider scale, I hope, in that the recession will eventually go away and we will not have to keep paying out insolvency-type notice or redundancy. So, the answer we have come up with, with some struggle I believe, is accurate and the way forward. Now, if I can just turn to the comments of the Minister for Treasury and Resources and the Council of Ministers, I find it an interesting argument that effectively says the appropriate thing to do at this stage and at this time is not to put some compensation to the Woolworths workers but it is instead to put some direct funding towards the pockets of lawyers. Now, I do not know what Members may make of that, but I believe that certainly members of the general public out there will take a very dim view that the only thing, the best thing we can do and the only thing we can do is provide a bit of funding to cope with legal costs. (a) I do not believe that is the right solution; and (b) I believe when we weigh in the balance what is the way forward, I do not think it weighs very heavily; but (c) to the timely test, does it meet the need of those who are currently redundant and needing some support, some compensation now, does it meet that need? It does not. No one in this room, from the Solicitor General I would say downwards, or elsewhere, can give us a cast iron guarantee about when lawyers, in conjunction with the administrators, will be able to come up with a deal that says: "This is what will be paid out and this is when it will be paid out and this is how much will be paid out." Nobody in this room can say that with their hand on their heart. It could be 3 months down the line, it could be 6 months down the line, whatever is coming is of no use to those workers 6 months down the line, no matter how much it is because by then some of them may have lost the roof over their head, some of them may be quite heavily in debt, just trying to survive. This is a small - and it is a relatively small - figure amount of compensation to help them over the immediate problem. We are also told that we are, of course, setting a precedent, a moral precedent, in that if we do this for one group of workers, it follows that

we should morally and logically do it for the next group of workers. Well, I suspect we already know who the next group of workers are. I believe it is 26 workers who used to work in Poundworld, which is now also going into receivership and we have got the identical problem coming up. But we are told what we can do, and P.9/2009 is the wrong way forward and, boiling the arguments down, because it is more expensive than just covering the legal expenses for these types of cases and we are setting that precedent rather than P.9/2009's precedent as the way forward. Once again, that does not meet the problem. It may be cheaper in the short and the long term but it is not targeted, it is not timely and it is not correct. It is not the right answer, I would argue, but, nonetheless, that is what we have to balance today: which is the way forward. Finally, when I am looking at the Council of Ministers, and, really I heard this in the last session *ad infinitum* and, in fact, in my case *ad nauseam*, the Council of Ministers sympathises with the former employers of Woolworths Plc and equally anyone faced with redundancy in these difficult economic times. If I heard that once last session, I heard it 10 times from behind me, 2 or 3 times from the benches opposite me, certainly from those benches on my left. Time and time again: "I have every sympathy." Well, far be it from me to talk for the workers of Woolworths, the employees, but I have met them several times over the past few weeks and I believe that I echo their sentiments when they say: "Thank you very much for your sympathy; that is not going to pay my rent, that is not going to put food on the plate." It is not sympathy they need, although I am sure they are very grateful for it. It is some support, some help here and now. So, more or less, that is the case. I think we have now got the accurate, targeted, timely, temporary solution which meets the immediate need. There is a cost to it. Now, under the scheme I am proposing in P.9/2009, in effect what I am saying is the States will front up this issue. It will arrange for Woolworths workers to sign over their rights to us so that we can make a payment now, which is when it is needed. I suggest in P.9/2009 that we make the full payment under our statutory notice rules. That for many people will be a heavy weight off their minds as to how to survive the coming weeks, maybe months even. That we, acting on their behalf or having had the debts signed over to us, can act as a single body to chase the administrator through the court, ensure to the best of our ability that assets which are on the Island remain on the Island to compensate us for that particular payout. Now, very usefully, I think, the manager of the Citizens Advice Bureau has said: "Do not think you are going to get it all back; you will not." What you pay out at statutory notice periods, some of that will come back but the payments that workers would have had a right to automatically, as first claim, are capped at £800 so, therefore, the total payout will not come back to us in a guaranteed way. Some of it will. I am talking about £139,000 that we are paying out; of the order of £41,000 will come back to us automatically if we pursue it successfully to the administrators. That will happen. The remainder will depend on the whole list of creditors; how much of the asset we can retain in Jersey, from which we may get a sum which might be 50p in the pound or it might be 10p in the pound, an additional sum that we will get back. So, there is an outlay and we are not guaranteed to get it all back but we will get some of it back. The key difference between what I am proposing and what the Council of Ministers is proposing is that we will meet that immediate need and I believe the precedent that we set, the moral precedent, is the right way to take forward so that future redundancies, until we come up with the full package over this issue, will be met. People out there, employees out there, have got to recognise that in this case their government, this body, the States, will address their need in a proper and moral manner, and I believe that is the way forward to proceed. For those who want to talk about priorities in spending - and we spent some time this morning doing so - is this the right thing to spend money on? Is this the right thing to spend money on? I would say this is absolutely the right way to spend money at this time, addressing the recession. It is all very well to say we have a pot of £100 million or whatever it is, £80 million, which we can support the economy with in general terms and see it through the recession. This is the recession. We need equally to support our employees and our workers, our residents on the Island. This relatively small sum - and it can only be a relatively small sum even if it goes on for quite a while in the recession - compared to £100 million it is small change. This is exactly the right thing to be spending on. I heard the Assistant Minister for Economic Development say, in

those terms, of a proposition this morning: “This is not the way to spend money at this time. What we should be doing is directing it to social need.” This is that social need. I am confident that he for one will be supporting this because we would be meeting our social need. I recommend heartily P.9/2009 to Members and I await their comments.

The Deputy Bailiff:

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

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

I am not going to deal with a number of the linked issues raised by Deputy Southern. Needless to say, all Members of this Assembly, including members of the Council of Ministers, are incredibly sympathetic to the plight of the Woolworths workers and, indeed, all workers who are facing an uncertain future. I will not dwell on the fact that Ministers are working on a fiscal stimulus package in order to try and deal with avoiding a situation of further people losing their jobs. The fact is that the Ministerial team of Economic Development and Social Security are working very hard to ensure that the workers that have found themselves out of work at Woolworths, and indeed other workers as we are seeing from the local media, are given the maximum assistance and opportunity to find new work and that they are also given assistance in terms of our existing arrangements under income support, et cetera. So I am also not going to repeat too strongly the remarks that I made earlier this morning in respect of the difficulty that I have in requests to me under Article 11(8), which requests the Minister for Treasury and Resources to come forward with funds. I will not say it again, but Members will recall that we do not simply have a bottomless pit of resources available to deal with these numerous requests and their proliferation is becoming certainly a challenge. I need to be completely straight with Members, completely honest with Members about what is possible and what is not possible. This is the second time that we are debating, effectively, an *ex gratia* payment to Woolworths staff.

Deputy G.P. Southern:

May I ask a point of clarification? I accept that previously inventing a redundancy payment would definitely have been *ex gratia*. What we are doing is enforcing our own law here and claiming back some or all of that money. That does not mean *ex gratia* in my mind. Can he clarify?

Senator P.F.C. Ozouf:

I am sometimes criticised for some sayings I have, but if it quacks and it waddles it is a duck. I am afraid to say that what I am being very clearly asked to do here is to make a payment in advance of any resolution of any legal action and so, therefore, my interpretation of this is certainly - and I am looking at the terms of the proposition before me - very clear that, effectively, upon the agreement of an assignment of the rights of the workers, then I am to allocate a sum calculated under the statutory notice period. I am afraid I cannot get away from the issue that that is a payment that is going to be made to the workers and I describe that as some form of *ex gratia* payment. It is on that issue which I do have some issues which I need to explain to the Assembly. During the last debate, which was useful in a number of ways, a number of new issues emerged; emerging issues about the rights of the Woolworths staff for notice period entitlement and holiday pay. Also, observations were made about the process that the administrator had carried out his duties locally. I think that at the mid course of the debate, when the Constable of St. Clement intervened, there was an assumption, a view among Members that it would be relatively easy to conceive of a situation that assets were available, a local administration would be put in place and, indeed, the workers had a right under Jersey law for notice periods. I think we made an assumption that that was going to be, if I may say, a relatively easily obtainable situation. The Constable of St. Clement made an alternative approach, and I will not go through the arguments but, effectively, those notice periods were going to be very similar to the potential payments if a U.K. redundancy law would have been

in place. Again, it was effectively the same; it is a similar amount of money in terms of the notice period. I am happy to give way to the Constable if he wishes.

The Connétable of St. Clement:

I will talk later, but certainly there was no intention and I did not suggest at all, in fact I was totally opposed to using redundancy legislation from another jurisdiction. It is totally based on Jersey law, my suggestion.

Senator P.F.C. Ozouf:

Absolutely. The point that I am making is that the amounts of money involved were coincidentally completely unlinked but they were linked to the same level of calculation of the U.K. redundancy pay to the entitlement of notice periods and, from a Treasury point of view, we are dealing with a similar quantum of money. Now, since that debate, obviously Deputy Southern has lodged his proposition and there has been more research which has been carried out in the whole issue of the entitlement of the workers and, indeed, the legal issues about administration, et cetera. Many Members will be aware of the fact that it is known that the administrator is going to be seeking an application locally, in order to carry out their duties in an administration locally. The Council of Ministers has also considered this whole issue and has resolved and, indeed, agreed that it would be an extremely helpful situation to have this issue of a process of administration and the rights of employees under notice period clarified. Indeed, it could be useful in terms of other potential difficulties of other organisations, U.K. retailers perhaps going out of business unfortunately. It is against that important wish to set a precedent, to try and set case law, that after consultation with the Minister for Social Security, I signed on Monday a Ministerial Decision which agrees to fund the legal costs of the employees in order to seek that redress. I regret the comments made by Deputy Southern about somehow linking a payment to lawyers with the payments to the workers. I think that was an unfair comment. I have committed, with the Minister for Social Security, to paying the legal expenses of the employees to fight their claim. I can advise Members that the Minister for Social Security has met and I understand he is obviously going to speak in the debate and that we have now agreed to the process, agreed the funding, and the process for assisting the workers is now underway. Lawyers have been engaged and that whole process is underway. It is not appropriate, of course, to discuss in public the likelihood of the success of that claim. To do so would be quite wrong. It would prejudice the case and it would be quite wrong. Suffice it to say that money has been made available and action for the employees has been taken. There is one important issue that I need to share and, indeed, a problem that we need to discuss this afternoon. That is, upon advice, I am told that the assignment, if we take an assignment from the staff, make an *ex gratia* payment and then pursue the issue through the court on behalf of the employees, I am advised that this could have - and I am choosing my words carefully - a bearing on the likely success of that legal process. That is something that we can explore later on in the debate, but it is not simply a case, I am afraid, that Deputy Southern represents that we can simply pay the payment and simply ignore the legal process which we have agreed to underwrite. I know that some Members will be concerned about the timetable of the effective resolution through the court. I am not going to give way at this stage. I will happily give way later, but effectively I know that some Members will be concerned to be reassured of the timing of when this process would happen. I am advised and I hope that this issue would be resolved within certainly a 2 to 3-month period in terms of redressing of notice periods. I believe that the only safe and appropriate way for the Assembly to proceed is to allow the court case to run its course without any consideration of any *ex gratia* payment. In the event of a successful outcome of the court case, of course the employees will receive their money; moreover, we will have established an important precedent. If the legal process is not successful, then, of course, it is up to the States at that stage of what action should be taken. I regret to say I simply do not believe that we can disconnect the issue of the payment of an *ex gratia* payment to the staff, which is what it is, and the court process that I think we all want to proceed. I have given the commitment that the money will be made available to deal with the court

issue, and on that basis I am going to suggest to Members that we have no real alternative at this stage today but either to reject the proposition or simply to hold it over. We are all sympathetic with the plight of workers facing an uncertain future. We are all sympathetic with workers who have lost their jobs and who need to seek redress through our local court system. It is going to be known to all Members that the Woolworths administration, the Woolworths closure is not going to be, unfortunately, quite outside of anything that we can do locally, the only organisations and the only employees who may be suffering difficulty, and that is why we have got to deal with the fiscal stimulus package. That is why we have got to do everything we possibly can in order to support workers and in order to insulate, to the extent that we can, our local economy and our local workers from international economic issues. That is what we are doing and we are working extremely hard in order to do that. We are supporting workers and we are going to support business and we are also going to support workers in a sense of it being a hand up, not a hand out, in order to enforce their rights. So, for those reasons, I am going to suggest to Members that we should reject the proposition, but I hope Members would warmly and strongly support the action that has been taken by the Minister for Social Security with the Treasury in order to get enforcement of the rights and not to prejudice that in any way.

4.3 The Connétable of Grouville:

I wonder if Deputy Southern, in his summing up, could tell us about this £800 guarantee, the cap? Is that still available, even if there are not sufficient assets within the receiver's grasp to pay it out? In other words, how is it guaranteed?

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

This is another occasion when I despair at some of the words of Members in this House. It seems to me that, yes, we have sympathy for the ex-employees of Woolworths but, and it is always but, but, but **[Approbation]**. One of the reasons I did not support the proposition before lunchtime today was because I believe that we have a duty and responsibility to make decisions on prioritising expenditure and I felt very strongly that, if I was going to support anything, I wanted to support the ex-employees of Woolworths. I listened very closely to the debate a couple of weeks ago. We spent many hours in this Assembly listening to various speeches and, as far as I was concerned, the important thing to me, as a small Island community, is that we support those people who need our help. The Minister for Treasury and Resources is telling us that he is prepared to underwrite the legal costs of an action against the liquidators but, in all honesty, the people - they are sat up there this afternoon - why on earth can the States Assembly, the States of Jersey not take that action for those people? **[Approbation]** Why are we expecting them to do that? It does make me really, really angry. Deputy Le Claire this morning said in one of his speeches that he felt that States Members were removed from the general public. I sat here and I thought to myself, "No, Deputy Le Claire, you are wrong because I do not feel that I am removed from the public of the Island." Okay, in some instances Deputy Le Claire might think he is, but I do not believe that I am and I know where my duty lies and it is helping those people who need our help most. Again, yesterday, I questioned the Minister for Health and Social Services about resources to the psychology service for people with special needs and vulnerable adults and children. The funding has been withdrawn for that service and that was another reason why I could not support the review this morning because, in my mind, it should not take priority and we have to learn to prioritise in this Assembly. I think, although I agree that the time was right for a review, this present moment in time is right for a review, financially I do not believe it was and that was why I could not support it this morning. I want Members to think about those people up there who have to pay rent, have to pay bills, have many financial commitments, probably do not have a huge amount of savings. They need help now, not in 3 months' time or 6 months' time. Use the money that we have now to support them and represent them through the court system to get what they are entitled to under statutory law in Jersey. Thank you.

Senator P.F.C. Ozouf:

Would the Member give way before she sits down because I just want to make a point of clarification, if she was willing to give way?

The Deputy Bailiff:

Are you seeking to clarify something in her speech or your speech?

Senator P.F.C. Ozouf:

No, from what she said of interpreting my speech is that that is exactly what I think the Deputy is wanting us to do, which is to go and get legal advice in order to get the employees' rights under the notice period resolved. That is not just simply paying the legal costs; that is giving the support, the administrative support, the arrangements in order to do that.

The Deputy Bailiff:

I think that is going beyond ...

Deputy J.A. Hilton:

No, I do not accept that. What I want the States of Jersey to do is put their hand in their pocket, give these people the money that they are entitled to now, and for the States of Jersey to proceed through the courts.

4.5 Deputy S. Pitman:

As we can see in the comments of P.9/2009, it says that the Council of Ministers welcome the Minister for Social Security's promise not only to bring forward legislation in February for the States, but also to develop, as a matter of priority, proposals for an insolvency fund. Yet we are told by the Minister for Treasury and Resources that if we make available funds of £139,000 for the former Woolies staff that are due under Jersey law, then we will be creating a precedent, so I do not see any sense in that at all. Further, these people are here because we at the States could not get our act together and bring in redundancy laws to protect these people. In addition, if this proposal is successful, the States will be recompensed through the courts by the administrators so I see it there is absolutely no question that we can afford these funds for these staff.

4.6 Deputy P.V.F. Le Claire:

I am not going to speak long because we have heard a lot of debate on this, just to rise in support of the proposition and in support of the Woolworths staff. I said this morning that the States, in the main, were not being spoken to by the public and that they were not necessarily in touch because most of the public did not necessarily wish to engage with States Members. Some Members may have taken that the wrong way. I do wish to apologise if that came across the wrong way. I think Deputy Hilton is one of the States Members - she is not the only one - who are in touch with the sentiments of the public in general, and I think many thousands of people in Jersey are in touch with the facts in relation to the Woolworths employees. These were a group of people that were treated extremely badly by, through no fault of their own, the administrators, who decided to use which law they chose to use in which jurisdiction. Whenever the coin was up it was down for the Woolworths employees and they did not receive the support under Jersey law that they should have been entitled to. Now, we know that there is a house in Jersey that belongs to the administrators, or who they are acting on behalf of. We know that that can be fought for in court. We know that that would be in excess of the money that is required and, in echoing the sentiments of Deputy Hilton, it is us, the States, that should be giving them the money and then seeking the courts, through the prosecution service, to penalise and hold a lien against that house to recoup that money, but also look towards penalising the administrators and whoever else broke the law and recovering the funds from the people that have not adhered to the law as they should have through the courts in Jersey. It seems to me the only thing we have done this afternoon, if we go along with the lines that have been decided upon - with the greatest respect to the Minister for Treasury and Resources and

the Minister for Social Security - is making the lawyers better capable of weathering any storm. Let us give them some funds. That certainly does set a precedent. So, are we saying now the States of Jersey, until the new law is in, are going to pay for all of the legal claims of any redundancies in the Island in their entirety? Because if we are, I am certain that is going to cost a lot of money because lawyers do not come cheap. We have a group of people in the balcony and in other areas in the Island who are dependent upon us this afternoon, and their dependants, of getting them over this chasm that they have been left in or left at the edge of. Their last pay cheque has been issued and they are living, from now, in uncertain times. It will be little comfort for them that we are going to progress a law suit, in my view. It will be little comfort for their relatives, their dependants. It will not put food in the fridge. It will not pay the landlord and it certainly will not give them the confidence that they need to go on into the workplace and search in an ever diminishing job market for new employment. Where will they come when they fail? Straight back to our doorstep and straight back to the Social Security Department and: "Help us now, please, because we surely are in trouble and you can now pay my rent, you can now pay my food, you can now pay this, you can now pay that, because we are low classing; we have got a low income and we are on a low level of income support." So, who knows, if we do not get them from where they are now to where they need to be, how much money this will cost the States. It may be long-term support that they need from us. There is no wisdom in it. Why are we bailing out the financial institutions? Why are we supporting the construction industry? Why are we supporting the estate agents? Why are we supporting the banks? They can just print more money. They can make more money. They do. They can get more money from the U.K.; these are U.K. internationally owned bodies in the main that have branches in Jersey, as far as the banks are concerned. We are talking about spending millions of taxpayers' money to bail them out. If the depositors need protection, we are talking about spending the rainy day fund to help them out and all we have managed to do ... I know, okay, there are cracks in what I am saying, but there are not as many cracks in what I am saying as what we are proposing to do: pay a lawyer to take their action on their behalf to the Royal Court and in 2, maybe 3, maybe 4 months' time it will be settled out of court, ahead of the day that they go to court, for what? For the money that they are owed now? We will bear the costs of that legal representation in the interim and we will have set a big precedent. So, I would ask Members to stop thinking about what has been proposed as the best way forward and not messing up the legal process and put aside for once all of those things and think, once and for all, it is February, there is a global recession. There are no jobs. These people have little or no money. They do not need a lottery ticket in their pocket and they do not need a lawyer by their side. They need support from us now. They need some money. They need all of the other things we have been doing but they need some money.

4.7 Deputy M. Tadier:

I want to start with hopefully an uncontroversial statement because it comes from the good book, from James. James is a great book in the Bible; it deals with the practical application of the Christian faith, something which even non-Christians can learn a lot from. I will be reading from James, chapter 2, verses 14 to 17 and I hope I am not stepping on the Dean's territory here: "What good is it, my brothers, if a man claims to have faith but has no deeds? Can such faith save him? Suppose a brother or sister is without clothes and daily food, is one of you to say to him: 'Go, I wish you well. Keep warm and well fed?' But if there is nothing about this in his physical needs, what good is it? In the same way, faith, by itself, not accompanied by action is dead." Not my words but the words of James, the relative of Christ, so as not to be controversial. We have heard a lot about money. Everything costs money in our world. It is one of those things. Government costs money; a functioning society costs money. Freedom and social justice are not free; they also come at a price. They cost money. Interestingly, Jersey is full of money. We know this; we have recently seen a programme on Panorama which tells us about how much money comes through Jersey. So, it is quite surprising that in fact the government always seems to be under-funded. Where does all this money go? I will not go into that because that is a big debate. The point is that

we cannot avoid spending money; money always needs to be spent, whether it is on government, the mechanics of government or society and the individuals therein. What we have to ensure is that we achieve value for money. Why should we, or the taxpayer rather, foot this bill? Well, in an ideal world, of course, it should not come out of taxpayers' money, necessarily. Unfortunately, the buck stops with us as a government. We have failed these people up here. We have not had the foresight as a previous government, and I hope that it will not continue. We have tended to be reactive rather than proactive. We wait until there is a problem and then we say: "Oh, this is terrible. We do not have the function or the mechanics in place to deal with this problem. Let us all fumble around in the dark and try and do something." Because we do not have the right systems in place, it is very difficult to do that. I suggest that this is exactly what has happened in this case. It is not the only example I could give. We know about Deputy Higgins, of course, who was talking during his campaign and has spoken recently about the depositor protection. This is another classic example; it was all written up before. There was a lethargy, if I can call it that; Members were dragging their feet in government. It was not enacted and then, red-faced, we were forced to do something about it at the eleventh hour. This is not good enough. So we do have a moral responsibility because we have not put in place a function. Now, other societies, they have systems for dealing with things. It could be a redundancy package which is funded either by taxpayers or by employers' and employees' mixed contributions, and it may well be that we have something like that in place in Jersey soon and I certainly hope that will be the case. We do not even have any unemployment benefit in Jersey. Now, if this had been in France, for example, and the French system, admittedly is perhaps over generous, if you have been working for a certain number of months you are automatically entitled to a certain number of weeks of unemployment benefit. If this had been in place in Jersey, or a similar system, these people would not have to come, cap in hand, to the government. I am sure they do not want to do it; it is embarrassing but unfortunately they have no other choice. So, I think we do have a moral reason to do this. It is unfortunate that we have to use taxpayers' money but, alas, they are the people who elected us, so responsibility partly lies with them, too. We talk about not setting precedents but I would ask the question: does paying legal fees for Woolworths staff not also set a precedent? Are we only going to pay legal fees for these Woolworths staff or are we also going to pay for the members of Pound World? Maybe we can procure an answer for that. There are assets in Jersey, we know that. There is a valuable house and it is not clear whether the assets will be allowed to remain in Jersey or if they will be seized back to the U.K. In one sense it does not really matter. If we can get the money back, all well and good. If we cannot get the money back that means that the Woolworths staff themselves would also not be able to get the money back. That is why we should take on their case. It is our responsibility. There has been much talk of hand ups and not hand outs and it is a phrase that I do not like for many reasons, partly because of clichés and it also seems to be used by the extreme right or certainly I am talking in terms of economically right wing. Deputy Le Claire made the very salient point that we are willing to help failing businesses, as is the U.K. They are willing to bail out banks to the tunes of billions of pounds with taxpayers' money because greedy people have got themselves into this position and it does not matter, taxpayers will foot the bill. Unfortunately, when it is individuals who are helpless in society, we will not do the same. I think this is absolutely disgraceful. We should get our priorities right and I ask people to remember the words of James that we have heard and to give them some practical help, not say: "I am very sorry you lost your job but, tough, on your bike, go and get another job." No, these people have paid their taxes, they have worked hard. I am sure they do not work any less hard than we do and so I would ask Members to support this proposition.

4.8 The Connétable of St. Clement:

I was very grateful for the compliment from Deputy Southern at the beginning of his speech. The only problem is whenever Deputy Southern gives me a compliment, I just wonder what the heck I have done wrong [Laughter]. I am going to make a prediction; I am going to predict that this proposition is going to be successful and, in my view, quite rightly so. For all the good work that

they have done - and particularly the Minister for Social Security who I compliment on the work he has done - the Council of Ministers would gain more respect both in and out of this House if they stood up and accepted the proposition [**Approbation**]. A fortnight ago Deputy Southern's proposition failed. There was a procedural device used and, quite honestly, if the debate had gone on he would have lost that debate, in my opinion. He would have lost it because his proposition was flawed in 3 basic respects. It was flawed because it spoke about redundancy, which is not a concept in Jersey law, at least for payments in Jersey law, and the calculations were based on rulings from another jurisdiction. That is one reason why it would have been defeated. It would also have been defeated because it effectively became an *ex gratia* payment, and if it was an *ex gratia* payment you cannot assign an *ex gratia* payment and, therefore, you cannot make a claim against a third party for that payment. Also, I believe that that proposition, as drafted a fortnight ago, also set a precedent. All those 3 problems I think have been resolved by the redrafted proposition which we have before us today. Despite the fact that some Members have spoken about redundancy in this debate, it is the proposition we are discussing and the proposition does not mention redundancy, and that is quite right because there is no redundancy payment law in Jersey. So, there is nothing to worry about setting a precedent in that area; there is no redundancy mentioned in the proposition. Now, despite what Senator Ozouf was at pains to say time and time again during his speech, I do not see this as an *ex gratia* payment. It is simply an assignment and the word "assignment" is used in the proposition, assignment of a genuine debt due to the former employees of Woolworths from their former employer, now in the hands of the administrator. It is an assignment of debt which is a perfectly normal and usual business transaction. All that is happening is a debt that is due to those people is transferred to the States, who would then pursue the administrators through the courts for repayment of that. I accept there is no guarantee that we are going to get 100 per cent of it back. You do not go to court, any court case, with any guarantees at all. You take a view and you move to the court if you think you have got a reasonable chance of getting that back and, as Deputy Southern said, there is a reasonable chance, a very good chance, I suspect, of getting a very good proportion of it back in any event. It does not, in my view, I submit, set a precedent because it is not an *ex gratia* payment; it is a genuine debt due under Jersey law. For a precedent to be set, the first thing one has to do is to follow it after the first occasion. If you do not follow it after the first occasion, it cannot become a precedent. The circumstances of future cases need to be precisely, or as near as makes no difference, identical to the first instance. To meet that criteria in this case, we would have to be dealing with the U.K. Plc, with assets in the Island and we know they have assets, even if it is just a lease, assets which the administrators want to use in other places after promising the staff that they would be looked after, to transfer the assets back to the U.K. for the benefit of creditors in other places, creditors in another jurisdiction. That is what we want to remember. We are the government of this jurisdiction. We are the Jersey Government. We have a duty to help and support Jersey people and Jersey businesses who are in trouble. That is part of the role of government [**Approbation**] because I can assure the States that if we do not do that, as sure as heck no one else is going to.

4.9 Deputy D.J. De Sousa:

Firstly, I have to say I do agree with everything that the Constable has just said. He has made some very good, valid points. Also, I agree with Deputy Hilton. I have only just been elected to the States of Jersey and it is the voters that put me here, and if I do not do what I said I would when I went up for election I am failing in my duty. I will support these people and any others that need my help in my parish or anywhere else on the Island. In my mind we owe it to these workers, in a social need, to help them and to help them now. We are being told by the Council of Ministers, our Chief Minister, the Minister for Treasury and Resources that at the moment, with the economic downturn, we do not have any spare resources. Yet, only yesterday the Minister for Economic Development said in Question Time that if more subsidies were needed for airlines or even on the sea routes he would do it, and yet we have people here who have lost their jobs and need help and need it now and we are being told that we do not have the resources. We have all agreed that the

way the shop was closed down and the way everything was handled had failures and, as my colleague Deputy Southern has said, we need action now, not in 6 months or 8 months down the line. There are assets on this Island. We know there is the store lease and there is also a house. There is a possibility that we may get some of this money back, as has already been said. There again, we may not. I will be supporting this proposition as I have supported these workers all along. I have met with them on several occasions and I will support everybody in the Island that I can in my way. Thank you.

4.10 Deputy J.A. Martin:

I have just been going over the comments and I am slightly confused because Treasury is, I think, saying that they will cover the legal costs and the comments from the Council about legal advice; 2 totally different things because the cost is actually pursuing this through the courts with our lawyers and it does not make any comment on what that will cost. It may well be more than what we are asking but these people will not be getting any money today. Unlike Deputy De Sousa, I have been in this House probably far too long because I remember ... and I was going through my old papers, digging out some old reports and what did I come up with? Senator Perchard will love this because he said it was fantastic when he first saw it. It is called a *Social Policy Framework for Jersey - Every Person Counts*. It has to be great. I would just like to read it to you and the people listening who do not know what it is supposed to do. The foreword said: "Jersey is a small Island with a long history of economic success. Its community is fortunate not to experience poverty, crime and social exclusion at the levels which now face many countries. Nor should we forget that much has been achieved in providing high quality services for people who do experience disadvantage and hardship in Jersey." It goes on: "But there is no room for complacency. *Every Person Counts* sets out a new approach to a social policy. Helping individuals to help themselves, their families and neighbours is central to this approach. Everyone has a stake in the outcome. Government has a key role in addressing the economic and social conditions that are beyond the control of any single individual, intervening to provide support to people at critical transition points in their lives and providing protection to those in need. *Every Person Counts* ensures that the States will achieve this aim through rigorous and joined-up implementation of identified solutions to cut across interdepartmental and agency boundaries. This report promotes a new approach to service delivery and challenges long-held philosophies and the traditional way of doing things. If we work together as a community, *Every Person Counts* will make a difference to everybody's life in Jersey and we can look forward to a better future. At the same time, we will eradicate poverty one day." That is as far back as this goes. The crucial point there was intervening to provide support at critical transitions in people's lives. We all went to the briefings on this, we all thought it was a great idea, and probably like everybody else if you asked any States Member who has been here more than 5 years they will find it somewhere in a pile of other reports. It has never been acted on and never helped anybody out in the community. I am sorry, how long is a bit of string? I really must just comment on Constable of St. Clement. He seems to have got much more wisdom since moving across from the senatorial benches. He came up with a solution 2 weeks ago; everybody agreed to move on. The solution has come back to this House and we have another. **[Approbation]** Give money to lawyers? No. Give money to the people. I do not care if we are setting a precedent. We are to be helping people in the community. We have all signed up to it, or those of us who have been in the States too long that they care to know which policy, which social policy, which eradication of poverty we are going to do, which underprivileged people we are going to help. Tomorrow will be a good day, everybody tells you. No, no, no, today is the day. Please, **[Approbation]** I wish the Chief Minister would stand up and say: "I will accept this" because hopefully today will be the day that he will lose the vote.

4.11 Deputy M.R. Higgins:

I think I now know more precisely why the public hold the Council of Ministers, the States and politicians generally in contempt. The Minister for Treasury and Resources has demonstrated his

contempt for the ordinary workers of this Island and, I believe, this House. I believe he has acted in contempt of the House by making a Ministerial decision 2 days before this debate appointing legal representatives and pursuing a course of action through the court in order to pre-empt, or in fact sabotage, this debate and Deputy Southern's proposition and the States Members who wish to follow the proposed course of action contained in the proposition. He talks on the need to establish a precedent, setting out the legal position. I believe that a precedent would also be established if we adopt Deputy Southern's proposition. It would demonstrate that this House will not tolerate any administrator not complying with the appropriate Jersey law regarding statutory notice. I also believe that rather than sympathy to Woolworths employees he is showing contempt for them. They need financial assistance now, not in 3 months or more time. He is also favouring the well-paid legal profession at the expense of ordinary workers on this Island. I hope Members will reject the Council of Ministers' cynical ploy and support this proposition and demonstrate that the rest of this House will stand behind the ordinary people of this Island when they are in need.

The Deputy Bailiff:

Deputy Trevor Pitman.

Deputy T.M. Pitman:

Sir, I am still writing. Could I defer for a few more speakers?

The Deputy Bailiff:

Well you flashed your light, Deputy. Very well. Deputy Noel.

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

Firstly, I would like to thank Deputy De Sousa for reminding me of my election promises. I find myself in a difficult position as in my election campaign I effectively made one election promise. That was to listen to my parishioners. Over the past month I have done just that. In all cases the people were sympathetic to the plight of the former Woolworths staff and the appalling way that they had been treated by the administrators. However, equally, in all cases they did not wish for taxpayers' money to be used to assist the individuals concerned if it was not recoverable and was outside of the current income support system. As Deputy Southern mentioned, the manager of the Citizens Advice Bureau raised in his letter published in last Friday's *Jersey Evening Post* that approximately one third of the sum proposed would be recoverable under U.K. law due to the maximum of £800 for each and every individual claim being treated as a preferential creditor. The balance, some £100,000, would be treated as a non-priority claim. It is unlikely that such creditors will be paid anywhere near the sum they are due. In short, unless the Viscount can secure the Woolworths assets situated in Jersey for the benefit of the Jersey creditors, then some £100,000 of taxpayers' money will not be recoverable. With the wishes of my parishioners in mind, I cannot support this proposition as it stands.

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

First of all, I should declare that about 30-odd, nearly 40 years ago I was made redundant down at Longueville and believe you me it is not a very pleasant experience to go through. The problem with 2 weeks ago is that we had a proposition that was impossible to agree to and very quickly through the Constable of St. Clement an alternative was brought to the House which is 100 per cent better than what the last one was, because this at least gives you an argument. There is still a great difference between natural justice and legal justice; that is one of predicaments that I find myself in today. My natural justice says that we must support the Woolworths workers. But my natural justice also says: "What about the rest of the people out there that have just been made redundant or lost their jobs in one form or another? What can we do for them?" The legal justice will go on what Senator Ozouf has just come up with. Yes, advocates and solicitors cost money, but at the end of the day the argument must also be that at the moment we are looking at 83 Members that

would have to collectively (if there was no States support) find a way of getting together and fighting a case. Individually, it would be impossible for them to do; collectively there is a risk and they probably would not do it on legal expenditure. So there is an argument for the States to give them the support in providing the legal costs of going to the Royal Court to get what is justly due for them, but hopefully it would also set a precedent which would stand good for everyone else where it came up in similar circumstances. I cannot predict what the Royal Court will say, but I am sure that the legal beavers would make sure that it would not stand against employees because it is natural justice that you want to support the society that you live and work in. I do not plan to go over what everybody else has said, but I shall be listening very carefully because my natural instinct is to say yes here, but my natural instinct is also that if I say no I might be able to help a lot more people than just the employees of Woolworths. I would like to support them both. There might be someone legally more knowledgeable than I am - because my limitations are criminal law and somewhat out of date now probably as well - but there is at least one Member of the States here, plus the Solicitor General, who might be able to advance the discussion that I have just brought out and which may be able to assist the House in giving a better understanding than maybe we have at this moment in time.

4.14 The Connétable of St. Ouen:

Like most of the members of the Council of Ministers I have every sympathy with the former Woolworths employees, but - and I wait to see the expression on Deputy Southern's face when I say the 'but' - he will be surprised to hear that that is where the Council and I part company. I knew I would raise a smile on his face. I think as well intentioned as the Council's actions are, I am afraid that on this occasion I think that the offers are somewhat empty. The Council has acted in the same way as most large governments do. They have seen the overall picture of where the problem lies and they need to put money into the industry to stimulate it and to get more people back at work. I do not disagree with that. But I think this is one of the occasions when the Council of Ministers needs to think not as a large government but maybe as a parochial authority. I think this is one of the occasions when they must not be tempted to go down the line of, say, the French, who have done similar. What you have in France, where you have a public who are much more active than maybe in Jersey, you have strikes because the public themselves see the action as helping those who have created the problem and failing to help those who are in a problem. I am afraid we are in a danger of doing the same thing. I think that we need to, on this occasion, bite our lip and say: "Yes, that may be the way we should go", but we are, after all, a very small community and we need to ensure that those in our small community are helped, not in 3 months' time on a hope and a wish, but today.

4.15 The Deputy of St. Martin:

I have been holding back, probably like Deputy Trevor Pitman, because I was waiting really to hear the case for the Council of Ministers so I could somewhat, I suppose, respond to it. But as, indeed, I said yesterday, never has so little been spoken by so many. I would like to come in alongside the first speaker, and that was Deputy Hilton. She said she felt uncomfortable with Deputy Southern's first initial proposition. I think most of us did. We really welcomed the Constable of St. Clement's suggestion.

Deputy J.A. Hilton:

I do not believe I said that.

The Deputy of St. Martin:

That was my understanding of what you said. Never mind. I will apologise if I put it wrong, but I had a feeling that a number of people like myself felt uncomfortable with the particular proposition that was there. That was for me. As I say, I thought what we had really was when it was moved on to the next item, really what we were given was a get out of jail. It was a get out of jail ticket

because it did really go away. To Deputy Southern's commendable speed in which he brought forward this proposition, which really was, we think - or I thought - the get out of jail because this was the option that most of us really wanted to do. We got ourselves in this position simply because the States had failed to bring forward redundancy laws. So, what Deputy Southern really ... I see this proposition very much on will the States take a gamble with taxpayers' money? Some of those taxpayers, of course, are the people up in the gallery. They also have a stake because they have made a contribution to the wellbeing of this Island. All of which should be taken ... should we take their case? Should we take a gamble? I think if, indeed, the States win on behalf of Woolworths, it will set a precedent because you will send a message out to other employers out there that if they treat their staff in the same way in which they treated Woolies, they themselves will have the full might of the States on their back. Again, I think there is a precedent, maybe the right precedent. I have been in the House a long time now and I have heard so many times that we should not do something because we will be creating a precedent. I think that is something that Deputy Martin was referring to. It is almost like an excuse, "Let us not do something because it may well be a precedent." Again, I have always maintained that if the matter is right and if it creates a precedent, so be it. If others have the same right, the same claim, then they, too, should be supported. However, if indeed a precedent has been claimed and other claims come forward which do not match that merit, then we reject it. It does not mean to say a precedent is always going to be set and people have an entitlement to it. Their case should be judged on its merits. I remind Members that we are here today because of the States' failure to bring forward their redundancy laws. Again, I do not think we should reject any proposition just because it would be creating a moral precedent. I would say let us create a moral precedent if the moral is right. Just to conclude, and it may be a little plea to the Council of Ministers on something biblical that Deputy Tadier started, maybe I could remind the Council of Ministers of a saying. That is: "What shall profit a man to gain the whole world but lose his own soul?" Let us have a bit of soul, Council of Ministers, let us not waste any more time this afternoon, concede and let us support and get on, move the business and support Deputy Southern. **[Approbation]**

4.16 Deputy A.K.F. Green:

It seems to me it is a day of dilemmas for me because normally I would be standing here saying that it is not government's job to make payments in this regard to people that have been made redundant. However, as I said last time, it is government's job to provide a framework of safety for people that might be made redundant and the previous Houses have failed to do that. We hear words of sympathy but sympathy does not pay the rent, as we have heard. It does not feed people. It does not allow their commitments to be met, does not pay for fuel. I am sure I am not the only Member in the House but I can still vividly remember - due to an unfortunate accident with my son - lots of good words being said but absolutely no help financially for my family when we had problems. I can remember going down the backs of settees, through the pockets of every pair of trousers I had to try and find enough money to pay the rent. Is that really what we want for these people here today? They need help now, not in 4 months, 5 months, 6 months' time. I will be supporting the proposition even though I have this dilemma that I do not really think it is our job to be doing this. I have a question possibly for the S.G. (Solicitor General). The £800 ceiling that I think Deputy Southern referred to is set in a different jurisdiction. Would that apply here in Jersey with regard to seizing the assets here in Jersey?

The Deputy Bailiff:

Solicitor General, are you in a position to answer that one now?

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

I wonder if I just may have a few moments and perhaps answer it subsequently.

4.17 Senator A. Breckon:

I would like to take Members back a couple of months ago when this emerged, around about 26th/27th November. What it was about? It was about Woolworths Plc and 28,000 staff. The discrimination that has come out is discrimination against employees in Jersey. Some of those employees stood outside the shop and, without being disrespectful to them, without too much effort they gathered 9,000 signatures, not in a technical way on a petition but in support of their case. These are people that we all know, we know the faces, and the shop was a part of this community. I would like to also remind Members that yesterday we discussed at some length the draft Gender Recognition which was about something for a minority. We brought forward legislation with 23 Articles, 2 schedules and it has gone through the Council of Ministers and I believe, for me, it raises the question then, what happened to the redundancy law? I am not saying we should not be doing minority issues, but should we also not be doing things that give some protection and benefit to the majority? We have a workforce of 50,000 people. Should we not be doing something for those? Where has that gone? Just to go back to some of the procedure, and again I think this has been lost ... some of this stuff has come perhaps inhumanely by courier, in white bags, delivered to either 75 or 95, I am not sure which, one or the other, but this is the Jersey store, or was. One of the documents was: "Store manager guidelines for employee communication and administration." This was a sort of D.I.Y. (do it yourself) pack for store managers on virtually the last day of trading. The Jersey one actually included a sort of pleasant: "Good morning, do not forget this is the last day, this is it" after the possibility of somebody perhaps taking over what was, indeed, a profitable store. I have been asked to read the following statement. Within that statement was this: "Unfortunately, under Jersey and Guernsey employment legislation there is no entitlement to receive a statutory redundancy payment. There is no provision for colleagues to claim their statutory notice from the National Insurance Fund." That is true, but it stays silent on what the claim would be. The claim, of course, would be the periods of notice in Jersey, but the administrator's statement which was given to stores was silent and that was probably deliberate. That is really how it was and that was accompanied by individual letters. There was one, from memory, on 3rd January and then there was another one on 9th January. The second one again had a clause taken out of it because in error the administrator had included the reference to the National Insurance Fund. Of course, the employees in Jersey have no claim on it, but it is a way that the government in the U.K. - through a statutory instrument and funding - deal with issues such as this. Of course, it does not apply here, so then what does? The answer is nothing. Employees have been left high and dry. I think that is where we have failed, and we have had this debate 2 or 3 weeks ago about what is in place to help people. The Minister for Treasury and Resources also made a statement. This was the one that was on the front of the paper because we adjourned and met again in the afternoon. I would like to remind Members of what was contained in that statement. This was about plans for an economic stimulus package: "As a responsible government we must assess properly the extent and length of any downturn in our Island economy," which is leading into what we are actually going to do. It goes on to say: "Set up a stabilisation fund to enable us to put money aside in the good times for use in stimulating the economy," and by that I mean support local jobs and businesses, "in the tougher times." I would contend that also applies to employees, especially in difficult circumstances. As Deputy Southern has mentioned, it goes on to talk about: "The Fiscal Policy Panel has set out, and I have accepted, clear guidelines on how we should consider use of the stabilisation fund. Any consideration for withdrawal should pass 3 tests: timely, that is to say the impact must be at the time of economic downturn, not before or after the event." I would suggest that applies to these former employees: "Targeted, the impact must be targeted on those individuals and businesses that will deliver the biggest impact." Again, I would suggest to Members the impact on those employees in these particular circumstances will be significant: "Temporary, policy should be temporary and must not have a permanent impact on government spending and tax revenue." We can get around that very nicely because the Minister for Social Security has already said that a redundancy provision will be before this House before the end of April, so therefore we can plug this particular hole and if there are these tragic circumstances that occur again then we have something in place that puts that safety net in for others. It is not there

now but I believe it can be done fairly quickly. The statement on that day, 20th January, when the Minister for Treasury and Resources also goes on to say: "Overall, I believe that we are ready for a well-judged, timely response to changing economic conditions. We are acting now so that we can offer further assistance to people and businesses experiencing difficulties. We must try to intervene in the most effective manner and in a way that will support our long-term economic objectives of economic growth, low inflation and employment opportunities for local people," I would suggest we have these people, their circumstances before us today, and we can do something about that along the lines that the Minister has suggested in that statement. I think it is the minimum we can do. It is about a minimum period, I notice, but it is also about minimum, I would suggest, recognition. It is not perfect but we also, I believe, through the Minister for Social Security can say that the cavalry is on the way, we can put a system in place fairly quickly that will provide that safeguard. For me, there is no question about doing this today, I believe, and I think the House should support doing it. I would just like to comment on the legal aspect, and again I must be careful where I go with this. I have spoken to the lawyers who are representing the employees, and this came out of chance, a knowledge and a comment and it has now developed into that. I believe they are well capable of unbundling this situation without too great a cost. The situation in general terms is that the administrator is now also legally represented in the Island, which they were not before. I believe the Viscount is involved, and all of those are aware that the company - that is to say Woolworths - have assets in the Island. The legal representatives representing the employees are in the process of putting a charge against the assets. Technically, I do not want to go into the detail of that but there would be something that ... I know you have another hat on, so I do not want to embarrass you here, but if it was brought before the court then that would be brought to the court's attention and the court would then decide whether to give the administrator the necessary powers to realise, and indeed if that was the case, to dispose of the assets. But they are aware of a charge of the employees that is being set against that. That is generally how the situation will develop. What the timescale is for that I do not know, but that is generally where it is. There is an expectation, I think, from the legal representatives that something will be recoverable under the Minimum Periods of Notice (Jersey) Law from the Jersey assets, but that is not for today. It is for the legal test and legal challenge. I would just like to finish here by saying that that in itself, and the appearance and test before the court, for those with experience is day-to-day stuff. But for people who have never been in this position before, then it can be, indeed, a traumatic experience. I would just like Members to bear this in mind because there would be a degree of comfort hopefully if we support Deputy Southern's proposal today for those employees. We do not need to put them through any more trauma than I believe they have already suffered, and I have met with them on a number of occasions. I would just like to close by saying I admire their spirit in the face of some of this adversity. They have stuck together, even some of the youngsters who worked Saturdays but have done so for a number of years, but they even turned up one cold and wet night for a meeting, and I think that shows the spirit and I think that is something the Council of Ministers and others should appreciate and harness and, indeed, go with in the new inclusive system that we are operating. I do not think we should ignore people's circumstances and I hope Members will support Deputy Southern in his effort to bring what is an *ad hoc* resolution to a difficult set of circumstances. I hope Members will support that.

Deputy G.P. Southern:

If I may, we received quite extensive comments from the Council of Ministers and yet so far in this debate I have heard from one Minister. Are they on your list? Are they willing to speak or not?

The Deputy Bailiff:

You will learn in due course, I am sure, Deputy. The next one I see is the Deputy of St. Ouen.

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

You must ask yourselves what is different from this case to many other cases that we have heard of over a number of years about people being made redundant? I will tell you what is different. This States has not failed these people; we have the laws in place to protect them. They might not be perhaps the perfect laws, ones which certain people would like to be there, although we are remedying that situation, but we do have laws in place. The problem is that others have not recognised the obligations contained in those laws. It is easy to be critical. In fact, Deputy Tadier and others certainly have pointed the finger at the Council of Ministers as perhaps the villains in this case. I would like to remind Deputy Tadier and all other States Members that this Assembly collectively over the years passes all sorts of legislation to protect and cater for the people on this Island. Some are employment laws, which as I say are designed to protect both the employee and the employer. Others are the recent Income Support Scheme, and so on and so forth. These are the laws that we need to make sure are properly enforced. It is our responsibility as a legislature to ensure that these laws are met. In this particular case this is exactly what is being proposed by the Council of Ministers. We want to underline the fact to everybody out there, whether they are administrators or employers - and, indeed, the employees - that the laws work. That is absolutely, again - and I will repeat myself - what we must do. We cannot compromise on this. Unfortunately, we would compromise on providing funds before we determine the true nature and level of support that our legislation currently provides. I see people shaking their head. I am not a lawyer, but clearly if you accept an obligation, which the assignment of the employees' rights would be, clearly it could undermine a particular position. We also want to ... I will not give way. We also not only want to seek and provide for the Woolworths employees, we want to ensure that if ever this situation happens again that the other employees will be protected in the same manner. If this Assembly cannot rely on existing legislation to provide that protection then where are we? I think it is only right that the path proposed by the Council of Ministers supported the Minister for Treasury and Resources, and I hasten to add a lot of work has been going on behind the scenes - which seems to be totally ignored by the Minister for Social Security and the Minister for Economic Development - to not only ensure that people are able to provide food on their table or pay their rent or, indeed, find additional employment, all of these things have been happening. Let us not forget this is not an uncaring Assembly. No one individual in this Assembly can particularly choose to take the high ground but there is a process to follow. It is absolutely correct if our employment laws and legislation cannot support what we believe it should then, quite rightly, we may have to provide some form of additional financial support to employees, and not just Woolworths employees. But let us properly test and ensure that those outside of this Assembly recognise that our laws are in place and we expect them to be upheld.

4.19 Senator T.A. Le Sueur:

As an aside, I think that anyone listening to the Constable of St. Ouen earlier this afternoon can appreciate that he is not necessarily a Member of the Executive who follows the Council of Ministers party line. He does make a very good point, and it is the point the Council of Ministers are addressing, is that maybe the Council of Ministers were wrong in simply looking at the bigger picture. I believe that if anyone is going to be looking at the bigger picture the Council of Ministers has to take a lead in that respect. That is what we have been doing and that is what we are doing. At least I certainly acknowledge the fact that it is likely that this proposition will be successful but that, in my view and that of my fellow Ministers, should not preclude us from stating our principles quite clearly and for making clear what some of the counter-arguments to this proposal are. That is why rather than simply accept this proposition it is right that we debate and bring out those arguments from the floor of this House. I have to say that when I first saw the proposition from Deputy Southern I was encouraged by it. I thought it was a simple matter of effectively stepping into the shoes of the employees and carrying out the action on their behalf and that it was simple black and white. Unfortunately, as is so often the case when you look at the detail, it is not simple black and white. That is why we had to have second and third thoughts and have proper discussions and take advice. When the Minister for Treasury and Resources spoke in response to

Deputy Southern he said that this was an *ex gratia* payment. That seemed to be regarded with incredulity by some Members of this House. I have to say in my view he is quite right because an *ex gratia* payment is one which does not necessarily relate to the outcome or the conclusion of what happens as a result. The fact is that in accepting this proposition the States would step into the shoes of the Woolworths employees and recover from the administrator or the assets company what monies were available. Almost certainly, as even Deputy Southern admits, that would not necessarily be the whole £130,000-odd. It might well be a lesser sum, we do not know. The fact that the 2 sums are not identical actually means, therefore, that this payment of the money in advance of receiving that court judgment must be an *ex gratia* payment. It is not made conditional on the court case. There is no question, I think, in anyone's mind that if only £80,000 was recovered we would try to recover the balance from the ex-employees; that is certainly not my view. It is clearly an *ex gratia* payment in my interpretation, although not being a lawyer, if someone wants to bring a clarification of that they can look to other places. That, I think, causes me and others to have concerns because had this been a straightforward matter then I think we would have accepted the proposition quite happily. Knowing it is now a situation of an *ex gratia* payment, I think what this does is potentially weaken our legal case. Be careful here because this is a catch-22 situation. We need to understand and explain the legal consequences of such an action against the administrators, but if we explain that situation in advance of the case we in effect present our case to them and put ourselves at a disadvantage. So I am trying to be as circumspect as I can other than to say that there are dangers in following this approach. There is also a clear danger of setting a moral precedent, and even if there are not 2 identical cases, I think there will be 2 or 3 or 20 or 30 similar cases both in the future and in the past which could also be used by those who have suffered in those cases in a similar way. So, I go back to the opening words of Deputy Southern who asked: "What can we do to help these people? What should we do to help these people?" My answer is: "What should we do to help these people? What should we do not just to help these people but to help all employees now and in the future who will also be potentially suffering from the effects of redundancy?" What we are doing by seeking advice and in helping these ex-employees to pursue their claim is to make sure that we can obtain precedents under case law which can be applied in the future to other situations like this. I think it is worthwhile having those discussions. Having said that, I do sense the mood of the House. I wonder if it would be possible to test the patience of the House and suggest that we have a 5-minute adjournment so I can speak to the Council of Ministers with a view to possibly bringing this debate to a speedy conclusion. Could I ask for a 5-minute adjournment, please?

The Deputy Bailiff:

Does the Assembly agree to a 5-minute adjournment? Yes. Very well, we will adjourn for 5 minutes for the Council of Ministers.

ADJOURNMENT

4.20 Senator T.A. Le Sueur:

Thank you. I am grateful to you and to the Chamber for allowing us that short intermission during which time I have had discussions with my fellow Ministers and as a result of that have come to the conclusion that we will withdraw our opposition to this. [Approbation] Clearly, some Ministers have already spoken and they have stated their point of view. I am not asking to change their minds. They have stated their position and they should stand by that position. For others it will be a matter for their own particular conscience, but as far as I am concerned we can now hopefully bring this debate to a more speedy conclusion. [Approbation]

The Deputy Bailiff:

Very well. Senator Le Marquand and Senator Syvret are the only people I have seen outstanding. Do you still wish to speak, Senator Le Marquand?

4.21 Senator B.I. Le Marquand:

Yes, I wish to put on the record that I was about to make a speech very strongly in favour of the proposition. I have written my notes in relation to that and was, in fact, the next speaker before the change of mind. I do not now propose in the light of what has just been said by the Chief Minister to deliver the details of that speech, but it was wholly supported.

4.22 Senator S. Syvret:

Just for the new Members and members of the public, even though the Council of Ministers have fortunately, if far too late in the day, agreed to abandon their opposition to the proposition, it still has to be debated and we still have to vote upon it to gain the approval of the Assembly. So I make no apologies for speaking on it. I think it really was quite appalling to witness the spectacle of the Council of Ministers in the first place attempting to resist this proposition. Some of the comments from some of the Members in this debate simply beggar belief and I think just show that they must regard the public as complete idiots. I listened with great interest, for example, to the speech by Deputy Noel of St. Lawrence. Correct me if I am wrong but I think the deputy is an accountant. We all know just how marvellous and wonderful the profession of accountancy has proven to be of the world and its welfare in the last couple of years, and we are supposed to take on guidance from the Deputy about what is the right or the wrong thing to do in terms of money. The world is heading down the tubes now because the hallucinated economy has vanished into thin air, as hallucinations do, and these financial experts that stand and pronounce about strict and hard reality of the markets and so on look ever so much like the proverbial naked emperor. It is remarkable, is it not, how we see governments around the world leaping into the breach to foist upon their taxpaying public the debt - to take on the debt, effectively - of the errors, the vast failings of banks and financial institutions, hundreds of billions of pounds. We have had similar talk in Jersey about the plans to establish things like depositor protection schemes and so on. Here we are debating a sum of £139,500 and we have had to have this lengthy and, frankly, embarrassing debate about this matter and it really is appalling. I thought it was doubly appalling, having dealt with the Deputy of St. Lawrence, to then listen to the Deputy of St. Ouen when he decried us going down this path. I really do wonder how much is the total cumulative sum in various farming subsidies the Deputy has received over the years and the decade.

The Deputy Bailiff:

Senator, you know that that is completely improper. You know the rule.

Senator S. Syvret:

Why is it improper?

The Deputy Bailiff:

You know the rule because it is referring to personal affairs of other Members. You know this just is not proper.

Senator S. Syvret:

I see, Members are only allowed to attack anti-establishment Members, okay, I will remember that in the future.

The Deputy Bailiff:

No, Senator, you know very well what the rules are. You have to abide by them just as much as anyone else, although I know you would prefer not to. Now you must abide by them.

Senator S. Syvret:

The point is you allowed the Minister for Health and Social Services to make a disgraceful personal attack on me yesterday and you thought that was perfectly okay. But never mind, that is past. I am going to move on with the debate. In the 1990s the States Assembly, the States administration, its senior civil servants, who also cost vast millions of pounds, blew a total sum of £49 million in capital project overspends. That was when the ship of public administration in Jersey had at the helm all of our supposed fine, upstanding, masterful elder statesmen, people that understood the financial realities of the business world; £49 million of taxpayers' money blown. Nobody held accountable for it. Not a single civil servant's head rolled. I do not even think any politicians' heads rolled. Here we are, we cannot give £139,500 to workers who have been thrown into the street. Frankly, it is disgraceful. What did Les Pas Holdings cost us, £12 million? We pay the private sector lawyer for our representation in that over £1 million in fees for what was a disastrous failure. How much is the farrago of the Trinity landfill mess going to end up costing us ultimately? The fact remains that the sum of money we are talking about here is less, this total sum of money that we are looking to spend on these workers is less than - I can almost guarantee you - the golden handshakes and payoffs that a lot of the senior civil service clowns that are responsible for the disasters we see at the moment will get when they are sent off into the sunset.

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

Just to bring the debate back to the proposition, **[Approbation]** I particularly welcome the comments by many of the Deputies of St. Helier who have spoken during this debate who have really focussed their attention on the needs of the workers to have their position addressed by the States. I think one thing that has certainly guided my thinking about this is that the States through various forms of negligence in the past years - and I have been a Member of the House so I am part of that Assembly - have left these particular employees unprotected. It is protection which most of the employees who may be made redundant in the course of the current economic crisis will not face because I understand that most firms have protected their employees properly. So I think it is entirely right that we should agree to protect these employees who, through no fault of their own, have been left without protection for redundancy. I do welcome the Council of Ministers' change of heart. It is a bit hard to see on what basis it has been made, but never mind, they have had that change of heart and I welcome it. I also thank Deputy Southern and the Constable of St. Clement for their very speedy efforts together to pick up the pieces of last session's debate and bring forward this practical proposal, which I believe the House is now going to enthusiastically endorse.

4.24 Senator B.E. Shenton:

I will not speak for very long, but I think that the House or the Assembly should actually learn from this debate. One thing that has become perfectly clear to me is that sympathy can be cheap and sympathy can be hollow. We have all expressed our sympathy towards the Woolworths workers, but at the end of the day the sympathy does not pay the gas bill, it does not pay the electricity bill and it does not pay the rates bill. I ask the Council of Ministers what is actually wrong with helping the people of the Island. I feel throughout all this that the Council of Ministers themselves, and I know they are new, but they must show stronger leadership to the people of the Island. We have had them moving back and forth from one position to another on this, and they have to stand up and be counted and move ahead with what they believe in. I think also they should review their idea of helping the people. To tell shop workers to go off to lawyers and take their cases to the Royal Court is just utterly ridiculous. **[Approbation]** I also think that rather than being scared of setting moral precedents they should be setting moral precedents. **[Approbation]** We as a Chamber should be setting moral precedents to go forward, to move forward in a new direction whereby we have the people's interests at heart. This proposition works out at about £1.50 for every member of the public on the Island. It would not even buy you a quality Sunday newspaper, and yet we have to go through the whole rigmarole of can we do it this way? Can we do it that way? Can we employ lawyers at £400 an hour to sort it out for us? It is utterly ridiculous. I ask those people that are going to vote against the proposition to look in their hearts and ask themselves why they got

elected: because we were elected to represent and to help the people of the Island of Jersey, the people who find themselves in trouble at difficult times, when bills are going through the roof, where the cost of living is high and where the economy is slowing down. We should support this proposition and we should support the people of Jersey because as a government we can do so.

4.25 Deputy R.G. Le Hérissier:

Very hard to follow that barnstorming speech. The only thing I would say to the Senator, as I would say to each of ourselves, is where were we all when redundancy was not the crisis issue it is now? **[Approbation]** It is symptomatic of the inability of this place to take the long view, to build up a proper basis of support, but at the same time to push through in vast quantity I.M.F. (International Monetary Fund) engendered legislation; to push that through because of the very industry in which the Senator works. Other points: I would have liked either from the Minister for Treasury and Resources or the Minister for Economic Development some word on the assets issue. We are going to have more of this, apparently Poundworld is not a franchise of a U.K. company, but we are going to have more of this sort of ambiguity about who owns the assets. Are they tied to the Island? Are they not tied to the Island? What is the jurisdiction of the Royal Court? It would be good to hear about that because there are undoubtedly going to be more of these ambiguous downfalls of companies. The other issue I would like to hear from Deputy Southern is, there is going to be a massive issue with other people like the Poundworld employees. They are going to say: "What can the States do for us?" I really think we have to have some kind of plan. I do not think we can tell those people: "I am sorry, tough luck, you did not bring the right kind of political pressure" or whatever. I was hoping that the Minister for Social Security, who I know has worked valiantly behind the scenes, could perhaps speak on that broader picture because it is going to be an issue. People are going to be knocking on our door and saying: "You have conceded the case for one group, what are you doing about us?" I really would like some thoughts from the Minister and perhaps Deputy Southern as to what is going to happen there because it is undoubtedly going to be an issue.

4.26 The Connétable of St. Brelade:

I am finding myself in a position which, both as a Connétable and a member of the Council of Ministers, is an interesting one in that from a governmental point of view one has been terribly concerned about the precedent that may be set in this economic situation; however, my Connétable's hat was ... I think my mind was sharpened by the remarks of the Connétable of St. Ouen when he pointed out that this is really almost a parochial issue. People need to be looked after. We in the parishes have in the past looked after people through our welfare situations. This is on a different scale. This is the situation. I find myself swung by that and will be supporting the proposition.

4.27 Deputy A.E. Jeune:

I have to say that my experience with the people in Jersey, the taxpayers, has been exactly as outlined by Deputy Noel. Employment law has been seriously lacking in Jersey for many years and is finally being brought to a point where it is being dealt with. But it does appear that individuals do not matter, it is only when a large group are affected that politicians get into gear. Last November I told the electorate at St. Brelade No. 1 district that I would be their representative in the States Assembly if I were to be their candidate of choice. I also said I stood for fairness and equity, commonsense, that I was a good listener and a straight talker. I also said that I believed there would be difficult decisions to be made given the current economic situation. I believed I could make such decisions. I did not expect it to come so soon into my term of office, but I also believe that this is going to be the first of many. The situation we have here today is a very emotive one. I have listened to what has been said by many of my fellow States representatives, and I understand what they are saying. However, when this proposition was first raised I knew I could not support it. It did not mean that I did not care. Of course I did, and I also confirm that so does

the Minister for Social Security. We do care, and to that end the Social Security Department have worked very closely with the now ex-employees of Woolworths and are doing everything that is within their remit to assist them in securing alternative employment. I should state at this time that credit must be given to the other outlets in Jersey who have also given support and liaised with ex-Woolworths staff as to any employment vacancies that they have, and to the commendable efforts of the store manager who, as I understand it, has given his utmost support to his staff and liaised with other employers in the Island. I believe the assistance that we are providing is fair. As a registered nurse I have often had to make difficult decisions to not always deliver information that people want to hear. I will not be emotionally blackmailed. I cannot be held responsible for what has not been done before, and I stand by what I believe is the correct decision. As Deputy Martin said, every person counts. My decision is that I cannot support a proposition that I believe is unfair and inequitable. To single out ex-Woolworths staff as a special case and, I believe, set a precedent when it is quite likely that members of my electorate and other Island residents may well be in the same position in the future, or have been in the situation in the not-so-distant past, and say that they are not special, I cannot do that. Given that we have an income support system which will ensure no person who qualifies is left without adequate provision - and this is confirmed by the C.A.B. (Citizens Advice Bureau) - and we do not at this time have a redundancy law for everybody, I cannot support this proposition.

4.28 Deputy D.J.A. Wimberley:

I want to speak very briefly about the strategic aim of reducing inequality and relate that to the subject of this proposition. If it is not a strategic aim of reducing inequality and protecting the less well off, then it should be, and of course that is relevant to the discussions we will be having about the Strategic Plan. This morning I listened on my radio on the way in, in my van, not to Radio Jersey but to Radio 4, and Polly Toynbee was in discussion with someone else whose name I forget about globalisation, and she quoted O.N.S. (Office of National Statistics) figures to the effect that globalisation has helped the richest 10 per cent in the U.K. or possibly England. I am not quite sure, but I think it was the U.K. The richest 10 per cent have had most of the benefit of globalisation in that country and that inequality had increased in the last 10 years, or in the period of intense globalisation. She pointed out that this was not noticed as a political matter of serious debate because the tide was coming in, and so people were basically content because they felt that they were getting better off, but relatively the gap was widening and the ones at the top were benefiting most. Now the tide is going out and it is now an issue as to what happens with social distribution and social justice when the tide is going out. I would simply put it to the House that we have to firmly adopt the principle in this case and going forward with the Strategic Plan of protecting the less well off.

The Deputy Bailiff:

Does any other Member wish to speak? Deputy Maçon.

4.29 Deputy J.M. Maçon:

I will be brief. I will be supporting this proposition because I do believe that it complies with Jersey laws. While this may tide over the ex-Woolworths staff for this month and next month, as I believe it should, my concerns are with what is going to happen in the following months. I would like a commitment from the Minister for Economic Development and that of Social Security to continue their good work into helping support those people, because I do not want the proposition to be successful and then for them to be dropped.

4.30 Deputy I.J. Gorst:

I was only too aware as I entered the Chamber this morning that perhaps I would be on the side of 2 losing arguments. One, earlier in the day, thankfully, I was on the winning side. Today, my argument and the arguments put forward by the Council of Ministers have not found favour with

the Assembly, and that is always the way with a political argument. You win some and you lose some. The strength of your argument might be considered by others not to be quite so strong, as being the case today. What I have tried to do, as the Connétable of St. Ouen so eloquently put it earlier in the day, is take the governmental view. My department is tasked with bringing forward employment legislation and since I have taken office that is exactly what I have tried to ensure that they are doing, only in a slightly speedier manner. Hopefully, within a fortnight we will see the fruits of some of that hard work already, I should have said, put in train by my predecessor. I think it is incumbent upon me, while the Council of Ministers have agreed to accept this proposition, to reiterate a number of the reasons why I have held the position that I have. That is, it seems quite clear to me that the payment we will go forward to agree today will be an *ex gratia* payment and, as the Minister for Treasury and Resources so clearly said in his speech at the start of this debate, he and we have been advised that this could have a bearing on any likely success in the court process. I obviously leave Members to react to that as they will. The other reasoning for my position was that of precedent. Not a legal precedent as I think Members fully understand, but a moral precedent, and here I thank the proposer for the honest way in which he dealt with this in his opening remarks. If I am not misunderstanding what he said, he was quite clear that by accepting this today, it does place this House, this Assembly, with a moral precedent of helping others. As another speaker said, and I am not sure if it was the Deputy of St. Martin, perhaps this comes down to one's appetite to risk. There is a risk with this proposition. What we are proposing is to pay the ex-Woolworths employees, for them to assign their rights to the States, and for the States to pursue those rights in the Royal Court. Anyone who has been involved with court cases will be only too aware of the risk involved and the independence of the court, and that is right and proper and it should be that way. Deputy Le Hérissier asked me where we were. I think he was asking me where are we with medium to longer term solutions. As I have been saying now for the last month, the redundancy legislation I expect to be in a position to lodge at the next States sitting. That will be then for Members and scrutiny to review and approve as they see fit. However, as he is also aware, that redundancy legislation does not at this stage include an insolvency fund, but I have given a commitment, and I stand by that commitment, that my department and I will bring that forward as soon as we possibly can. At the same time, we must bear in mind that the Employment Forum themselves, when they made the recommendation to create an insolvency fund, said it was not that straight forward and, therefore, it would be disingenuous of me today to stand up and to say that it is going to be straight forward. It will not be, but that does not mean that I am not committed to bringing it forward in the shortest possible time that I can. I can confirm to the Assembly that I suspect even now my officers are working on those proposals, ready for submission for myself to consider and, in due course, this Assembly. I like to think of myself as a team player. I have outlined, albeit rather shortly, my position and why I have taken that position all along. The Council of Ministers, as the Chief Minister has said, are prepared to accept the proposition, so I find my arguments, although they are not winning the day, are still strong and, therefore, in this instance I feel I have no other choice than to abstain, and that is how I will be voting.

The Deputy Bailiff:

Does any other Member wish to speak? Deputy Pitman.

4.31 Deputy T.M. Pitman:

I do not feel that I need to say much, and in that respect I thank the Chief Minister for saving me 6 pages of notes. As this debate has gone on, I must say I had a mental picture forming in my head of an old western with the Executive with their wagons drawn in a circle, while the Indians of morality were circling. I think it is a good thing to know when a battle is lost and should not be fought any further. I do welcome what the Chief Minister has said, and I am encouraged from some excellent speeches, very encouraged, because when we had this debate 2 weeks ago, whatever it was, I went home quite sickened. Deputy Le Claire told us that he felt he had to withdraw the comments that he had made about some States Members being out of touch. Well, sorry, Deputy, I

do not think you do. If I can just give an example passed on to me from one of the Woolworths workers, after the last debate they met a Member of this House in the street and he asked them why they looked so miserable. Lost your job, administrators who should be flying the Jolly Roger have shafted you, you could lose your home, and then one of your representatives asks you why you look so miserable. Is that not out of touch? It can only come, I believe - and I will not name the person - from someone who has never been in the situation that ordinary working people have. I have been inundated by taxpayers, ordinary people from St. Helier, telling me to support the Woolworths workers and that is what I am pleased to have done. I have done my best. I have to say I look up at some of those and it does not seem that I have done very much. I give absolute respect to the other Members who have been there, I will not name them all, and I respect the Minister for Social Security for what he said, and I totally accept and believe that he is working away behind the scenes. All I would add to that is at the end of the day it is his job and I know it has only fallen to him recently, but it is no less than the people of Jersey should be able to expect. I just have to say, and it has been said several times, taxpayers, ordinary working people, they are surely entitled to expect more from their representatives than gushing sympathy and empathy and then get hit with that big 'but'. People often talk about painful decisions. Well, I think the real painful decision is to be brave enough, the Executive, to say "Let us bite the bullet. People do need help now, not in 3 months' time. Let us do it. Let us do the right thing, the decent thing." I hope people will take the Chief Minister's lead because I think the standing of the States can only go up if they do. We should not have put the people of Woolworths through this debacle, really. It was a shocking debate 2 weeks ago and, as I say, I was quite sickened by some of it. We have got a chance to do something really positive here. Let us set a precedent, a moral precedent. Let us help people, because that is first and foremost what governments are meant to do. I urge everyone to support the proposition and I commend my J.D.A. colleague, Deputy Southern, for his rapid response. He must be the quickest worker I have ever met, and he deserves absolute respect, and that is all I would like to say.

The Deputy Bailiff:

Does anyone wish to speak? Very well ...

Deputy A.K.F. Green:

Could we have the advice from the Solicitor General, please?

The Deputy Bailiff:

Yes, I believe there was a question, was there not?

4.32 The Solicitor General:

Yes, I believe there was a question relating to the £800 limit. I cannot assist very much on that. My understanding is that the £800 limit is not something contained in any Jersey laws and, therefore, I assume it to be something contained in a U.K. statute. I wish to be able to tell the House that I am definitive about that, but I am afraid in the time available I have not been able to make all the necessary enquiries. I think the question went on from there to say would it have any application in connection with proceedings. If those proceedings, it seems to me, are brought before a Jersey court on the basis of Jersey law, it is Jersey law that the court will use in the situation and will apply. It will, of course, be open to other parties to argue that foreign law should apply even within a Jersey court. My best advice is that it is more likely that the court will apply Jersey law to this particular situation. I do not think I can assist any further.

The Deputy Bailiff:

Very well. I am so sorry, Deputy Lewis, do you wish to speak?

4.33 Deputy K.C. Lewis of St. Saviour:

I will be brief. I am not too happy about the proposition, but I believe we have a duty of care to the people of Jersey, so I will be supporting it. Woolworths, it may be first big one but sadly will not be the last. On walking into the States today from the east, I counted 7 newly emptied shops. It is freezing outside and the electricity bills and the gas bills will soon be coming in. As a young man I knew what it was like to be a day late and a pound short. I will be supporting it.

4.34 The Connétable of St. Mary:

I just wanted to say a couple of things because I came here today not intending to support this proposition and because there are always 2 sides to every debate. Members have talked about being in touch with their electorate, and without exception every member of the electorate who has contacted me has urged me not to support this for various reasons. Things have been said during this debate, parallels have been drawn with what would happen in other places. That is as may be. It cannot go unsaid, though, that the support systems, the benefit systems, the social systems in place in other jurisdictions come at a much higher tax cost and social contribution than the workers here pay. This may set a moral precedent. We may have to be prepared for that. We may have to understand that that may well mean higher tax, or higher social security, or both. We must not be blind to that possibility. As I said, I came here expecting that I would reject this on the hard application of business sense which I have; however, it cannot be denied that the workers of Woolworths here have suffered a massive injustice in what they expected would be their right according to the law, and their right has not been met. We are law makers. It is not our responsibility to uphold the law. That is a different branch, that is a different thing, but certainly ... I am a Constable now, and before I was a Constable, of course, the welfare was handled by the Constables and I dealt with that in my former life, apologies to Deputy Fox, but we need to make sure that people in need are supported. What we do not have any evidence here of, of course - and it is proper that we do not - is the personal need of all these people, but what I have got evidence of is the injustice that they have suffered and I just felt it was necessary to put on record my feelings.

The Deputy Bailiff:

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

4.35 Deputy G.P. Southern:

Members who have been in the House for a while will know that I like recording my firsts. What a frabtious day today is, to see stout party collapse and win a ... **[Interruption]** Sorry, I did not realise I was saying anything wrong there, but never mind. I will take it back. Okay, the Council of Ministers changed their mind and agree with me as to which is the right way forward. I know, also, that the quickest way to lose votes is to speak for too long, so I will try and be brief, but this is a major debate so bear with me a little if you would. Yes, continuing from the words of the Solicitor General, I was asked a specific question by the Constable of Grouville about the £800. That refers to employees' preferential claims for wages, which are subject to a statutory limit of £800 in the U.K. I believe is the case. I do not think that applies in Jersey and, for the information of the Constable, I believe insolvency law in Jersey suggests a limit much higher than that, of £3,500 subject to the length of service, et cetera. So, I think that what we may be able to claim back may be larger than would be indicated by the figures provided by the statement from the manager of C.A.B. I think we have had a thoroughly good debate around the issues, long term and short term. I think it comes down to one of those Ts that we have been debating this afternoon, which is timely. Whatever solution is proposed that does something in 3 months down the line is not appropriate. The solution, the demand, the need is now and we need to act to deliver support now. My colleague Deputy Trevor Pitman just praised me and said that I deserved respect. Can I pass that respect onwards and upwards, because I believe the people who deserve respect for the way in which they have met what is a serious setback for them are the workers of Woolworths who have taken up this issue and made sure that it is brought to this House and that action was done. They are now concerned that it is not just for them, but it is for all employees, and they are looking

for us to take this forward and to provide similar, if not identical, protection for others. We know the need is coming and we have to be ready for that. That is why I say, and I said at the very beginning, that, yes, we are setting a moral precedent. Yes, we, this House, have to say as one of our duties we will protect our employees and we will make sure we do get support for them in a timely manner. We have to do that, and there may be a cost, there will be a cost, but I think that cost is correct. So I welcome the Chief Minister's move to withdraw the opposition of the Council of Ministers. I remind Members, I think it will be finally, that we are not delegates. We are put in here to vote with our conscience. No matter how many people phone us up or write letters to us about one thing or the other, no matter how many taxpayers object to their paying of tax out to this issue or that issue, we have to vote with our conscience. I think today is a significant day, not only for those workers but for other workers. I think it is a significant day for this House, this particular House. Here is an early indication that when it comes to social need, this House will rise to that need and meet that need. This was the right decision waiting to be made and I am pleased, and I hope we make the right decision today. Please vote for this proposition and then let us go home with our heads held high.

The Deputy Bailiff:

The appel is called for so I invite Members to return to their seats. The matter before the Assembly is pour or contre the proposition of Deputy Southern.

POUR: 34		CONTRE: 9		ABSTAIN: 4
Senator S. Syvret		Senator S.C. Ferguson		Senator P.F.C. Ozouf
Senator T.A. Le Sueur		Connétable of Trinity		Connétable of St. Mary
Senator P.F. Routier		Connétable of Grouville		Deputy of St. Ouen
Senator B.E. Shenton		Connétable of St. Martin		Deputy I.J. Gorst (C)
Senator A. Breckon		Connétable of St. Peter		
Senator A.J.D. Maclean		Deputy J.A.N. Le Fondré (L)		
Senator B.I. Le Marquand		Deputy of Trinity		
Connétable of St. Ouen		Deputy A.E. Jeune (B)		
Connétable of St. Helier		Deputy E.J. Noel (L)		
Connétable of St. Brelade				
Connétable of St. Clement				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				

Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Deputy Bailiff:

Very well, that completes Public Business, so we then come on to item M, Arrangement of Public Business for Future Meetings, and I invite the Chairman of the Privileges and Procedures Committee to address the House.

5. The Connétable of St. Mary:

The arrangement will be a variation of that on the pink consolidation paper. The business of 24th February 2009 will have the addition of P.179/2008, the Draft Amendment (No. 10) of the Standing Orders, and the addition of P.8/2009, the Energy from Waste Facility: rescindment. Senator Shenton has kindly offered to move the Voisinage and Customary Law: review, P.1/2009, to 10th March 2009, so that is removed from that order of business. I understand that Senator Le Marquand may wish to say something about one piece of business.

5.1 Senator B.I. Le Marquand:

I had the opportunity last week to spend a whole day reviewing the Sex Offenders (Jersey) Law 200-. Unfortunately, I was not happy with what I saw for a variety of reasons. The appeal procedures are, in my professional opinion, completely wrong. There are other parts which I do not

understand. There are other parts which are highly controversial and which I need to think more about before bringing the matter back to the House, and my intention is to continue with a review. I have written some notes about my concerns. There are also problems of the interplay of the law and data protection. It does not seem to adequately make provision for what and when can be disclosed to other parties and appropriate safeguards and powers in relation to that. That in itself is a very important area because of the very sensitive nature of the information that could be available in relation to past sex offenders. For that reason, because I will not be able to deal with this effectively by means of multiple amendments, I have no alternative but to withdraw the proposition and will come back to the House as soon as I can with a proposition and a law in a form which I feel able to present to the House.

The Deputy Bailiff:

Very well, so you are withdrawing P.178/2008?

Senator B.I. Le Marquand:

I am withdrawing P.178/2008, yes.

The Connétable of St. Mary:

If I could continue, there are some more changes. I have just been passed a note that there is a need to move P.184/2008, the Ann Court site debate, and I understand that is to be moved to 10th March 2009. Also, I have down for 10th March 2009 P.185/2008 and P.186/2008, but am I to understand those are now to be pulled?

5.2 Senator A.J.H. Maclean:

Can I help with that? The Economic Affairs and Scrutiny Chairman, Deputy Higgins, and I have had a conversation about his review of amendment 10. He has agreed that they will consider that next Monday and that we could bring forward for 24th February 2009 amendments 10 and 3.

The Deputy Bailiff:

Are you happy with that, Deputy Higgins?

Deputy M.R. Higgins:

Yes.

The Deputy Bailiff:

Very well. So, Chairman, you are going to add, therefore, to the next session P.185/2008 and P.186/2008?

The Connétable of St. Mary:

Yes, that is correct. Then the 10th March 2009 business, as I said, has the addition of P.1/2009, Voisinage and Customary Law: review, and then also 31st March 2009, the session will have the addition of P.17/2009, The Williamson Report: Implementation Plan - funding, and then the next piece of business I have is for a sitting not on the pink sheet, 12th May 2009, which will be P.18/2000, Public Elections (Jersey) Law 2002, rescindment of Article 39(a).

5.3 The Deputy Bailiff:

Yes. I should inform Members that Deputy Southern has lodged P.18/2009, Public Elections (Jersey) Law 2002, rescindment of Article 39(a). That has been lodged today.

5.4 Deputy J.A. Martin:

I was just asked by a few Members why I moved P.108/2008 so late. I would be ready to go, but I have been having correspondence with the Minister for Transport and Technical Services and there is some vital information that is not being presented to the Council of Ministers until the week of

3rd to 6th March 2009, so it is for me only the following Tuesday but I will go with whatever information, but it is vital to the size and the cost of the car park that I am debating against, so I think all Members need to be fully informed of what they are voting on.

The Deputy Bailiff:

Very well. Does any other Member wish to say anything in relation to the proposed business?
Deputy Le Claire.

5.5 Deputy P.V.F. Le Claire:

Just for my own understanding, on 24th February 2009 there are a number of items which now include the rescindment proposition. In order for me to prepare my 2 propositions that I have, especially P.16/2009, could I just ask which order the rescindment debate will go? Will it go to the top of the agenda, or where will it go?

The Deputy Bailiff:

I think, Deputy, it would normally go in its order, in other words, after P.7/2009, so it would normally go in there I am advised by the Greffier. That is the rescindment of the waste matter.

Deputy P.V.F. Le Claire:

Thank you, Sir.

5.6 Senator P.F.C. Ozouf:

I would like, if I may, to request to Deputy Le Claire in relation to P.7/2009 that he agree a deferment of that proposition. He and I have corresponded by email and I wish to avoid a discussion on the States without proper consideration. Would he agree to defer that until 10th March 2009 in order that we may have some discussions?

Deputy P.V.F. Le Claire:

I am delighted to accede to that request. It is very sensible. I trust you will be supporting me on P.16/2009 in the interim?

Senator P.F.C. Ozouf:

The further matter that I was going to respectfully ask the good Deputy is whether or not he has lodged an important proposition in respect of the gas pipeline. I know that there is a linkage here in the proposition in relation to Ann Court. There has been some correspondence with Ministers about that proposition. I am sure that he would wish the Assembly to be fully and properly informed, but would he agree also to slip that one until 10th March 2009 and perhaps deal with that either prior to the Ann Court debate in order that we can deal with that, too? It is an important matter and there is an important comment, so would he do that? I think that may help on management of business as well.

Deputy P.V.F. Le Claire:

I think it is probably going to win me more support, so I am happy to agree. Thank you.

Senator P.F.C. Ozouf:

Finally, if I may, I grateful for that and I am not asking for anybody, I am just going to do something myself on this one. There is a proposition down for debate on 24th March 2009, Income Tax (Amendment No. 32). It is likely that this proposition is going to be withdrawn subject to discussions with Corporate Affairs and with the Scrutiny Panel. I do not want to withdraw it at this stage, to forecast exactly what the Corporate Affairs Scrutiny Panel may say, but it is only fair to Members if I may push that to the latest possible date available in May. I think the date has been signalled 12th May 2009, if I may signal to move that there? That may be for Members' consideration as to whether or not they wish to deal with 24th March 2009 in some other way.

Deputy P.V.F. Le Claire:

May I put a request to the House that seeing that I have volunteered to move P.16/2009 to 10th March 2009, although I will probably be happy to move that, can I for now, for my own peace of mind, ask that that be placed underneath the Waterfront Enterprise Board proposition, please, or under P.7/2009, rather? So it would appear on the ...

The Deputy Bailiff:

Very well. Now, does anyone else wish to say anything? Very well, are Members content to take the programme for 24th February 2009 as amended? So, that is the deletion of P.178/2008 and the movement of various others, P.1/2009, P.7/2009 and P.16/2009, and the addition of those mentioned by the Chairman of the P.P.C. Does the Assembly agree to take that list? Chairman, how long do you think then the Assembly will require on 24th February 2009?

The Connétable of St. Mary:

I would estimate 2 days. We have moved an awful lot of business, but we do still have the Energy from Waste Facility: rescindment, which I think could take some time.

ADJOURNMENT

The Deputy Bailiff:

Very well. So, that completes the Assembly's business, so we will now close and reconvene on 24th February 2009.