

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 28th APRIL 2009

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

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

1. Appointment of the Minister for Health and Social Services:

The Bailiff:

The Chief Minister has given notice to the Greffier of the States that he will nominate the Deputy of Trinity for this Ministerial position. May I remind Members of the procedure; Members will be invited to propose and to second a nomination but may not speak to the matter. Each candidate nominated will have the opportunity to address the Assembly for 10 minutes and there will be, following that, a period of questioning. Chief Minister

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

With that introduction, I am pleased to propose the Deputy of Trinity, Deputy Pryke for the vacancy as Minister of Health and Social Services.

The Bailiff:

Is that nomination seconded? **[Seconded]** Are there any other nominations?

Connétable A.S. Crowcroft of St. Helier:

Thank you. I am pleased to propose former member of the Health and Social Services Committee, Deputy Paul Le Claire of St. Helier.

The Bailiff:

Is that nomination seconded? **[Seconded]** Are there any further nominations for the Minister for Health and Social Services?

Deputy M. Tadier of St. Brelade:

I am pleased to propose Deputy Geoff Southern for the role of Minister for Health and Social Services.

The Bailiff:

Deputy Southern is proposed, is that nomination seconded? **[Seconded]** There are now 3 candidates for the Minister for Health and Social Services, are there any further nominations?

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

Yes, I would like to propose Deputy Collin Egré.

The Bailiff:

The Deputy of St. Peter is proposed, is that nomination seconded? **[Seconded]** Are there any further nominations for the ...

Senator B.E. Shenton:

I would like to propose that Senator Perchard and his team are allowed to continue their job.

The Bailiff:

Is the nomination of Senator Perchard seconded? **[Seconded]** Are there any further nominations for the Minister for Health and Social Services? Well, I accordingly invite Deputy Le Claire, Deputy Southern, the Deputy of St. Peter and Senator Perchard to withdraw from the Chamber to another place and they will be escorted by a member of the States Greffe Staff.

The Bailiff:

I call upon the Deputy of Trinity to address the Assembly.

1.1 Deputy A.E. Pryke of Trinity:

I am very honoured to be nominated by the Chief Minister for the post of Minister for Health and Social Services. I come with a long background in health care. I trained as a registered nurse in a London teaching hospital, I had midwifery training in Bristol and I also worked in other N.H.S. (National Health Service) hospitals prior to returning to Jersey. I was a homecare sister for Jersey Hospice Care for well over 15 years up to my election to the States in 2005. This combined experience of 30 years in the front line of care and everything from birth to death has given me the knowledge and understanding of all aspects of health and social care. I have also had experience in youth work, including setting up and running Trinity Youth Club. I was one of the founder members and later chair of Jersey Brook and to complement this important service, I set up Minden Base which is now known as the Yes Project. I am also aware of the issues and problems of those who find themselves on the margins of society in my role as chair of Jersey Homeless Outreach Group and the issues of residential care, being an honorary director of Methodist Homes (Jersey) Limited. Since being elected, I have proved that I am capable of taking an active role in the States as well as my involvement in the Parish, especially being on the Retirement Homes and the First-Time Buyers Committee. Firstly, I chaired a Scrutiny Panel to look at issues at Overdale Hospital and then, as Assistant Minister for Planning and Environment, I would like to think that the Minister and I have turned that department around and I thank the Minister for his support. As part of my role as Assistant Minister, I have been responsible for making tough planning decisions and changing the process from those decisions made behind closed doors to all the decisions and the reasons behind that decision made in public: a major positive change. In my role at Environment, I have driven forward new legislation raising the profile of environmental issues and especially through Environmental Week. Now to my vision of Health and Social Services; how do I see the future? Members are all aware that there are major issues facing the department, all of which are so important. There is the Williamson Report and implementation of that important policy which, if supported by this House, will change the face of social services and the care we give to our vulnerable children and families. I know that Scrutiny are undertaking a review and I, for one, very much welcome that and I shall give a commitment to bring the Implementation Plan and to have the correct funding to this Assembly for debate as soon as possible. Care of those vulnerable children is vital and if this Assembly approves the 11 recommendations in the report, it will make a significant difference on how this care is delivered. I know that the Minister has a dedicated Assistant Minister who has this responsibility. I would continue to have a dedicated Assistant Minister for Children and Social Services. This also includes supporting the Care Leavers Association and to ensure that correct services and funding are in place to support and care for those victims of child abuse. *New Directions* - a huge piece of work which has been around for far too long; I am committed to finding a way of delivering it, be it taken in stages or one step at a time. It is no good having such a good report, an important piece of work, if it cannot be delivered. Care in the community; a big issue which includes care of our ageing population, respite care for our young people and adults, delivering an up-to-date, fit-for-purpose service is vital and includes working out a long-term solution for the funding of residential and nursing care. I am committed to people staying in their own homes for as long as possible and I will continue to work with the Parishes and the Connétables; they know the needs of their parishioners. To achieve this, G.P. (General Practitioner) and care providers, be they charitable and/or strategy groups, all have an important part to play. I would work with the other departments and other organisations to provide our Islanders with better preventative care and centres to provide excellent primary care which Islanders deserve. The subject of primary care, I recognise, is the responsibility of the Minister for Social Security but prevention is better than cure and I would ensure that there is a good working relationship between the Minister and the departments. Indeed, Health and Social Services cannot work in isolation and its strength will be working with other departments, be it Home Affairs over the issue of alcohol abuse; Education, Sport and Culture to encourage healthy lifestyle in schools and youth clubs; Planning; Housing; and of course the Treasury. There are great financial pressures in all areas but to achieve a service that the Island requires and aspires to will cost money and I am looking at the Minister for Treasury and Resources and this Assembly and saying: "More

funding will be required.” These are only a few of the important issues, the list is much longer. My first priority in post will be to meet the senior management team and political colleagues to identify the priorities; short, medium and long term. In his recent report, the Comptroller and Auditor General identified some areas that needed reform but the management needs to have a political leader. To achieve our goals, I need to take that team with me. I would take a firm hand and if any area needs change I will change it. It is vital to have a good team all working to the same goal; that of providing the best possible care, providing good care for the people of Jersey, whatever their circumstances or their needs. I would like to acknowledge all the excellent care being delivered at present by many very committed staff and if successful in this nomination, then I feel it will be an important part of my role to be as accessible as possible to all. I believe I am the right candidate for the job. I do have a proven track record, a long history in health and care. I am committed and in a quiet determined, unassuming way, I deliver results and can make important decisions when required to do so. There is no quick fix solution to all the issues at Health and Social Services, but by having a strong leadership all working together, change will happen. After having 4 Ministers in less than 2 years, the service is crying out for stability, commitment, experience and consistency. I believe I can offer that. I know I can make a difference and ask for Members’ support. **[Approbation]**

The Bailiff:

Members have 20 minutes to question the candidate and again a bell will be sounded after 19 minutes.

1.1.1 Deputy T. Pitman of St. Helier:

If I could make a serious point with perhaps a humorous observation; it might be said that the role of Minister for Health and Social Services should come with a health warning after recent times. What assurances, if any, could the Deputy give the House that she has the toughness to see what will be an absolutely very difficult job, to see it through?

The Deputy of Trinity:

I think, having had over 15 years experience in health and social care over here as well as years in the U.K., 30 years altogether, I realise that there are a lot of different important issues that need to be addressed. I do not go shouting from the top, I work with people, I work as a team to get results and at the end of the day that is most important. We need a health service that Jersey can be proud of and need to take that step forward to make it a service that is right for the Islanders of Jersey. I have with Planning, as I said, to make decisions; they are very tough decisions at Planning, because no one can be happy whatever decision you make, but I am there to weigh-up both sides of the argument and if necessary will make a tough decision.

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

If elected, would the Deputy be looking to fund Williamson in the entirety without any clauses?

The Deputy of Trinity:

As I said in my speech, I am committed to bringing the implementation of the Williamson Report to the States for debate. The report highlighted the fact there should be political oversight of these services and I fully endorse this and would still have an Assistant Minister with that responsibility for Children and Social Services. That report is vital to change what is a, perhaps ... well it is a poor service because there are over 11 recommendations and I am committed to bringing that plan to this Assembly for full open discussion, because at the end of the day the most important thing to come out of that is care of our children and families across the whole board. So that is the most important thing, and to get the funding and to get the proper support which it will need, it will need to come back to this Assembly for full and open debate and I am committed to that.

1.1.3 Senator B.E. Shenton:

If elected, the Deputy will become a member of the Council of Ministers. Do you support their stance of a pay freeze for all Health and Social Services employees, yes or no?

The Deputy of Trinity:

That is a very difficult question because I have not had any background to that, so it is very difficult for me to comment other than to say that good work is being done in Health and Social Services. As I said, a lot of work is being well done on the front line of care and that should be acknowledged and supported, but then it goes on to the importance of recruiting staff. But, other than that, Senator, I need to get some more background information and I will be briefed on that.

1.1.4 Deputy R.G. Le Hérissier:

It is sometimes alleged that the politicians nominally in charge of Health have been hoodwinked by the Civil Service or have not understood what is going on at the grassroots. How will the candidate obtain feedback from the grassroots of health staff as to what is happening and assert her control without micromanaging the system?

The Deputy of Trinity:

I think one of my strengths is that I have got a long proven track record in Health and Social Services. That was one of the positive things about being a homecare assistant with Jersey Hospice; it is not part of the hospital, it is a 100 per cent charitable organisation, therefore it gave me the opportunity to go in every area of care, be it from social worker, be it St. Saviour's Hospital, Family Nursing Services, other charitable organisations, as consultants, U.K. consultants: I know the backgrounds and, as I said, I am a people person, I am a good listener and I would like to think that I am approachable to all staff and that is the most important thing is listening to what staff are saying to you.

1.1.5 Connétable D.J. Murphy of Grouville:

The plight of the cancer patients who have to go to Southampton for treatment has been brought to my attention by 2 or 3 of my parishioners. Would the candidate please undertake **[Aside]** **[Laughter]** if elected Minister to open negotiations with the monopoly air carrier on the route to try to achieve some more affordable air fares for families to visit over the weekends? We have a situation where Health and Social Services, with all due respect, are doing what they can but the cost of a family having to go over to visit somebody who is undertaking treatment, or for that person to come back to Jersey, is now becoming completely unaffordable. If she were to pressure them, I am sure they would come to some arrangement with her over offering cheaper airfares for people under the care of Health and Social Services.

The Deputy of Trinity:

As the Constable knows, care of patients who have cancer is very dear to my heart having worked there for 15 years, so anything that can be done to alleviate the stress and anxiety that patients and their families go through can be nothing but a good thing. I take up very much the Constable's suggestion and if I am elected, I would like to think he and I would go to the carriers and press that point. It is an excellent idea and I thank the Constable for that.

1.1.6 Senator S. Syvret:

The Deputy said that she would support the Williamson proposals. Does she not accept that there are several serious flaws with the Williamson proposals? One particularly profound one in that it does not recommend or advocate a complete split and separation between those who are responsible for delivering Children's Services and those who are responsible for the oversight and regulation of those services. Would the Deputy agree that those 2 functions do need to be split in the interests of effective checks and balances and is the Deputy aware that Professor June Thoburn very much agreed with that analysis at the briefing for States Members?

The Deputy of Trinity:

Yes, I am very much aware of the comment that Professor Thoburn made about the Williamson Report and I hope these things would be highlighted in the Scrutiny review of it. Also I said I am committed to bring this back to the House for full debate and all these issues need to be thrashed-out and need to be discussed and debated in this Assembly so that a proper implementation plan with funding can be put in place for the future care of our health service. That needs a full and open and frank discussion and I would welcome that.

1.1.7 Deputy M. Tadier:

The Deputy of Trinity mentioned in her speech of support for the care leavers, and I think this is a sentiment which all of the House would be happy to support. Could the candidate therefore explain why she has never been seen at any of the 3 or 4 public meetings that I have been to of the Care Leavers' Association in the past 3 or 4 months and how she reconciles the former statement with her conspicuous absence?

The Deputy of Trinity:

With my hat on, which I did not mention here... as the States know, I was appointed by this Assembly as a trustee of the Haut de la Garenne Trust and part of that, since what happened last February, I have had a meeting with the Care Leavers' Association at the back end of last year with a view of how to take the view of the issues at Haut de la Garenne. I fully support the Care Leavers' Association and in fact have been in touch with their social worker and they were in touch with me 2 or 3 weeks ago about again meeting the Trust to discuss the future of Haut de la Garenne. I will leave it at that.

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

I would like to ask how would the candidate deal with the high cost of going to see a doctor that prevents many elderly people and families from receiving the medical care they need and require and which would prevent more serious illnesses in the future?

The Deputy of Trinity:

The cost of G.P. visits comes under the remit of Deputy Gorst who administers Social Security, but as I said, prevention is better than cure and preventative medicine has got to be the way forward. If we can keep patients and families out of hospital that can be nothing but good, so prevention is better than cure. We need positive screening, we need to have good primary centres and would work with Deputy Gorst to try and deliver that. There is, I understand, some money in the Health Insurance Fund in the Social Security pot and I think, if I am right, £60-odd million and so, with that, I would like to think that the department and I could work together to make sure that preventative measures are put in place. One suggestion that I had; why not give a free G.P. visit to everybody over the age of 50 or 55 for a regular M.O.T. If we can pick up one disease or one complaint early that can be nothing but positive. **[Approbation]**

1.1.9 Senator S.C. Ferguson:

In the Comptroller and Auditor General's report, it appears to imply that Health and Social Services want to take over Family Nursing. What are your views on this?

The Deputy of Trinity:

I have read part of the Comptroller and Auditor General's report. Family Nursing Services: I have worked well with them over the years and one of their strengths is that they do work and cover issues in the community extremely well, albeit it needs to be changed because we need to look forward to make sure that the service that we put in - whether it is in hospital or especially in the community - is fit for purpose and going really well into the 21st century. Family Nursing Services are the only organisation that cares for families from birth to death, so they have an important part

to play and that needs to be continued. They need to be well-funded and perhaps they do need some changes as in every service needs to change when it is moving forward.

1.1.10 Senator A. Breckon:

Can the candidate say what she sees as a way forward for elderly services in Jersey?

The Deputy of Trinity:

There are many issues there with elderly services. Because of my commitment, I think, to lifelong homes, keeping people at home for however long as possible to me is the most important thing; that people need to be able to maintain their independence for however long is possible. People do want to stay at home and I think with my Planning and Environment hat on, I have stressed the way forward of lifelong homes and it can be just the simple thing of having a wet room so people can have a shower; it is down to that basic but very important level. But then also making sure that if people did need to be admitted into residential or nursing care that it is in a way that they do not need to worry about funding. I would like to work with Deputy Gorst and Social Security to find a way of putting in an insurance scheme into place. If we can do that fairly swiftly - it sounds easy, but I know there are little hurdles - but that must be a way forward; that if someone is in residential nursing care the last thing they want to worry about is if their money is going run out. So we must address those problems and we must do it urgently.

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

The candidate has said that if she gets elected she will be a good team player and would want to work, first of all, with the senior management. Does the candidate accept that part of the problems within the departments may be the team that the candidate will have to work with and if so, how would the candidate deal with this?

The Deputy of Trinity:

As I said, my first priority is to sit down with everybody and sort out the issues, be it short, medium or long term. That does not only include the senior management team, but includes the political representatives. We all - and I say to this Assembly - have a part to play and a duty of care to making sure that our health service is up-to-date and fit-for-purpose. So working with the management team is going to be important and if changes need to happen then changes will happen. I work in a very quiet unassuming way trying to bring people with me, but rest assured, if change needs to happen, I can and will do it.

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

Very much on the same lines as Deputy Maçon. Does the candidate consider that senior management should be responsible and accountable for their department's performance? Would she, if appointed, ensure this was the case within her area of responsibility?

The Deputy of Trinity:

If I am elected, I would have political responsibility. Clear management structures would need to be in place and I know that is one of the issues identified in the Comptroller and Auditor General's report. It is going in; sitting down; working as a team; and if change does need to happen, which I am sure it will, then change it will be. With having a proven track record of health care, I come knowing what it is all about and I think that is going to be one of my strengths.

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

Given that the present Council of Ministers has become, by default, an all-male preserve, does the candidate consider that her presence on the Council will improve its decision-making processes?
[Laughter]

The Deputy of Trinity:

Definitely. **[Laughter]**

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

With the recent closing down of the Reciprocal Health Agreement with the United Kingdom, if elected, will the Deputy put in place a private health scheme that the public can contribute to so as it becomes possible to travel to the U.K. with insurance cover as currently people who have certain ailments cannot get health cover? Therefore, would she work to that end?

The Deputy of Trinity:

I remind Members that it was the Department of Health that cancelled that agreement and I suppose there is very little that we can do about it now. But the most important thing I would like to think is let us go and talk to some local insurance companies or U.K. insurance companies and thrash out the problems that are there, and especially for those who have got previous medical problems or are over a certain age, 80 or 82. We need to find a way round that system to make sure that everybody can get some sort of insurance cover, whatever age. If they want to go and see their family in the U.K. or stay with friends or whatever, we do not want to be isolated on this Island, so we need to sit down with insurance companies, thrash out something and need to do it.

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

Does the Deputy of Trinity agree that there should be a greater emphasis on promoting good health rather than dealing with the results of bad health and if so, how will she ensure that this happens?

The Deputy of Trinity:

Absolutely. Prevention is better than cure and I said, I think the first thing is like having a free G.P. visit to everybody over 50 to have like an MOT can be nothing but a good thing. Prevention is better than cure, as I have said many times, and it needs the funding and to be supported.

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

The Deputy has mentioned the work that needs to be done around Williamson and the elderly. I wonder what plans, if any, she has to improve the services to young, vulnerable adults and their carers?

The Deputy of Trinity:

I understand that there is a Carers Strategy in place and just about to roll-out and I think that is one of the roles that the Constable of St. Lawrence was championing, and that was a very positive thing; we must not forget about the carers.

The Bailiff:

Thank you, Deputy. That concludes the period of questioning. **[Approbation]** I ask the Deputy now to withdraw to another place with the Assistant Greffier. We await the arrival of the second candidate. Well, if Deputy Le Claire has caught his breath, I shall invite him to address the Assembly.

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

Good morning. Before I begin, I would like to wish my colleagues who have also put their names forward for this important position the very best of luck. Such a highly contested election proves that there is a strong desire within the make-up of this Assembly to tackle a difficult position at a challenging time and it can only bode well for the Island and its future and I thank them all for standing in this important election. Policy makers broadly agree on the core objectives that their health care systems should pursue. The list is strikingly straightforward; universal access for all citizens, effective care for better health outcomes, efficient use of resources, high quality services and responsiveness to patients' concerns. It is a formula that resonates across the political spectrum

and one that engenders consensus. The hospital plays a central role in the delivery of health care, yet for too long it has received relatively little attention. In part, this is because hospital reform is regarded as a difficult issue. Hospitals are complex institutions often shrouded in mystique; their distribution and configuration often owe more to the needs of previous generations than to those of today. Hospitals often appear resistant to change, but the demands they face from changing populations, diseases and the need to respond to technological developments and popular expectations are constantly changing. Hospitals are labour-intensive enterprises that depend on their staff to achieve cost effective outcomes for patients. Staff management therefore is a major challenge for hospital managers. The hospital workforce is highly professionalised and contains a multiplicity of occupational groups, who are stratified vertically according to occupation, and horizontally in terms of hierarchical levels. Getting the levels and mix of hospital staff right involves 2 main considerations; first ensuring that the hospital has the appropriate mix of skills for the tasks that need to be undertaken, and secondly ensuring that those employed are well trained and highly motivated. For too long health politicians have treated hospitals as givens. This is hardly surprising. The locations of hospitals, their configurations and the spectrum of activities are typically the result of decisions made so long ago that few can remember how they came about. Today, in making decisions about hospitals, the health policy maker must involve a range of stakeholders; hospital managers, education authorities, professional regulatory bodies, regional development agencies, private companies and consumer groups. The range and diversity of activities undertaken by the hospital are difficult for any one group to comprehend, with myriad complex interconnections and many unwritten rules. Professional independence is guarded jealously with anything seen as an external interference rejected as unacceptable. Faced with these circumstances, many politicians have adopted the path of least resistance. They have concentrated their attention on how money for the hospital system can be raised and left responsibility for spending it with hospital managers and clinicians who, it is assumed, know best. This approach has some merits. Nevertheless, just as war is too important to be left to the Generals, hospital care is too important to be left to hospital managers and health professionals. Hospitals face enormous pressure to meet the immediate needs of all patients who reach their door, while simultaneously balancing this year's budget. This makes it difficult to look to the long-term needs of the entire population that the hospital is serving, taking account of the service provided by external agencies, neighbouring hospitals and by health professionals working in hospital settings. The immediacy of their patients' health needs distracts the attention of the hospital from the needs of future generations and how to ensure adequate investment in facilities, people and knowledge. The pace of work makes it difficult to stand back and assess whether the care that has been provided is as effective as it might be and whether it is being delivered in a way that responds to the legitimate expectations of patients. The focus on healthcare may detract from other important functions of the hospital such as training, research and its broader societal roles. This often involves balancing conflicting incentives and hidden subsidies. In brief, the creation of a modern, appropriately configured hospital requires a co-ordinated effort by those working within the hospital system and those outside it. I would wish, if elected, to create a new service with a rationalised property portfolio that allows for a new hospital-build. In staff development, in the past a basic professional qualification was considered sufficient to allow one to practice until retirement. The rapidly changing nature of healthcare means that hospital staff need to engage in lifelong learning, not least to retain a basic level of clinical competence. This is necessary to ensure high quality patient care. It is also in the financial interests of the hospitals since hospital employers are increasingly subject to grievances and complaints from patients as well as malpractice suits. Hospitals have a clear responsibility to monitor the care provided by those who work within their walls and to put in place mechanisms to deal with staff who fail to meet such standards. On retention of staff, poor management of staff contributes to a downwards cycle of low morale and stress, often apparent in high rates of short-term sickness, absence and high staff turnover. Salary levels, working conditions and job security are important in both retaining and motivating staff. It can be argued that a pay packet is not the only motivator. It has been found that effective public management

performance is more often driven by strong organisational cultures, good management practices and effective communication networks than it is by rules and regulations or procedures and pay scales. People want to feel that the organisation has an important and clear mission and that they are part of this endeavour. Job satisfaction is important in that people should enjoy the work they do and feel it is worthwhile. People should regard themselves as part of a well regarded profession or occupation that has a social status in society. People want recognition and respect from peers and managers for the tasks they do well. These things are important since even when financial resources are very constrained, staff retention and performance can be improved through efforts to create effective organisational cultures, for example, in hospital intensive care units, the best predictors of better patient outcomes are organisational factors such as patient centred culture, strong professional leadership, effective collaboration between staff; an approach to problem-solving. Looking to the future, trends for rapidly developing areas of health technology have implications for the built environment. The miniaturisation of diagnostic equipment, developments in remote diagnostic imaging, minimally invasive surgical procedures and therapeutic interventions whereby drugs are targeted to an organ or a specific cell, these new techniques and equipment mean not only that diagnosis is made easier and safer for patients in a more compact environment but also that the patient and specialist do not have to be in the same location. The challenge facing policy makers is to ensure that hospitals adapt to these changes while continuing to provide welcoming environments that are conducive to physical and mental healing. Being Minister for Health and Social Services is not about micro-managing or running Health and Social Services. Rather, it is about creating a vision for healing a community. Health and Social Services are far too dynamic to control. It is far better that one works with the people, listening to their needs and championing their causes. After all, the vast majority are committed to a vocation to serve their fellow man. I would wish, if elected, to work with Scrutiny at investigating possible partnerships with French health services, I would look at Scrutiny as a critical friend, even if it criticised me or the department and I would champion a public health strategy that embraced environmental concerns. I thank Members for having listened to me and I ask for their support.

The Bailiff:

Thank you, Deputy. I now invite questions for Deputy Le Claire.

1.2.1 Deputy S. Pitman of St. Helier:

If the Deputy is successful, who will he appoint as his Assistant Ministers?

Deputy P.V.F. Le Claire:

I thank the Deputy for the question. If I was successful, I have already indicated to Deputy Martin and the Constable of St. Lawrence that I would ask them if they would be willing to consider remaining in post. I feel that both Members have a good grasp of their portfolios and I think, to be honest, any Minister that is elected today to this role should seek their attention in these important roles.

1.2.2 Deputy R.G. Le Hérissier:

What does the candidate see as the crucial management issues and problems that exist within Health and Social Services and how would he go about resolving them?

Deputy P.V.F. Le Claire:

Well, we do not have time, really, for the analysis that the Deputy has put to me. All we have time for is to reflect upon the vein of his question and, as highlighted in the recent Comptroller and Auditor General's report of April 2009, it is difficult to understand the appropriate ratio of managers and supervisors in the hospital. The Comptroller and Auditor General was unable to compare that with like-for-like in the U.K. so I think a strong organisational review and allowing Scrutiny to work alongside the Minister is called for, including the Comptroller and Auditor General. If elected, I would make certain that the questions that were being asked of me as

Minister were answered in a timely fashion. For too far and too long in Scrutiny have members of Scrutiny Panels asked for information and have been kept waiting only to receive partial information, incorrect information or no information at all.

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

As much as I admire all candidates that are applying for this post, in recent times the Minister for Health and Social Security has been the most criticised in the Council of Ministers. Does the Deputy believe he has sufficient strength of character for this post and will the Deputy explain how he will lead the department and not be led by the department?

Deputy P.V.F. Le Claire:

As I am standing for Health and Social Services, which is a different Ministry, I think I would like to answer it in that vein, if I might, and it is not certainly the Minister for Social Security that I am sure the Member was asking the question. Do I have the character? Well, I ask Members to think about it. When I was 10 I came into this Chamber and at that time I was introduced to the Chamber by the school to see what was happening and I made the conclusion right there and then that I wished to become a Senator in the States of Jersey. I thought, with a modest upbringing, how am I going to be able to do that? I thought at the time, in 1970, the only people that really had a chance were people that had money or a military background of some form and I channelled myself into a military career. I thought choosing to join the Royal Marines was probably one of the best regiments to go in for and I targeted myself for that regiment. I then went on to become a bodyguard in Canada and I worked for Western governments in highly security-related fields for a number of years. I came back to Jersey and stood for the position of Senator, subsequently was elected as a Deputy, stood again, became a Senator, started one political party, left it, started another political party, left it, got re-elected, had enough of parties and if Members do not think this is enough of a character then I really would question what is enough of a character?

1.2.4 Connétable J. Gallichan of St. Mary:

Can the candidate assure me that he has the time management skills necessary to tackle the broad and demanding portfolio, bearing in mind that since his election to the Planning Applications Panel he has only been able to attend on one occasion for part of the sitting and this is a 2 day a month commitment?

Deputy P.V.F. Le Claire:

That is a really unfortunate question because when I was asked to come on to the Planning Applications Panel I made it quite clear that the first 2 meetings I was unable to attend but I was happy to join. The second meeting I attended I was prepared to be part of; the first day I had missed it due to an invitation by the Minister for Planning and Environment to an important climate change event at the Durrell Organisation, and I was prepared to sit in for the entire day but I was asked to sit out, which was basically suggested by the Constable, and I was encouraged to get to know how a panel worked. I thought that was quite interesting because having been in the States for 10 years, having served on the Human Resources Committee, the Public Services Committee, the Health and Social Services Committee, the Committee of Management for P.E.C.R.S., the Sub-Committee for Ill Health, the Overseas Aid Committee and a number of other committees and panels such as Environment, I have always done my best to attend and involve myself. Time management in this issue though is more about whether or not one is able to commit oneself entirely and not merely turn up at meetings.

1.2.5 The Connétable of Grouville:

I have asked this question of the previous candidate and I shall hopefully ask it of the next 2. Because at the moment the cancer patients are being treated in Southampton, we have a problem in that I have had several protestations by parishioners about the cost of airfares for the families visiting them or them coming home at weekends. Health and Social Services, I know, do provide

some form of transport but would he undertake to open negotiations with the monopoly carrier on the route in order to try to get the airfares down for normal family visits or normal patient visits into the Island? Thank you.

Deputy P.V.F. Le Claire:

I thank the Constable for his question. Recently we saw a Ministerial Decision from the Minister for Economic Development who took a decision to allocate up to £48,000 per investor; a group of investors that had taken some bad economic advice and the payments are being made to those individuals. If we have got time and money to support individuals in need in those circumstances, and if we have got time and money to invest in supporting the airlines with subsidies, then certainly we should have time and money to sit down with the Minister for Economic Development to talk about supporting these families with States funds as he is doing with the airlines and investors who put their money in the wrong places.

1.2.6 Senator B.E. Shenton:

If the Deputy is elected as Minister, he will have to operate within a budget. If he finds that he has exceptional funding requirements that would take him outside that budget, would he make the commitment and then seek to find the funding or would he seek to find the funding and then make the commitment?

Deputy P.V.F. Le Claire:

I think this has been a problem for Health and Social Services since 1999. Depending on what stage of the budget we are in and depending on what the need was and depending on what time of year, I would commit the money and I would ask the managers to come back with the review of the services that we are operating and immediately go to Treasury and Resources to seek extra capital. If I was unsuccessful in attracting that capital, I would come to the States and seek to get that capital; request it from the Minister for Treasury and Resources, from the States. I do not think it is right that we have got £5 million that is divvied-up among other areas of this community and £44 million to go into stimulating the economy when we have urgent need at Health, and over the years my experience has been that Members in charge of the Health and Social Services Committee have been very reluctant to go to the Minister for Treasury and Resources and even more reluctant to come to the States. I certainly would not be putting my associations and friendships with the Council of Ministers ahead of the needs of the patients.

1.2.7 Senator S.C. Ferguson:

In the recent report of the Comptroller and Auditor General, it appears that Health and Social Services want to take over Family Nursing. What are your views on this?

Deputy P.V.F. Le Claire:

Well, I am a bit concerned that the States seems to want to do everything for everybody and I do not know if it is really a case of economies of scale or just control issues. I know that there have always been difficulties with the Health and Social Services Committee and Family Nursing healthcare but I do not think the States needs to or should want to run everything in this Island, and I think the more people that are involved in a private capacity, the better. So, unless there was some compelling case to take over that organisation, mainly in my view due to malpractice or patient safety, then I would encourage them and assist them to keep them going because I am certain that those people are important components of a modern health service.

1.2.8 Senator A. Breckon:

Can the candidate say what he sees as an effective way forward for an elderly services and care strategy?

Deputy P.V.F. Le Claire:

That is a difficult question. As I said, if I was elected, I would ask the Constable of St. Lawrence to assist me as Assistant Minister. If she was able to feel that she was inclined to do so, the first thing I would do would be to sit down with her and hopefully the other Assistant Minister; Deputy Martin, and look at these issues that are outlined in the long-term care of the elderly and the response of the Minister for Housing, most recently. The response of the Minister for Housing for long-term care of the elderly was embargoed until 20th April. Quite honestly, to move this forwards, I think we need to have around the table some important players. Those are obviously the Minister for Housing, the Minister for Treasury and Resources, the Assistant Ministers at Health and Social Services and, importantly, the Minister for Planning and Environment. We have to make sure that we plan for the future, we build for the future and we make sure - we have to make sure - that the elderly are in a position where their lives will be meaningful, productive, well catered for, safe and secure. Planning for the future is the first step; implementing the plan is the second.

1.2.9 Deputy A.K.F. Green:

The candidate mentioned a great deal around the work in the hospital, the acute services and such like; not very much around the social services and I would like to hear his plans in particular in relation to children and Williamson for vulnerable young adults and their carers. He has already covered the elderly, thank you.

Deputy P.V.F. Le Claire:

Well, this is an area where the States of Jersey has a very, very difficult task. As Members know, I have a proposition laid before the Assembly to seek funding for 3 children to go off-Island. Three children alone with anticipated costs that would consume the entire social budget of the Health and Social Services Committee; £154 million a year is targeted towards this department and I am sorry to say, from my experience, for far too long Social Services and Children's Services have taken very much a back seat. We need to invest today in the children and the services that they need so that we can head off at the pass the extremely expensive services they will need if we fail them. Not only that; not only will we be doing the right thing there but also pragmatically we will be heading off the law suits that will follow.

1.2.10 Deputy A.E. Jeune:

In his speech, the candidate talked of the structure of Health Services. Would he please give his views on what he sees as core and non-core services and, if appointed, how he would deal with the 2?

Deputy P.V.F. Le Claire:

Well, core services in an Island situation are those that provide enough care where possible in the resources that we have to deliver a high quality of care to the patients that present themselves through the doctors and through the emergency units. It is also wise to recognise that part of that core service is identifying a system that places those that we cannot look after into positions and authorities and hospitals outside of the jurisdiction. So, those are the core issues. I could get into them in minutia but I will not. The non-core issues that I feel that Health involve themselves in, really, you have to look at the broader context of what Health does, and at Social Services. I think, from a number of meetings and considerations on this issue of non-core services over the years, that the Health and Social Services Committees of the past and the Ministers of the present have been struggling with budgets and struggling with the services, and every time the budgets are constrained they look to cut the services or look to cut the supports. I think, really, it is important to have things that we can afford and investment in prevention, so a strong emphasis on public health. I championed the tobacco strategy and most recently, I implemented the rear seatbelt strategy. Prevention is far better than cure and that should be our core focus. The non-core focus will fall away if we concentrate on the core.

1.2.11 The Connétable of St. Helier:

If elected, will the Deputy investigate the possibility of making the environmental health function of the department more independent, possibly working in conjunction with Guernsey?

Deputy P.V.F. Le Claire:

It is something that I would investigate. It has been mentioned to me not only by the Constable of St. Helier but also by Deputy Duhamel and I think if there is some rationale from an independent commission for the environment, then perhaps that is the way to go. I feel, so far, from my experience in the Planning Department and on Environment Scrutiny and on Health, that the environment takes second place and environmental health certainly takes second place to the strategic aims and objectives and pressures of the States of Jersey. That is not good enough. From a health perspective we should be more concerned about the environment, we should be more concerned about human health and the impact that the States are having on those. So, an investigation with other authorities to see if we can commission an independent commission to monitor and regulate these things I think is something that could save us money, and may improve the environmental health service as a whole. That does not mean that we would automatically remove the higher echelons of public health officers; the Medical Officer for Health, for example, is an important core role within Social Services and Health and those types of people need to be on board, they need to be independent, they need to be able to speak out but they also need to be part of Government.

1.2.12 Deputy D.J. De Sousa:

Bearing in mind the answers you have just given to Deputy Green's and Deputy Jeune's questions, with Williamson, if elected, will you be looking to seek full funding, including the advocacy and the extra staffing that is required?

Deputy P.V.F. Le Claire:

Yes, as I pointed out earlier, I think that there needs to be investment now and I think if we invest properly now in the services that we can achieve, then we will save money in the future. I do not think that we are wise to consider that we have the capacity to create units for every child in the Island that has various historic problems or current problems. Some children, maybe 10 per cent or so, will need to go off-Island. That will need isolated funding but for those children that can remain on-Island next to their families, next to their loved ones, if they can remain on-Island, then the support services and mechanisms around those, as indicated by Williamson and also by Deputy Southern's amendment, need to be supported as a whole package and that is why I was not willing to rush through a short-term solution.

1.2.13 The Deputy of St. John:

With the recent closing down of the Reciprocal Health Agreement with the United Kingdom, if elected, will the Deputy put in place a private health scheme that the public can contribute to so that it becomes possible to travel to the U.K. with insurance cover, given that currently people who have certain ailments cannot get insurance cover? Will he give us an indication of his views on putting a system in place?

Deputy P.V.F. Le Claire:

That is a very interesting question. The United States of America has comprehensive healthcare policies for underprivileged children who cannot afford to have the insurance and for the elderly and they take those issues on board because there is such a large group of uninsured people in the United States, but they catch the people that are unable to get the insurance that need it. So, we could do a similar thing. We could introduce a healthcare policy for insurance and I think that is going to be part of the poisoned chalice that any of us as candidates will receive. We will need to start taking contributions from Islanders to put towards that fund and I think that that fund needs to

make sure that it is catered for in underwriting specific needs of the community so that the elderly are able to access the things that they need and the young are able to access their need and the policies should reflect those things. So, the overall insurance policy would, by design, allow for those that cannot receive insurance to be able to travel with insurance, under that system.

1.2.14 Deputy J.M. Maçon:

If elected, what commitment would the candidate give towards the implementing of a whistle-blowing procedure within the Health and Social Services Department?

Deputy P.V.F. Le Claire:

I thank the Deputy for his question. Whistle-blowing and reporting from the floor to politicians is an important mechanism for making sure that things that are problems are addressed. The current Minister or the previous Minister says that there is a whistle-blowing policy ready to table. I would make it my highest priority to ensure that members of the staff of the Health and Social Services Department in Jersey would have no fear to come to a whistle-blowing policy that would be robust, protect their interests and make certain that their futures are not jeopardised for coming forward for the benefit of the community.

The Bailiff:

Thank you very much, Deputy, if you would be kind enough to withdraw? I call upon Deputy Southern to address the Assembly.

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

On my way into work today I had 2 passing comments made to me; one by a member of the public who said: "Good luck to you; get on with it" and another by a Member of the States who said: "Why did you choose to stand?" So, why stand? I was forced to stand when I realised that of the candidates already named I did not feel I could vote for any of them and the solution to that is either put "M. Mouse" on the ballot paper and spoil it or stand yourself. So I am here. I am here somewhat trepidatiously - now there is a word - because obviously any newcomer to this post; we are talking about £150 million of spending and we are talking over 3,000 staff, could not possibly claim to know anywhere near enough to do the job today but tomorrow is a different thing. However, Members who have known me over my 7 years in the States will be aware that I have a reputation for doing my homework and for doing my homework well and quickly. In my time on Scrutiny, on Economic Affairs in particular, I do believe I have got a good hold on my brief, as Ministers will know. Even in my brief time at the moment on the Health, Social Services and Housing Scrutiny Panel I am already coming to grips with some of the issues particularly relevant to health, but Members will be aware that my preoccupation for some time has been slightly away from health issues and into the related but separate social security issues and, in particular, income support. So, I do not claim to know everything and I do not claim to know detail. What I can claim to do is to be able to do my homework and master my brief in given time. What else do I know? Well, I know for certain that the Council of Ministers, despite the best intentions of the Chief Minister is far, far from inclusive and I think that it has to be inclusive and it is important because what happens if you do not get an inclusive body of Ministers joined together to create policy, what you tend to get is group-think. A dominant personality or 2 leads and less experienced colleagues around him never challenge and that leads to bad planning and bad thinking. If Members agree with me that that is a danger, and may actually be happening - and I believe it is - then perhaps the best thing they can do is add some spice to the Council of Ministers; somebody who is prepared to think differently, put up alternatives and to challenge and that, I would think, is certainly me. What happens in particular is that Ministers tend to be led by their Chief Executive Officers and certainly there is evidence that that is happening increasingly under Ministerial government. Certainly it would be my intention not to be led by the nose by a Chief Executive Officer, to clearly distinguish

between that which is policy and that which is priority, decide it politically and operational issues but I will not be hiding behind operational issues when the buck is passed. It is important that politicians stand up and be counted and be held accountable. In that sense, what I am interested in is not reasons why I cannot do x as a Minister; what I will be asking is: "Show me 3 ways I can achieve x and give me the pros and cons" and that way we can make sound decisions. Once those decisions are made, we will stick that through; we will put that through. So, what will you be voting for if you vote for me? I believe you will be voting for a strong voice to fight the corner of funding for Health and Social Services. With the anticipated revenue drops in the next couple of years, that is going to be a very difficult job. But Health and Social Services spending will not reduce along with revenue; it will continue on its upward spiral. It needs somebody strong there to fight that corner. I believe, after 7 years in the States, I have that strength. What is going wrong has been exemplified by the way in which the Williamson Plan came to the States; not as a plan but as an Implementation Plan with the funding to be discussed but not the issues. Now, whoever made that decision I believe lacked completely in political nous. That was bound to fail. You cannot do that to this House. If there is one thing I have learnt in 7 years; Ministers should not be trying it. This House can hold Ministers to account and we have seen what has happened with that. What was worse is that, under pressure, I believe, from the Minister for Treasury and Resources, the Minister of the moment folded. He watered down the plan - the Implementation Plan - he took out the Laming proposals, which may or may not, but I believe will, be essential in terms of delivering the plan and he also took out one of the best, those small bits of it which was the plan for advocacy and listening to children. Under pressure from Treasury and Resources, he folded. That is not the sort of leadership we need over the next 2 to 3 years. So, what else have I learnt in those 7 years? I have learnt that it is absolutely vital to build a proper team. Listening and respecting the views of others is absolutely vital and certainly on any of my Scrutiny teams I have endeavoured to do that, and I believe I have achieved a remarkable strength on my particular panels by doing exactly that but that does not mean not coming to decisions. I have also learnt how to run effective meetings and that meetings are always about making decisions and the subsequent actions. You can listen for a while so that people feel satisfied that they have had their opinion heard but then you have to get on with making decisions and doing actions. It is not endless waffle. In terms of delivering on those decisions I believe I have managed to do that as well quite effectively. On economic development, in particular with the telecoms report, with income support, delivery, deadlines met, I am aware of doing that. So, what are the jobs to be done? I have mentioned already the funding issue and I have said that I will fight the corner as strongly as I can and that will be vital. In particular one of the main funding issues is the direction - the *New Directions* - for the way ahead which will require substantial input if it is going to be delivered. It is about prevention rather than cure, and healthy choices. That requires teamwork across departments, it requires reduction or it aims at a reduction of chronic disease such as diabetes and depression, supporting the elderly in their homes; expensive stuff. Williamson also needs to be delivered and that will require not just strength but team-building. I believe I have created excellent relationships with the officers who have worked with me. I can do that again, I believe. They will go the extra mile for me. I have already asked the 2 Assistant Ministers whether they would be content to work with me. I certainly trust them and I would want to keep them in position and, finally, staff. Staff morale in Health and Social Services, I believe is at an all time low. It needs building up. That requires people there to listen. It requires, for example, a whistle-blowing policy, a safe whistle-blowing policy in place and building staff relations is absolutely important.

The Bailiff:

Thank you, Deputy. Your time has expired, thank you. Now the time for questioning.

Deputy S. Pitman:

May I make an observation for question time? There are only 2 Ministers in this room; the Chief Minister and the Deputy Chief Minister are out of this room and we are choosing our Minister for Health and Social Services.

Deputy I.J. Gorst of St. Clement:

Sorry, Sir, if an observation is being made I think it should at least be correct. There are 4 Ministers present.

Deputy S. Pitman:

Sorry, Sir.

The Bailiff:

The point has been made, Deputy.

1.3.1 Deputy J.M. Maçon:

The candidate touched on this just as he got to the end of his speech but, if elected, what commitment would the candidate give towards implementing a whistle-blowing procedure within the Health and Social Services Department?

Deputy G.P. Southern:

I believe whistle-blowing and the ability to communicate with the authorities in a safe way is absolutely essential within any organisation. It is absolutely essential certainly within Health and Social Services where issues that affect literally life and death are an issue and that staff must feel comfortable and safe in their ability to report incidents to a safe body. That must happen and it must happen straight away. There is also a place, and it must happen, for an appeals independent complaints authority, completely independent from the authorities that may have been responsible for a complaint to be set up for clients. We must put patients - clients - at the heart of what we do and part of that must be an effective, safe and reliable appeals and complaints procedure.

1.3.2 The Deputy of St. John:

I will put the same question as I have put to other candidates. With the recent closing down of the Reciprocal Health Agreement with the United Kingdom, if elected, will the Deputy put in place a private health scheme so that public subscription or contributions can be added to it so it becomes possible to travel to the U.K. with insurance cover, given that currently persons with certain ailments are not able to get an insurance cover? Will he give us his views on whether or not he will research this and put a scheme in place?

Deputy G.P. Southern:

Yes, I believe the Deputy has already come up with some suggestions in his question, which may well point the way forward. I am aware that this issue is a very important one and certainly seriously affects the elderly, in particular, who are finding that they cannot find any health insurance to accompany them to the U.K. The fact is we have to set something up. I believe that should be possible. The Health Insurance Fund itself, under the guidance of Social Security, is very healthy at the moment. It has several millions - I think tens of millions of pounds in it - building-up; it is still building-up. It was the reason why we could give free prescriptions to everybody because it was so healthy, so there is a pocket of funding there. We would have to look at the rules and regulations around it as to what it can be used for but certainly access to this health issue would seem to me to be important and certainly we could find a way to reduce the costs to our residents of treatment in the U.K. and make sure that they felt confident and safe that they were not going to be abandoned by this Government.

1.3.3 Deputy A.E. Jeune:

In his speech the candidate referred to politicians being held accountable. Does he consider that senior management should be responsible and accountable for their and their department's performance? Would he, if appointed, ensure this was the case? How would he plan to take clinicians with him as he moved the service forward? Thank you.

Deputy G.P. Southern:

Certainly senior officers must be held to account along with the operational decisions that are taken within any service. That, I believe, goes almost without saying. In order to take clinicians with the Minister, as decisions are made, it is, as I say, important to listen to those clinicians and to weigh carefully the balance, because it is always a difficult decision, the balance of the pros and the cons with particular ways forward. As I said in my speech, I believe that I do engender the feeling of trust I have done with my officers and I have done with fellow Members in the States, that their views will be listened to and whatever decision is come to, again, will be communicated in an open and honest way so that the clinicians can see how that decision has been come to. Once it has been decided then I believe, if they see the logic and if they have been communicated with properly, they will come on board. So that is the way to do it; it is about honest, open and trusting relationships. That is the way forward.

1.3.4 The Connétable of St. Helier:

The Deputy is well known for being hard working and representing his constituents and no one could call him lazy or incompetent. If elected, will the Deputy say how he is going to match his work for the department with his ongoing work as an effective town Deputy?

Deputy G.P. Southern:

As a town Deputy, I believe, given 3,000 employees and £150 million, that there may realistically be a falling off in the efforts that I could put into ordinary Back-Bench work, which other Ministers might feel slightly relieved about. **[Laughter]** But we cannot lose sight of the fact that we are in politics because of people and that comes down to individuals. So, what I see in rebalancing my life - I nearly said: "My life"; get one, please - my career, rebalancing the balance of what I do, individuals and individual representation in St. Helier will still count highly. What might go by the board a little is the world record that I am attempting for Back-Bench propositions, whether or not they fail or win and question time may get marginally less of my attention. So, I may be more useful and less of a nuisance.

1.3.5 Deputy M. Tadier:

If successful, the candidate would be taking over at the helm of a department which is historically suffering perhaps from low esteem within the department and the crisis of public confidence, notwithstanding the very good work of individual staff members. What measures does the Deputy have in place to bring closure to many of the issues that are ongoing and to finally put some of the sad issues in the past?

Deputy G.P. Southern:

I thank the Member for that question. It is particularly apposite because, when I heard the one minute bell I panicked and I forgot a major element of what I wanted to say and it is this; for too long the staff at Health and Social Services have been working under the pressure of wild and defamatory and serious allegations of all sorts of crimes and misdemeanours from one of our Members; from Senator Syvret. It would be my intention to try and clear this up by working with the Attorney General and the Health and Social Services staff to take Senator Syvret to court to prove his allegations or otherwise because, unless we clear this mess up, we are not going to make progress. **[Approbation]** We need absolutely to draw a line under these events in order to be able to move on. I do not know if any other of the candidates will address this but when I talk about strength; that is the sort of strength I wish to demonstrate and I will, if I at all possibly can, take Senator Syvret to court over his allegations and he can prove them or - as I believe - not. Now, that

may be embarrassing in the short-term but in the long-term it is absolutely essential. I commit myself to attempting that, one way or another. **[Approbation]**

1.3.6 Deputy R.G. Le Hérisier:

I wonder if the candidate could outline, given what he has just said about the need for the department to move on and the tremendous battering that has occurred in this interminable search for the truth, as it may be, I wonder if the candidate could outline what steps he would take within the department, (a) to get at the truth about issues that have bedevilled it for a long time, and (b) to move it forward?

Deputy G.P. Southern:

That, without having been in the department in recent times, is a very difficult question to answer. I will try not to produce something glib because it is obviously a sensitive issue but there are obviously ongoing issues that require solutions. I believe that it must be possible to take some steps towards those solutions. It may mean, in the medium term, people moving on and being asked to move on. What it will mean is an exploration of the issues and a holding to account of the staff involved in a sensitive way, and it would depend entirely on the building-up of trust with whatever mechanism is set up and that is the essential element. It cannot be a witch hunt; it has got to be an open process that is built from a basis of trust. Now, whether that means bringing in somebody independent from an outside body or whether it means nurturing that attitude of trust and communicating accurately and properly with the staff involved, I am not sure from the outside, at this stage. However, what I can do is say that I will give my commitment to doing that and, in particular, I think it is particularly sensitive because, at the moment, there have been completely separate work related issues between management and staff that I am aware of. Staff in Health and Social Services are metaphorically stretched to breaking point. A lot of staff in a lot of wards are stretched to breaking point. The system is holding together by the extreme efforts of those staff, as it were, who are hands-on. It needs serious addressing and trust with management, to a certain extent, I believe, is very tenuous and could snap. So, the importance of building-up trust cannot be over emphasised.

1.3.7 The Connétable of Grouville:

I have asked the previous candidates this question and I shall ask you and the next one as well. I have received concerns from parishioners and others who have family receiving cancer care at Southampton General Hospital. Will the candidate, if elected, immediately open negotiations with the monopoly air carrier on this route to achieve affordability for patients and family who are trying to visit each other but are forbidden from it by the high airfares? Thank you.

The Bailiff:

Deputy, the time that you take on your replies is a matter for you but I just want to tell you a number of Members want to ask questions.

Deputy G.P. Southern:

Thank you, Sir. I will try and be brief but I am enjoying myself. Thank you, I shall try a brief answer on this one. Yes, if there are problems with either patients or family in getting to treatment in the U.K. we should certainly try and address those. If it means going to the carrier, then that is obviously a route forward and I am quite happy to do that and see what can be negotiated. I believe that close support during an illness is absolutely vital and an essential element and we must find a way to enable people to have their family there whenever possible. So, yes, total support for that.

1.3.8 Senator S.C. Ferguson:

In the Auditor General's recent report it appears to imply that Health and Social Services want to take over Family Nursing. What are your views on this?

Deputy G.P. Southern:

Again, it is one of those where from the outside one can produce a straightforward and very simple answer. In principle, politically, I believe that Family Nursing should be an integrated service with Health and Social Services. However, it is not a position I want to go to straight away and it is not something written in stone in front of me. I am quite happy that we establish proper working relationships with Family Nursing and, in particular, a service level agreement that both sides are happy with and both sides can deliver. What is important is that that accountability should be there through the service level agreement and thereby accountability can be had to this House through the Minister. I am perfectly happy with what has been established and I am not willing to change that willy-nilly, but a service level agreement must be in place and acceptable to both sides so that accountability is there.

1.3.9 Senator A. Breckon:

Can the candidate say what he sees as the way forward for the provision of an effective elderly services and care strategy?

Deputy G.P. Southern:

Well, the provision for elderly services is sketched-out - I will not say mapped-out - in *New Directions*. Obviously it will require serious funding to enable, wherever possible, elderly people to stay in their homes where possible. I believe the report produced by the Senator late last year pointed the way forward to the funding of residential care when care in the home is not possible, and I am perfectly happy to see and encourage developments between Health and Social Services and Social Security to enable that to happen and to be funded through an additional charge on, effectively, Social Security. So, I think that is the way forward. It works in Guernsey and I am sure we can make it work and work better in Jersey.

1.3.10 The Deputy of St. Mary:

Does the Deputy agree that there should be a greater emphasis on promoting good health rather than dealing with the results of bad health and, if so, how will he ensure that this happens?

Deputy G.P. Southern:

I do agree and I will give my full backing and effort into finalising that strand of *New Directions* as soon as I can.

1.3.11 Deputy D.J. De Sousa:

Touching on what you answered, Deputy, to Senator Breckon, if elected, will you look to working with the Income Support Minister into ways of funding long-term care for the elderly without them having to sell their homes to fund this?

Deputy G.P. Southern:

Yes, absolutely.

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

I believe our prison service is being used as a dumping ground for mentally ill prisoners. I also believe this is a situation which is based on cost grounds by the Health and Social Services Department. What actions will the candidate take to address this long outstanding problem which sees individuals in an ever-revolving cycle of offending because, in part, their mental health issues are not being properly treated?

Deputy G.P. Southern:

I accept the Assistant Minister's analysis of what does tend to happen. I am all too aware of that particular syndrome of mental health causing all sorts of side-effects, including criminality which results in the revolving door syndrome. I will be prepared to get on and investigate that and if it is

a question of funding, then to look at rebalancing the funding so that we can address it, if at all possible. That is certainly an issue that I met when I worked with the homeless at the shelter, so I thank you for the question.

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

Would the Deputy inform the House how concerned he is about the pandemic flu outbreak and what steps he would take to allay the fears of the general public?

Deputy G.P. Southern:

I believe the general public need have little fear. We have plenty drug supplies.

The Bailiff:

Sorry, Deputy, I think the message has been given. Well, I ask Deputy Southern now to withdraw from the Chamber and I ask the Greffier to make arrangements for the next candidate to be brought into the Assembly. I call upon the Deputy of St. Peter to address the Assembly.

1.4. Deputy C.H. Egré of St. Peter:

I address this Assembly to submit my case for being entrusted with the responsibility in the role of Minister for Health and Social Services. I have just started my third term as a States Member. During my first 3 years I served as a Member of both the Home Affairs, and the Harbours and Airport Committees. I hope the Members who were in the Assembly at that time would agree that I played an active and positive role both in committee and as a representative in the public forum. During the last States session I was vice-president of the Corporate Services Scrutiny Panel and served on sub-panels dealing with the siting of the telephone masts, proposed sale of the Jersey College for Girls site, migration and, more recently, chaired the panel reviewing the proposed setting up of the Jersey Enterprise Board. In addition, I also served as a Member of P.P.C. (Privileges and Procedures Committee) and also the Planning Applications Sub-Committee. I now serve as vice-chairman of both P.P.C. and the Corporate Services Panel as well as continuing in my role on the Planning Applications Panel. I have always seen my role as a full-time States Member and I remain free of any other external commitments other than to those charities and organisations that seek only to provide support and care to residents in our Island. I have stated publicly that to take on this role at the present time is an enormous task. It is not something I am entering into without a great deal of thought and confirm support from my family and members of the public and indeed colleagues within this Chamber. I therefore offer my full commitment to the task of Minister and, if chosen by colleagues for this post, I will resign from all other committees and panels, an action which brings with it its own regrets, as the roles I would be leaving are so critical to the good governance and accountability that this Chamber must have to our community as a whole. Some sections of the media, and indeed some colleagues, have described the Health and Social Services portfolio as a "poisoned chalice". I believe this does a disservice to those who so diligently work within the department to look after the welfare of residents and visitors alike. I would agree that the role is not an easy one, nor should it be. While every duty that this Chamber performs has an impact on the lives of our citizens, Health and Social Service and its Ministers and officers have both the greatest opportunity to do good, and at the same time a very real potential of causing great anguish and damage in any failings, however small. On a personal note, I have been lucky enough - as have the majority of Islanders, I hope - to have benefited from the positive experiences of healthcare on the Island. From the youngest to the eldest members of my family and friends the Ambulance Service, the hospital, Overdale, Social Services, Occupational Therapy and Health Protection Services have all worked together and have a constructive impact on real issues that I have had to face as a parent, as a son and also as a representative of our community. This is just a mention of but a few of those who serve us as Islanders. Behind them stand an army of support staff who keep the complex machine that is modern healthcare going and allows our

talented clinicians, nurses and many other clinical parishioners to deliver a service of which we should be rightly proud. It does not always go well. We in this House know that none of us can boast either the wisdom of Solomon or the veneer of infallibility that people in power so often try to portray. Much as we believe we have the pressures and burdens of us in the States as States Members, this is nothing to that of those who care for us when we are sick. They must function and deliver in the sure and certain knowledge that they may well hold our very lives in their hands. They must share and bear our grief when the laws of nature so often remind us that it supersedes our quest to control it. This speech is not, however, an opportunity purely to expound the virtues of the department's dedicated employees. I know the overwhelming majority of this House already accept the dedication of those who serve that department. I doubt that any one of the candidates for Minister for Health and Social Services would disagree on that matter. What this speech intends to convey, and indeed the reason for me standing, is to take this Ministry forward, making use of all past experiences in a positive way. In recent times, for some good reasons and for some very poor ones, the Health and Social Services Department, its Ministers and its staff has come under fire for things that they have done and for things that they have failed to do. These have been well documented and occasionally overplayed. The Health Service in Jersey is not a ping pong ball to be batted backwards and forwards between competing political and social ideologies. We have seen the damage this can cause in other countries where once proud organisations are reduced to mere shells of their former glory as much by us politicians as underfunding, skills draining, and the continual push and pull between clinical staff and administrative executives. Nor should a health service be a political tool of one-upmanship. Healthcare is not a gain, it is not a status symbol; it is a vocation as I am sure the Deputy of Trinity, as a former nurse, would agree with me on this. Health and Social Services has a huge portfolio. It is both a healthcare provider as well as a regulator. It boasts elements of primary and secondary care as well as the duties of Social Services which cover such a broad scope that in the U.K. the National Health Service and the Department of Health share this burden with local authorities. The department provides regulatory functions for the pharmacists, nursing homes, food retailers, industrial sites, as well as other services relating to those industries. It helps and advises other States departments and the community as a whole on public health issues. On top of all this, it must act responsibly and efficiently to help and guide the large numbers of G.P.s, voluntary organisations, specialist charities, Parishes, community groups, all of whom are essential in getting the message and delivery of good health in the community, as well as helping them feed back important intelligence on the health of our community and what we need to do to help those who need us most. The Minister cannot do this alone. He or she is not the king of the castle. The Minister must be a sponge that listens to all and helps filter all that information, with the help of specialists, into a strategy that serves the public well and this House efficiently. It should not be a department at war with itself, our fellow States Members, or the public. The service this department provides and the duty of care it owes is far too important to be affected by destructive divisions. Yesterday I took the opportunity to meet with the Chief Officer of Health and Social Services to discuss some of these issues and also to discuss the priorities that we will have to face over the next few months. While serving in this House on Scrutiny Panels and indeed in my academic studies, I have come to know that you delude yourself if you truly believe you can fix everything. But the future Minister will not have to do this job alone. We are not poor of knowledge or skill within the department nor are we within this Assembly. As important as the post we will be filling today, Health and Social Services is an undertaking that deserves close attention and support in all the areas. Every part of the department deserves to be supported equally, guided equally, respectfully and proportionately. We, as politicians, say that we are here to represent our electorate and the interests of our Islanders but that cannot just mean forcing our will on to others. We are here to help our departments to execute deliverable policies set by this Assembly, not simply order them to do the impossible and then blame them for not delivering. We must bear that responsibility. It is inevitable, should Ministers choose to micro-manage or focus on the bits that interest them particularly, or stick to those areas they feel within their comfort zone, that areas may be left out. It is therefore essential that a Minister and Assistant Ministers are drawn

from complimentary skill sets, not across party lines, or other factors that sometimes inform choices. To that end, I would want to build an Assistant Ministerial team that complements the service that we are overseeing and make sure the full portfolio has a Member of this House who is there to take political responsibility and support departments, thus ensuring that their priorities are understood and suitably funded. Those of you who have served with me on Scrutiny, and even those who have faced my questioning from across the table, know that I try to be fair and considerate and, above all, professional in how I deal with the complexities of our role. Those of you who have worked with me on more technical issues looked at by Scrutiny will also be aware that I take care to fill the gaps in my knowledge before rushing into decisions that might be significant when questions...

The Bailiff:

Thank you, Deputy, I am afraid I must cut you off at that stage. Now the time for questions has arrived. Deputy Shona Pitman.

1.4.1 Deputy S. Pitman:

If successful, who will the Deputy choose as his Assistant Ministers?

The Deputy of St. Peter:

I have not made any formal decision yet who I would consider as Assistant Ministers. Should I be successful, I would wait for people to come to me. If they did not come to me then I would very carefully think who I would choose.

1.4.2 Deputy D.J. De Sousa:

If elected, would the Deputy be looking to work with the Income Support Minister into looking at ways of funding long-term care for the elderly without them having to sell their homes to fund it?

The Deputy of St. Peter:

I think it is essential that the Minister for Health and Social Services should work very, very closely with all other departments to ensure that we help our people and not end up with people having to sell their own property to ensure they get sufficient care. I think that is inequitable.

1.4.3 Deputy A.K.F. Green:

I would like to hear the candidate's plans for looking after the most vulnerable in our society, in particular, he might like to cover the Williamson Report on vulnerable children, but also vulnerable young adults and their carers and the elderly.

The Deputy of St. Peter:

That covers the full remit. We have had failings in the care of our youngsters. I was part of the old Home Affairs' team which looked at the Kathy Bull Report. A lot of good came out of that but further good has come out since with the Williamson Report. I have been looking at that very carefully. There is an awful lot to study in that and I would want to go into with more detail with the current people in Health before I commit myself to exactly where we will be taking this. At the moment we seem to be prioritising care for our children. Again, the point the Deputy makes is that there are other people involved here. There is care for the adult as well and we have to move from the child to the adult. That happens; that is life, and we must give equal priority to looking after that particular group of people. The elderly I find interesting because defining elderly is difficult because I now understand that elderly is above the age of 55, which worries the life out of me somewhat. We all know we have a society that is having more and more old people involved in it. We have to find a way of utilising those people. I have an 86 year-old lady in my Parish who drives a people carrier to look after old people. People do not fall off the doorstep when they are in their 70s. Let us say the average age of people that die is 75, 80. There was a part of that life where they required hospital treatment - we all do - we are all going to go. It would appear to me

that we have moved that element up a little bit. We have moved from people dying at 75, 80 now towards the 80s and 90s. We still have the same problems at the end but what we have to do is utilise that chunk of people in the middle to help us with our society.

1.4.4 Deputy J.M. Maçon:

The candidate has talked about the care that we need to give young and elderly but my question concerns the help and protection we need to give to staff. If elected, what commitment would the candidate give towards implementing a whistle-blowing procedure within the Health and Social Services Department?

The Deputy of St. Peter:

I do not like the term “whistle-blower” but I totally understand what it means. I think it is imperative that people should be able to pass on comment if they feel that things are going wrong within their departments, and I do not mean that should be restricted purely to Health, there should be common policy for the whole of the States. People should be able to voice their professional feelings on professional concerns without the possible concern of having their future careers destroyed. Now, in a small Island that is difficult, but we need to put those protections in place and I would certainly be supporting putting that sort of protection in place.

1.4.5 The Deputy of St. John:

I will put the same question as I put to the other candidates. With the recent closing down of the Reciprocal Health Agreement with the U.K., if elected, will the Deputy put in place a private health scheme that the public can contribute to so as it becomes possible to travel to the U.K. with insurance cover, given currently if a person has certain health problems they cannot get insurance? Will he put a scheme in place?

The Deputy of St. Peter:

I would certainly look very carefully at the mechanisms of putting a scheme in place. The system that we have been left with almost in short order is far from satisfactory. We have situations now where we have a huge group of construction workers that come in and work from the U.K. How do we deal with them when they are injured in Jersey? Who runs the bureaucracy that is required to do all the paperwork to get balanced books between England and Jersey? This is not satisfactory. Going back to your main point, yes, we need to review, look into some form of insurance scheme, which I would support to make sure that people, when they go across to the mainland, are guaranteed healthcare without worry.

1.4.6 Senator S.C. Ferguson:

In the recent report by the Comptroller and Auditor General, it appears to imply that Health and Social Services want to take over Family Nursing. What are your views on this?

The Deputy of St. Peter:

I have been involved in Family Nursing and Home Care in various guises over quite a few years. At the moment, Family Nursing and Home Care seems to be operating in a very professional and cost-effective manner. I would want to make sure that it stayed that way. If they can achieve that level of care within the charitable sector, I would support it. If we suddenly find that the money that we are putting into that particular organisation is not being well used, then we would have to look at it again but at the moment I would be happy to keep it as it is.

1.4.7 Senator A. Breckon:

Something the candidate has touched on and I wonder if he would expand and say what he sees as an effective way forward for the provision of elderly services and care.

The Deputy of St. Peter:

I am going to have to look, if I took over the post, at elderly care very, very carefully. There are 2 issues for me at the moment: there is the issue of care in the home, in other words, people looking after their own people. There is the issue of people who go into homes and there are issues of those people who go into nursing homes. I know we are in a position where we can regulate nursing homes that have nursing facilities, we do not have any way of regulating positively what goes on in nursing homes. We also must try and encourage that people have more facilities to be supported in their home environment. So I would have to see how those 3 systems are working before I would come to any conclusion as to how I could change them, if I needed to change them.

1.4.8 Deputy R.G. Le Hérisier:

How would the candidate deal with the very difficult conundrum where we have a department, particularly Children and Social Services, which is in turmoil and where there are ongoing inquiries obviously affecting staff and the clients of that department, and yet where the morale of the staff and their self-esteem and their working effectiveness needs to be given every encouragement possible? How would the candidate approach that double set of issues?

The Deputy of St. Peter:

I think one of the most important factors is to be seen to be caring for those people who are carrying out those functions. They have been left out on a limb and criticised. In certain areas criticism has been a good thing because there have been things that have gone wrong. But generally speaking there is an awful lot of very good, very dedicated people who are doing a very good service but I think they feel undervalued because I do not think enough attention is being paid to them. It would be my intention to make sure that they knew who I was and they knew that I was supporting them.

1.4.9 Deputy J.A. Hilton:

I believe our Prison Service is being used as a dumping ground for mentally ill prisoners. I also believe this situation is based on cost grounds by the Health and Social Services Department. What actions would the candidate take to address this long-outstanding problem which sees individuals in an ever-revolving cycle of offending because, in part, their mental health issues are not being properly treated?

The Deputy of St. Peter:

If I was sitting down, I would be stamping my feet, because that is an area which does concern me, and I know it has concerned an awful lot of people, and it has also concerned the Magistrates and the Law Officers. We have in the past incarcerated people who have been mentally ill. That is totally inappropriate and totally unacceptable. I would want to see a far closer management of the mental health issues tied to those individuals and make every effort to keep them out of the prison environment.

1.4.10 The Connétable of Grouville:

I have received concerns from parishioners and others who have family receiving cancer care at Southampton General Hospital. Will the candidate, if elected, please open negotiations with the monopoly air carrier on this route to achieve affordability for patients and family who are in crisis to visit each other?

The Deputy of St. Peter:

Yes.

1.4.11 The Connétable of Trinity:

Would the Deputy inform the House how concerned he is about the pandemic flu outbreak and what steps he would take to allay the fears of the general public?

The Deputy of St. Peter:

A lot of the fears at the moment are, I believe, media-led. When I left the Royal Air Force, I did a Masters of Science degree in Civil Emergency Management and as a result of that I joined an institution involved in emergency management. Five years ago I attended a conference which was directly concerned with the development of Avian Flu and looked at all the precautions that were being taken to deal with that particular issue when it came. The current issue with Swine Flu, its outbreak has been in an area in Mexico, there has been an awful lot of deaths reported there. Their level of healthcare and their level of general health is a lot lower than that of European countries and as a consequence you have seen a death rate building there. We already know that there have been 2 cases reported in Scotland, both patients appearing to be recovering quite quickly, and the symptoms have not been overly severe. I know that we have made more than adequate preparations in Jersey for any Avian Flu outbreak. We know with Swine Flu it is reacting well to the Tamiflu treatment. So my advice, academic advice, is do not panic, keep an eye on what is going on and I think even if there was a problem in Jersey, the ideas of massive death rates are way, way, way exaggerated. I am quite confident here in Jersey we do not have the sort of problems that have been suggested in the media.

1.4.12 Deputy A.E. Jeune:

Would the candidate please give his views on what he sees as core and non-core services within Health and Social Services and, if appointed, how he would deal with the 2?

The Deputy of St. Peter:

I am not a healthcare expert. I have spent 2 hours with the Director of Health yesterday. As far as I am concerned, I am on an absolutely rapid learning curve when it comes to clinical issues in a hospital. I married a nurse but she has never taught me the in-depth of hospital treatments. All I can reassure this House is that should I be successful I will be spending an awful lot of time over the next few months learning as much as I can about the issues and possibly then could answer that question with some authority rather than waffling.

1.4.13 The Deputy of St. Mary:

I shall ask the same question as I have asked others. Does the Deputy agree that there should be a greater emphasis on promoting good health rather than dealing with the results of bad health and if so, how will he ensure that this happens?

The Deputy of St. Peter:

The answer, of course, is yes. We have already seen initiatives taken in this Island with regard to smoking. There has been a huge reduction based on that initiative on smoking. We need to look very carefully at the issues of alcohol abuse; we need to look very carefully at obesity. These are all areas which, if tackled, and tackled sensibly, will reduce the workload on our hospitals and that is something that I would promote actively.

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

There is a scheme in place for screening women for breast cancer but no scheme in place for screening men for prostate cancer. What would the Deputy do to get rid of this inequality?

The Deputy of St. Peter:

This hits a personal note. My wife had breast cancer and my father died of prostate cancer. My wife was picked up on a screening. What I have to say now is that with my father having suffered from that particular problem - prostate cancer - it would appear that I am in the firing line as well, especially at the age I am now getting to. The P.S.A. (Prostate Specific Antigen) check, as I am sure we are aware, is only indicative; it is not definitive. All the experts at the moment - and I have taken expert advice on this as you would expect - say that I should go to my G.P. and get checked,

which I have been doing, so I am getting a progressive history of where my P.S.A. values are. But as I say it is not definitive. It is, as yet, not definitive enough to be pushed out to everybody because it is not an effective screening system. The breast screening system is effective and I support effective systems and I wait to see what else comes scientifically which may help people like me and our futures for early diagnosis.

1.4.15 Deputy R.G. Le Hérisier:

What will be the candidate's view if he were Minister for Health and Social Services and he were confronted to make the decision contained within Deputy Le Claire's proposition regarding a certain family?

The Deputy of St. Peter:

The reason why I hesitate is that I know a little bit about what is happening with this family via a different source because there are issues in my own Parish which I am aware of, and I have spoken to people about this issue. The difficulty here is that we have a whole group of experts with possible differing ideas and we also have a timespan, something that has occurred over a period. My concern in this particular instance, while we are all busy chatting about what may have gone wrong; what needs to be put right? We have children who are not being properly treated. Now I want this dealt with as soon as possible and I will support anything that will allow that to happen.

[Approbation]

1.4.16 Senator P.F.C. Ozouf:

I do not believe the Deputy has spoken in great length about health funding. Could the Deputy inform the Assembly his views on the adequacy of health funding: is it enough, where does he think investment is required and how should it be found?

The Deputy of St. Peter:

I note that within the Strategic Plan the aim is that we should improve health and social wellbeing of the population of Jersey through the provision of high quality services. I also note in the Budget Plan we are looking at figures of nearly £154 million expense on health. That is one of the highest spenders. As I said earlier, there is an awful lot of learning to do before I go leaping to the Minister for Treasury and Resources saying: "I have too much money" - I do not think that would be the case - or: "I have too little" or: "It is just right." I would not want to be pressured at this particular stage to give a definitive answer but it is something that would be at the forefront of my mind if I took on this role.

1.4.17 Deputy J.A. Hilton:

The candidate touched briefly on the Williamson Report earlier. One of the recommendations in the Williamson Report is recommendation 5 which was for an independent advocacy service for Looked After Children and Young People. That has been deferred in part due to financial reasons but I understand it is something that the Health Department would like to have in place. Could he give us his thoughts on that matter, please?

The Deputy of St. Peter:

I agree that it is something that needs to be looked at but, again, it has to be prioritised. I would want, if I was Minister for Health and Social Services, to go in looking for exactly where the funding crises are, if there are any. If there is any area where we can take funding away from other issues, I would want to put it in that area because I think what the Williamson Report recommendations have said is that they need following up in full.

1.4.18 The Deputy of St. Martin:

It cost the Health Service over £600,000 last year to keep 15 suspended officers off duty, what steps would the Deputy take if he became the Minister to ensure that this list is reduced?

The Deputy of St. Peter:

Two issues there: (1) I would want to find out why they had been suspended in the first place and (2) I would want to find out why it is taking so long to get anything done because it is totally unacceptable to have people hanging on [**Approbation**] for an enormous length of time without firstly knowing what is going to happen to them and secondly ...

The Bailiff:

Thank you, Deputy. So I invite the final candidate to come to the Assembly and, Deputy, perhaps you would be kind enough to withdraw. I call upon Senator Perchard to address the Assembly.

1.5 Senator J.L. Perchard:

Members may understandably wish to know why, after resigning as Minister for Health and Social Services, I am immediately seeking re-election. Put simply, last year I said something unstatesmanlike and completely inappropriate to a Member which I regret immensely. I have publicly apologised and I have also apologised for my insensitive choice of words, the hurt I may have caused people and I am genuinely sorry. As the days passed after my apology it became clear that my honest and heartfelt apologies were not going to be enough and that I needed to take the further and very difficult step of resigning as Minister. I did so with much sadness and now I offer myself as a candidate who is genuinely remorseful and one who has learnt much from and will be a better person as a result of this difficult and emotional experience. The Health and Social Services Department is large; it consumes 25 per cent of the States of Jersey's annual gross expenditure. It employs over 3,000 members of staff and operates over 120 properties. The department deals daily with a wide range of ethical and resource dilemmas. It has to balance various compelling clinical arguments and make decisions about individual people; named people. Often these difficult decisions are made urgently and in the interests of patients and clients and may take place under the political and media spotlight. I am not complaining about this because it is absolutely right that the Minister should be held accountable for the actions of the department. That said, it will come as no surprise to Members that often the circumstances and complexities surrounding a single decision are very personal and cannot be played-out publicly. I believe what this means is the Minister must be experienced in how to hold others to account in a professional but personable way. The Minister must be firm and have drive and personal stamina and, of course, as we have found out lately, he must have very thick skin. I have to admit that as Minister I was on a steep learning curve, the like of which I have never experienced before in my adult life. Despite my learning, I feel I have made much progress on important issues, for example, health tourism. If I am reappointed as Minister, by June of this year I will be in a position to introduce new rules which will govern the access to health and social care on the Island, rules that will protect Islanders from the calculating and devious health tourists. This will end the practices of outsiders misusing our service by clearly defining the category of an individual who is not eligible to receive health and social care on the Island. Secondly, I wish to further develop my caring but firm agenda. I am prepared and able to make the tough decisions as we confront the health and social care agenda. One cannot fail but to be impressed by the dedication and professionalism of all our health and social care professionals. I am certain that any Minister would be uplifted by the person-centred caring agenda at Health and Social Services. Those who know me well will know through my association with these wonderful health care professionals, that my perspective on life and values has been changed, I think, for the better. It is right therefore that the Minister should be compassionate. I care and will, given the opportunity, work hard to provide the best possible support and care to our patients and clients. But the Minister must also be firm. There will never be enough resources for every single illness, every single disability and every single disease to be cured. Such a council of perfection would bankrupt the Island and is not possible.

The Bailiff:

One moment, please, Senator. Would that lady please either take that picture away or remove herself from the public gallery. Please continue, Senator.

Senator J.L. Perchard:

This is another way of saying that tough choices have to be made and in the next months and years to come I wish Members to know that with their support today and with their help and advice I can make those tough choices. A third important consideration is the future of St. Saviour's and Overdale Hospitals. While St. Saviour's Hospital has served Jersey well, it is no longer an appropriate setting for our mental health services. If Members can picture St. Saviour's Hospital in their minds, they will no doubt see the façade of the historic granite South Wing. This building is now mainly vacant. Our acute mental health patients reside in Orchard House, which is a more recent building located to the rear of the granite building. What will not form as a picture in Members' minds are the services on the other side of the main road, namely the services for Old Age Psychiatry, and what I describe as services for patients with dementia. Just last week I visited our mental health professionals and spent the day with them viewing our services and facilities, and these buildings are falling into disrepair. Even if they were well maintained, their internal layout and structure is such that challenged patients would continue to reside and often end their lives in buildings that are simply not fit for purpose. I say to Members who may not be aware that these confused and elderly patients are expected to share bedrooms with up to 4 others at the moment. This is not acceptable in this modern era. I have concluded therefore that St. Saviour's Hospital should cease to be used for its current purposes, and services should be rebuilt to a modern standard elsewhere. This "elsewhere" brings me to Overdale. Again, I wish to affirm my view that Overdale must play a vital strategic role in the future delivery of health and social care on the Island. We need to invest in this site. We must use Overdale more intensively. Three months ago I gave a commitment that I wanted to see a plan for the development of Overdale Hospital. The new Minister can expect to receive such a plan by the end of this year. I ask Members to support me today and provide me with the opportunity to contribute to the development of this exciting plan for Overdale Hospital. My next priority is the sustainable hospital project. The people of Jersey have rightly held the Jersey General Hospital in high regard. Every resident will have used the hospital from time to time. Many Islanders were born at the hospital, many have had their lives saved by the hospital and, as we know, many of our loved ones have passed away there. That said, it is becoming clear to me that there is a very serious issue at the Jersey General Hospital which will require the Minister's urgent attention. This concerns the hospital building itself. The hospital is impractical, it is old, tired and it is getting past its sell-by date. The emerging and real problem is that the hospital's design does not take into account modern health care. Principally, if we are to combat hospital-acquired infections and allow those who will end their days at hospital more dignity, more single rooms will need to be provided. Furthermore, our intensive care unit and systems for admissions after A.&E. (Accident and Emergency) need a complete overhaul if we are to achieve best practice in the effort to save more lives. It is simply not possible to do this with the current confines of the building because this would reduce the overall number of beds to below safe levels and this problem would intensify, of course, as numbers of older people within our population increase and if, of course, our population increases itself. It is clear to me that we must invest significantly in the Jersey General Hospital and in health care and we must do it soon. We need to provide more doctors, more nurses, modern equipment, systems and government arrangements if we are to save lives. To achieve this will not be easy. Acquiring new investment will require political drive, enthusiasm, particularly at this time when public finances are under pressure. If elected I will fight hard at all levels - all levels - to obtain the necessary finance for the sustainable hospital projects. Finally, I am committed to the restructuring of our Social Services Department, in particular our Children's Services. Members will be aware that I have worked hard in this respect and am delighted that we are nearly there on the last lap with the Williamson implementation plans. That just leaves me to thank my 2 Assistant Ministers, Constable Mezbourian and Deputy Martin: one with the responsibility for older people and Deputy Martin

with the responsibility for vulnerable children and young people. Today I have outlined the main things in my personal manifesto for Health and Social Services. Should Members decide to support me, they can do so in the full confidence that I will work tirelessly to deliver this agenda. I have the strength and experience to hold my senior officers to account ...

The Bailiff:

Thank you, Senator, if you would resume your seat and the time for questioning has arrived. First question, Deputy Tadier.

1.5.1 Deputy M. Tadier:

The candidate raised the quite topical issue of health tourism but I fear that once again he has shown his propensity for using unnecessarily provocative language in labelling these “devious health tourists” with its implicit xenophobic undertones when they are more likely to be victims of circumstance rather a premeditated malice. So will the candidate comment on (1) how he would define criteria for those entitled to health care because certainly there is a debate to be had here, and (2) what steps will he take to moderate his language in future?

Senator J.L. Perchard:

I will take the last point first: I make no excuses for using the language of “devious health tourists”. The Deputy will not be aware of the attempts to access our health service from people all over the world and it is done in a devious nature because they know Jersey is a caring, kind place. People will fly in from all over the world to Jersey in an attempt to acquire free health care, and it is devious. Now, secondly, Members have just heard of steps being taken to clamp down on what I call cynical attempts to abuse the Island’s goodwill. The Health Department has been on the case before I became Minister for over a year now and interim measures have been introduced. As I have just said, I plan to bring in a robust and permanent plan that is currently with the Law Officers to check on H.R. (Human Rights) compliance but basically it revolves around residential status and if you are a resident of Jersey you will have access to free health care. The detail will need to recognise people who are temporarily out of the Island or Jersey people who have a 5-year residency, so there is detail in the plan which is being checked at the moment. But it is basically around residential status and as I say the plan is being checked for H.R. compliance; it certainly fits the bill as far as Health and Social Services are concerned.

1.5.2 The Connétable of Grouville:

I am relieved that this will be the last time I have to ask this question this morning. I have received concerns from parishioners and others who have family receiving cancer care at Southampton Hospital. Will the candidate, if elected, open negotiations with the monopoly air carrier on this route to achieve affordability for patients and for families to visit each other over the period of their stay in the U.K.?

Senator J.L. Perchard:

Yes. Quite simply, yes. I did not realise that the monopoly status was being abused. I do know, as we all know, when purchasing late tickets to fly anywhere there is always an excessive overcharge compared to when you buy early and, of course, illness cannot be predicted. I am prepared and happy and content to do just that. I think it is an area that I would enjoy getting stuck into.

1.5.3 Deputy A.K.F. Green:

The Senator talked about his plans with Williamson and indeed the elderly, I just wonder if he could outline his plans for the vulnerable young adults in our society and their carers.

Senator J.L. Perchard:

The Williamson Implementation Plan of which I am very proud and has my fingerprints on every page, clearly recognises that care leavers, or young adults who are unable to stay at home, need

support and at 16 that is not any age for the States to wash their hands of young people. The specifics of St. Mark's Adolescent Centre which I have visited several times is that we would be looking to close that. Part of the Williamson plan is supportive homes. More young adult fostering if possible, but supportive homes where young people can live as close as possible to a home life, is clearly spelt out in the Williamson recommendation plans which I hope Scrutiny will endorse and allow the States to implement these wonderful recommendations.

1.5.4 Deputy J.M. Maçon:

If elected, what commitment would the candidate give towards implementing a whistle-blowing procedure in the Health and Social Services Department?

Senator J.L. Perchard:

The States Employment Board have been charged with introducing a whistle-blowing procedure or they are calling it a serious concerns policy. I am a bit frustrated that it has, as a result of staff shortages, just temporarily hit the buffers. I do know that it is important that we do, particularly in Health and Education, have a robust serious concerns policy - a whistle-blowing policy - in place that not only protects the client and patient but it also protects the person who makes the complaint. So I would ask the questioner to direct this question as to where the serious concerns policy is to the chairman of the States Employment Board at the next sitting because I think it is time that we rolled it out.

1.5.5 The Deputy of St. John:

The [cessation of the(?)] Reciprocal Health Agreement with the United Kingdom is now being implemented by the U.K. I am advised that Jersey Health Authority is not; they are continuing as before, treating everyone free of charge. Can the candidate explain why and what will he do about it? Furthermore, currently people with health problems cannot get private health insurance to travel to the U.K., if he is elected, will he put in place a private health scheme?

Senator J.L. Perchard:

Taking the last point, the Health and Social Services Department does not have the skills to run insurance schemes. So while I sympathise and empathise with the sentiment, it is not the Health and Social Services Department that should provide insurance schemes. Secondly, there will be, until the robust health tourist policy is introduced, some blurring of the edges on entitlements at Jersey General Hospital. We are developing a new integrated care record project which will be integral in helping to identify appropriate information on people to assess entitlement, but once a patient has been identified as a non-Jersey resident, we will have to, as the U.K. are doing, ask them to provide a Visa card as to how they can pay for their treatment; we will have little choice. But the best thing we can do, and the U.K. are now slowly starting to advise their citizens of such, is to ensure that we are insured.

1.5.6 Senator S.C. Ferguson:

In the Comptroller and Auditor General's report it appears to imply that Health and Social Services want to take over Family Nursing, what are your views on this?

Senator J.L. Perchard:

I am delighted to have the opportunity to clear the record on this. I have had much to do with the Management Committee of Family Nursing in my short time as Minister for Health and Social Services. I am delighted that they seem to be coming through their troubled history and that we have now agreed a service level agreement with Family Nursing. It has taken many years, and I am delighted that I have managed to achieve that. I will be looking to develop a working relationship along commercial lines with Family Nursing and Home Care. There is a huge job for them to do; we all know that among the ageing population, Family Nursing and Home Care have a huge agenda in the future and will be able to work collaboratively with the Health and Social Services

Department, and certainly if I am Minister they will be our partners and not threatened by me in any way.

1.5.7 Senator A. Breckon:

Can the candidate say what he sees as the way forward for the provision of effective elderly services and care?

Senator J.L. Perchard:

The questioner and Members may know that I have, over the last 3 or 4 months, chaired a committee that has developed a carer strategy. The carer strategy is now in draft form and is a part of the *New Directions* project. The carer strategy is about initiatives to support people in their own homes rather than them having to enter into residential care. So proper funding for the carer strategy to enable people to stay longer and live longer and healthier in their own homes without having to break up a partnership that may have existed for 50 or 60 years. So the carer strategy features prominently, it is there for the next Minister to pick up. Certainly, as for the residential care and nursing care package, there is a commitment in the States draft Strategic Plan for the Health and Social Services Department to work with Social Security to develop effective mechanisms that will allow people to enter into the residential and nursing care system without them having to sell their personal wealth. That is a priority in the draft Strategic Plan that the Minister for Health and Social Services and the Minister for Social Security will develop, along with this carer strategy. It is 2 exciting areas that will need funding from the Social Security Fund that may have to, as we get more people dependent on a government, raise at some time in the future. But I am very enthusiastic about the long-term care project. It is an initiative of the Council of Ministers and I would love to be part of its delivery.

1.5.8 Deputy J.A. Hilton:

The Williamson Implementation Plan was costed, I believe, at approximately £5 million. My understanding is the Minister, when requesting funding for the plan, was told to go away and cut costs. Recommendation 5 for an independent advocacy service for Looked After Children and Young People has been deferred. Why does the Minister think this recommendation is less important than some of the other recommendations, and has he any intention of pursuing the additional resources to fund all the recommendations which was very firmly endorsed by Professor June Thoburn in her recent visit to Jersey?

Senator J.L. Perchard:

I thank the questioner. All of the initiatives in the Williamson Implementation Plan are critically important and it was a terribly, terribly difficult job when the Council of Ministers set a boundary of money that was available for its implementation. I could have, of course, challenged the Council of Ministers on the floor of this Assembly; next time I will. Next time I will because one has come to learn the consequences of not doing it. So, if elected today, Members can see - will expect to see - a far more robust approach from the Minister with regard to resourcing Health and Social Services. Now with regard to the specific advocacy and £170,000 worth of spend, with the Jersey Child Protection Committee taking on a new dimension and a new more positive role, there is a sub-committee being formed specifically to listen to Looked After Children and we felt that may cover sufficiently the loss of this service. It was a terribly difficult decision for me and I accepted the corporate and collective will of the Council of Ministers. It will not happen again.

1.5.9 Deputy R.G. Le Hérissier:

While we do not wish the Minister to be evermore clothed in sackcloth and ashes, would he explain further to the House why having resigned, which appeared to be belatedly a decent thing, he then appears to have executed a U-turn?

Senator J.L. Perchard:

A U-turn in the sense that I am seeking re-election? Yes? I thought long and hard about this and the questioner knows I have and he knows I am serious about this and very committed to this job. I think he knows that, and I think the House knows that. I wanted this debate on who is to be Minister for Health and Social Services to be about Health and Social Services and not about Senator Jim Perchard and that is why I took that decision. It was painful and it hurt and I am terribly sorry for some loose words I made once. I really am sorry. But there is a job to do at Health - there is a big job to do at Health - and I wanted this opportunity to talk about the job at Health and Social Services; not about what Jimmy Perchard said or did not say.

1.5.10 Deputy A.E. Jeune:

As difficult as it is to ask, does the candidate really believe he has the moral authority to discharge the duties of a Minister? Does he consider it appropriate that an error of personal judgment is reason to accelerate funding or improved services of a specific area of Health and Social Services? Also, does he believe it was fair to Members of this House or to the people of Jersey that we were given such short notice of the loss of the Reciprocal Health Agreement with the United Kingdom despite Health and Social Services being given notice 2 years previously by the U.K.?

Senator J.L. Perchard:

Three questions there. I will let Members decide on my moral standing. I think the questioner has already made her judgment. The final point is factually incorrect and so I will make an effort to assist the questioner. It was in Senator Shenton's tenure that the States of Jersey were formally notified of the U.K. Department of Health's intention to withdraw from the Reciprocal Health Agreement. There was some indecision among the civil servants that were advising the U.K. Health Minister. That became evident in an exchange of emails, therefore, on arrival as the new Minister, and after taking some advice from the outgoing Minister, it was felt that it would be prudent and in Jersey's best interests to seek an extension to the Reciprocal Health Agreement until the end of 2009 so that it expired at the same time as the Isle of Man's agreement. It was really felt that there was an opportunity and we did not get formal notification - and the chair can confirm this because I shared correspondence with him - until 23rd February of this year of the U.K.'s ...

The Bailiff:

Senator, you must not bring the Chair into this.

Senator J.L. Perchard:

Sorry, Sir ... of the U.K.'s intention to withdraw from the Agreement. But the questioner must take my word: we did not get final clarification from the U.K. that it will definitely withdraw until 23rd February of this year. I do not think it has been such a great problem. It is unfortunate, it is not of our making, but it need not be the problem that the questioner is trying to make it out to be. It is solvable through insurance and we have worked very hard with the private sector's insurance providers to ensure that insurance cover is available. I think the questioner will know that most people travelling to the U.K. have acquired insurance quite easily.

Deputy A.E. Jeune:

On a point of clarification ... can I just clarify? The information that Jersey was given 2 years' notice was given to Members of this House ...

The Bailiff:

Deputy, I am sorry, you had 3 questions and I think I must allow Senator Ozouf to ask his question.

1.5.11 Senator P.F.C. Ozouf:

I am confused with the Senator's remark about the need for strength in terms of arguing for health funding. Would he confirm that I asked to spend a full day a number of months ago with the Health Department to understand their health spending pressures? Moreover, would he confirm to

the Assembly that the Council of Ministers has discussed on numerous occasions the real reality of needing to increase health funding?

Senator J.L. Perchard:

Yes, in fairness to the Minister for Treasury and Resources, because he has had personal experience of the excellent health service, and I know he has a passion for the quality of care that is available and provided, but there is little doubt that Williamson was trimmed.

The Bailiff:

Thank you very much, Senator. Now, that concludes the final period of questioning. I ask that all other candidates be invited back into the Assembly. I ask the usher to circulate please the ballot papers to Members. May I have some order for one moment, please, just to remind Members that there are 5 candidates: the Deputy of Trinity, Deputy Le Claire, Deputy Southern, the Deputy of St. Peter and Senator Perchard. I invite the Viscount and usher to collect the ballot papers. I ask the Attorney General and Deputy Viscount whether they would be kind enough to act as scrutineers?
[Ballot held]

The Bailiff:

I can announce the result of the ballot for the Minister for Health and Social Services; 24 votes were cast for the Deputy of Trinity, 12 votes for Deputy Southern, 11 votes for Senator Perchard, 5 votes for the Deputy of St. Peter and one vote for Deputy Le Claire. Now, under the Standing Orders, as Members will be aware, Deputy Le Claire falls out of the running. I do not know whether the Deputy of St. Peter would like to consider his position in order to ...

The Deputy of St. Peter:

It is considered, Sir. I will not carry on.

The Bailiff:

Thank you very much. I will, therefore, invite Members to continue to a second ballot as between the 3 remaining candidates.

Deputy P.V.F. Le Claire:

I would just like to thank all the Members that voted for me, Sir. **[Laughter]** I know I have their confidence.

The Bailiff:

I will, therefore, invite Members to continue to a second ballot as between the 3 remaining candidates. Could I ask the Attorney General and Deputy Viscount again to act as scrutineers?
[Second ballot held]

The Bailiff:

I am able to announce the result of the second ballot; 27 votes were cast for the Deputy of Trinity, 16 votes for Deputy Southern, 10 votes for Senator Perchard and I, therefore, declare that the Deputy of Trinity has been elected as the Minister. **[Applauding]**

The Deputy of Trinity:

Can I say a few words, Sir?

The Bailiff:

Of course.

The Deputy of Trinity:

Just to say thank you and I would like to thank all the other people who joined in this election. I think it was good democracy and it was good that 5 candidates put themselves forward. I will take one step at a time and look forward to working not only with the department but with all political colleagues. [Approbation]

QUESTIONS

2. Written Questions

2.1 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE REDUCTION OF INCOME SUPPORT PAYMENTS IN OCTOBER 2009:

Question

Will the Minister inform members of the extent to which the income of families on transitional protection on Income Support will be reduced in October this year?

Will he advise whether –:

- (a) Only 13% of the (approximate) 3,800 households affected will lose less than £30 per week?
- (b) Over 2,000 households will lose an average of £70 per week, and
- (c) A further 1,000 families will see benefit cuts averaging £200 per week over the period of this phased benefit reduction?

Will the Minister produce figures for the Assembly to indicate how many, and what types of households will be so affected?

Will he also state what measures, if any, he proposes to ensure that hardship does not result from these cuts and what support, if any will be offered to those facing hardship?

Answer

Income Support replaced 14 separate benefits, payable under a wide range of different qualifying conditions and with different degrees of generosity. The Income Support budget was initially set as the total of the budgets making up the predecessor benefits. For individual claimants transferring to Income Support, many received additional benefit from day one but others were entitled to a lower rate of benefit under the new rules. These claimants were given an additional “protected payment” benefit equal to the difference between the total of their previous benefit and their Income Support benefit. A phased reduction of the protected payments over a period of years ensures that households have time to adjust to the new level of benefit.

The increases in component rates for October 2009 have not yet been approved by the States and the figures quoted in this answer will be subject to change depending on the exact level of increase agreed. As with any forecast, the changing circumstances of households in the interim will alter the impact on individual households and cannot be predicted. As explained below, the period of 100% protection is likely to be extended to January 2010, and hopefully to September 2010.

The figures suggested in the question are not accurate.

Based on data extracted at the end of March 2009, there are 2,734 households currently receiving protected payments. This figure excludes 744 individuals in residential care, who will see no reduction in benefit as they are not subject to the phased withdrawal of previous benefits. Of the

2,734 households, it is estimated that only 8% will see a reduction in total benefit of £30 per week or more following the first phased reduction of protected payments. These households will, on average, see a reduction of approximately £45 per week.

The Income Support Transition Order identifies five separate groups of households, and sets a separate timetable for the phased reductions for each household type. Where a household satisfies the conditions for more than one group, it is allocated to the group that is shown higher in the table (E.g. if a pensioner has a severe disability, they would be included in the “Those with moderate to severe disability”, rather than the “Those with a pensioner recipient” group.)

	Total number of households (March 2009)	% Protection after first reduction	% Protection after second reduction	% Protection after third reduction	% Protection after fourth reduction	% protection after fifth reduction
Individuals in residential care	744	100%	100%	100%	100%	100%
Households where income exceeds IS entitlement by a factor of 3 or more	133	0%	0%	0%	0%	0%
Households with the biggest percentage reduction in income	468	80%	60%	40%	20%	0%
Households including someone with moderate to severe disability	289	80%	60%	40%	20%	0%
Households including someone with a low level disability	166	75%	50%	25%	0%	0%
Households including someone with a pensioner recipient	662	75%	50%	25%	0%	0%
All other households	1016	67%	33%	0%	0%	0%

I am pleased to confirm that a bid for additional funding for transitional payments from the Economic Stimulus package has been included within P.55 and my Department will be submitting a detailed request to confirm funding to extend 100% protection for a further 12 months to 30th September 2010. A final decision on the allocation of these funds is due in June.

In the meantime, it is my intention to extend the period of 100% protection to 31st January 2010, in light of the current economic conditions.

The households receiving protected payments are currently receiving benefit at a rate in excess of their entitlement under the Income Support system. In order to ensure that they are able to adjust their household budget to the reduced level of protection after the first reduction is implemented, all

households will receive written notice of their revised entitlement several months before the reduction is made. The great majority (85% of those currently receiving a protected payment) will still be receiving a total benefit payment in excess of their Income Support entitlement after this reduction.

2.2 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE DISCHARGE OF EFFLUENT INTO THE SEA:

Question

On how many occasions, if any, over the last 5 years have licences been issued by the Planning and Environment Department to the Transport and Technical Services Department in respect of discharging effluent into controlled waters?

- (a) Would the Minister advise the exact dates and time periods when such discharges occurred?
- (b) Were discharges of effluent permitted under the licenses at times when the tide was below the St. Aubin Pier outflow?
- (c) What was the estimated volume of effluent discharged on each occasion?
- (d) During discharges of effluent on these occasions what monitoring, if any, occurred; by whom was this undertaken and what were the results?
- (e) Where did this monitoring occur and can the Minister provide these as an appendix?
- (f) What, if any, are the long term plans for managing this on-going series of discharges of effluent into our environment?
- (g) Is the Minister aware of any scientific evidence that discharges of effluent can harm the environment and/or be of a danger to human health?
- (h) What notifications, if any, are required when discharging effluent into a Ramsar site or next to one?
- (i) What tests, if any, are undertaken to ensure there is no impact on the Ramsar environment, who conducts the tests and who certifies them?

Answer

Only one licence has been issued to TTS during the last five years. This was a composite discharge permit (No. DP(B) 2007/04/02) for the following pumping stations: Bas Du Marrais, La Frontiere, La Rue Du Port, Le Douet, Les Augerez, Les Fontaines, Les Ormes, Portinfer, and Thistlegrove.

Sections (a) – (i) of the Deputy's question are not applicable to that particular discharge permit, however they do relate to a different permit issued to TTS in respect of the Bellozanne Sewage Treatment Works. This permit was first issued in 2000 when the Water Pollution (Jersey) Law 2000 came into force. When applied to this permit, the answers are as follows:

- (a) The sewage treatment works discharges effluent 24 hours a day, 365 days a year.

- (b) Yes. The sewage treatment works discharge effluent 24 hours a days, 365 days a year, regardless of tide levels.
- (c) The maximum permitted volume of discharge shall not exceed 95,040 m³ / day. The rate of discharge shall not exceed 1100 l/s.
- (d) The permit holder (TTS) carry out their own sampling and testing for operational purposes. In our role as regulator the Planning and Environment department take regular samples and this is prescribed under the conditions of the discharge permit. Independent of this discharge permit we also conduct bathing water sampling throughout the bathing water season at Victoria Pool and La Haule and have undertaken a monitoring programme of surface water outfalls which included First Tower Outfall. The results are available on public record and are too numerous (there are over 10 years of bathing water data alone) to include in an appendix to this response. We would however be happy to discuss these results in a meeting with the Deputy.
- (e) For the purposes of the Discharge Permit, samples are collected from the Ultra Violet treatment plant prior to discharge into the Bellozanne culvert / stream. General samples are collected from the out fall and receiving waters respectively.
- (f) The long term plans for managing sewage treatment on the island will be dealt with by the Liquid Waste strategy from TTS. The regulator will continue to monitor the discharge in accordance with the discharge permit as described above.
- (g) Yes. There is considerable scientific evidence that discharges of “effluents” can be harmful to both environment and human health. This is however dependent on the specific composition of the effluent which is regulated by the consent conditions.
- (h) No specific notifications are required unless there is going to be a significant impact on the ecology of the site.
- (i) The programme of general monitoring carried out by Planning and Environment includes monitoring on bathing waters, shellfish, heavy metals in key indicator species, and outfall monitoring to sea. These samples are collected by Planning and Environment, they are analysed by the States Official Analyst and assessed internally in respect of the use to which they will be put. e.g. Bathing Water quality and grading of shellfish.

Long term changes to the ecology of the Ramsar site will be picked up by the periodic survey of the site’s ecology which the Department commission from time to time. The most recent survey was carried out by Plymouth Marine Laboratories in March 2009 and the results are still being collated.

2.3 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE ECONOMIC STIMULUS PLAN:

Question

How much in comparative percentage terms against our annual GDP is Jersey committing to its economic stimulus package and has the Minister researched how this percentage compares with other jurisdictions such as the USA, Germany and the United Kingdom?

Answer

Please see pages 15 and 16 of the Treasury and Resources Minister's Report and Proposition P.55/2009.

2.4 CONNÉTABLE OF GROUVILLE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE CRIMINAL OFFENCES CONFISCATION FUND AND THE DRUGS CONFISCATION FUND:

Question

Following the recommendations of the Comptroller and Auditor General in 2007 that the monies from the Criminal Offences Confiscation Fund and the Drugs Trafficking Confiscation Fund should become part of the general revenues of the States, can the Minister explain what has happened to the Funds, advise whether any distributions have taken place and, if so, to whom?

Answer

The Treasury and Resources Minister accepted in principle the recommendations in the Comptroller and Auditor General's Confiscation Funds Report to augment them into the States General Revenues.

Work is in progress to identify how best to implement the recommendations, particularly in relation to deciding what Law changes are necessary. The intention is to have augmented the Funds into the States general revenues for the 2010 financial year. However, this will be dependent on the timescales within which the Law changes can be achieved.

In the meantime, the Funds continue to be administered in accordance with the relevant Laws (Proceeds of Crime (Jersey) Law 1999 and Drug Trafficking Miscellaneous Provisions (Jersey) Law 1996).

Since the publication of the Comptroller and Auditor General's report in September 2007, the following grants have been issued from the Funds, in accordance with the Laws.

Drug Trafficking Confiscation Fund

Financial Year	Issued to	Brief description	£
2008	Health & Social Services/Home Affairs	Building a Safer Society – continuation of 5 year projects	527,000
2009	Health & Social Services/Home Affairs	Building a Safer Society – continuation of 5 year projects	534,000
			1,061,000
Nov-07	Charity	2 year project run in partnership with Prison	100,000
Dec-08	Charity	Educational programme	5,000

Financial Year	Issued to	Brief description	£
			105,000
Feb-08	Health & Social Services	Expansion of drug related programme	20,000
Jun-08	Health & Social Services	Drug related programme	12,000
Oct-08	Health & Social Services	Expansion of drug related programme	85,000
			117,000
Nov-07	Customs & Immigration	Software package	304,000
Feb-08	Customs	Equipment	49,000
Feb-08	Police/customs	Equipment	40,000
Feb-08	Police	Equipment	56,000
Feb-08	Police	Equipment	21,000
Jun-08	Home affairs	Equipment	10,000
Oct-08	Police	Information related	13,000
Oct-08	Customs	Equipment	26,800
Oct-08	Prison	Information related	50,000
Dec-08	Prison	Equipment	20,000
			589,800

Criminal Offences Confiscation Fund

Financial Year	Issued to	Brief description	£
2008	Judicial Greffe	Grant	310,000
2008	Law Officers	Grant	745,000
2008	Viscount/Bailiff/Home Affairs/Law Officers/Judicial Greffe	Court & Case costs	2,511,000

			3,566,000
2009 to date	Judicial Greffe	Grant	310,000
			310,000

2.5 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE DISCHARGE OF EFFLUENT INTO THE SEA:

Question

On how many occasions, if any, over the last 5 years has the Health Protection Team been involved in issues regarding controlled discharges of effluent licensed by the States of Jersey?

What were their actions and what were their findings?

Would the Minister inform the Assembly what is tested in Jersey and whether he is aware if the United Kingdom undertakes the same tests?

Answer

Effluent discharges from licensed operations are regulated by the Environment Department Water Resources team and not Health Protection. Health Protection interventions are restricted to impacts on human health although my team do work with other departments on issues where joint working is desirable.

Health Protection is engaged in a number of routine sampling programmes in line with accredited UK sampling protocols. These include sampling and testing food, water and air for a wide range of parameters.

2.6 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING MONIES OWED TO STATES DEPARTMENTS BY HARCORT DEVELOPMENTS:

Question

Would the Minister inform the Assembly of the total monies, if any, owed by Harcourt to States departments as of 25th March 2009, broken down by departments, also money owed to States owned companies such as the Waterfront Enterprise Board, giving details of how long the debts have been outstanding?

Would the Minister outline the States credit policy to the Assembly?

Answer

Monies owed by Harcourt to the Transport and Technical Services States amount to £234,000. I am not aware of any other amounts owed to States Departments for goods or services provided by the States.

Harcourt owe the Waterfront Enterprise Board Limited £5,070. Other States owned companies are not owed monies by Harcourt.

The policy for the debts under States administration, excluding Income Tax, Goods and Services Tax and Social Security, is that debts are due within 30 days of the end of the month in which the invoice is raised, i.e. if the invoice was raised in March it would be due on 30th April 2009.

A robust credit control procedure is applied to all debts outstanding beyond their due date. Debts which remain outstanding may ultimately be pursued through legal action.

2.7 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING SHAREHOLDINGS HELD BY THE JERSEY ELECTRICITY COMPANY:

Question

Would the Minister inform the Assembly what shareholdings, if any, the Jersey Electricity Company has in Jersey Deepfreeze Limited, Foreshore Holdings Limited, the Channel Island Electricity Grid Limited and Newtel Holding Limited, and if more than 50% shareholdings exist in any of these companies, can members be told the names of the Directors and be given copies of the annual reports and accounts of these companies?

Answer

The Jersey Electricity Company's shareholdings in these companies are as follows:

Jersey Deepfreeze Limited	60 ordinary shares
Foreshore Holdings Limited	50 ordinary shares
Channel Island Electricity Grid Limited	5,000 ordinary shares
Newtel Holding Limited	39,600 ordinary shares and 95,998 preference shares

The only holding exceeding 50% of ordinary share capital is the holding in Jersey Deep Freeze Limited. As a Jersey private company, the annual report and accounts of Jersey Deep Freeze Limited are not publicly available.

2.8 DEPUTY D.J. DE SOUSA OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING SOCIAL HOUSING WAITING LISTS:

Question

How many families are on the social housing waiting list seeking 3 bed homes (both new applicants and existing tenants on the transfer list) and what is the average waiting time for such accommodation to become available?

Would the Minister confirm that approximately 10 families have recently been moved from at least 2 social housing estates, and if so, would he outline what the plans are for these vacant properties?

Answer

As at 31st March 2009, there are 94 applicants on the combined waiting lists for three bedroom accommodation.

The average waiting time for a three bedroom property during the first quarter of 2009 was 131 days (4 months). Overall comparison figures for the UK are not readily available, however, the Peabody Trust published average waiting time figures for its waiting lists in the Greater London area for the year ending 31st March 2008. These statistics show that the waiting time for a 3 bedroom social rented home across all London Borough's was 3 years and 8 months.

We have around 450 void properties every year and tenants are constantly moving around the stock as their needs change for a variety of reasons. However, it is understood that the Deputy is particularly interested in recent moves from Grasett Park and Oak Tree Gardens; 8 families have moved from those two estates recently. 4 of the vacated homes are to be purchased by States tenants and the other 4 have already been re-let.

2.9 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE EMPLOYMENT OF STAFF ON THE NEW ENERGY FROM WASTE PLANT SITE:

Question

How many of the workers currently employed by the Contractor on the incinerator site have been employed directly from overseas and what steps, if any, were taken to first recruit locally based workers?

Answer

The Engineering Procurement and Construction Contractor for the La Collette Energy from Waste Facility - CSBC (Jersey) Limited - is currently employing up to sixty six workers from overseas directly at the incinerator site.

Six of these workers are employed directly by Spie Batignolles Camerons Limited a Jersey registered company sub-contracted by CSBC (Jersey) Limited to lead the construction management.

Up to forty French and Portuguese workers have also been employed on site from 20th April 2009 working on the construction of the concrete structure that forms the basic shell of the building. The workers will be divided into two areas of specialist: specialist installers of the bespoke designed formwork systems and concrete placement workers. These workers will be solely employed on the construction of the specialist insitu concrete structure that forms the shell of the building comprising the ground floor slab, the waste bunker hall and tipping apron, the accommodation block and the turbine hall together with associated structures required by CNIM to support the process elements of the plant. The less specialised fixing of the reinforcement will be undertaken by a local Jersey company, FDJ Construction Ltd.

Whilst these forty workers will be peak numbers of imported labour requirement for this element of the works, i.e. prior to the arrival of CNIM the process plant engineers on site in the autumn when numbers of specialist foreign workers will increase again, CSBC (Jersey) Limited have endeavoured to ensure that any locally qualified, appropriately experienced labour were given the opportunity to work on the project by the placement of an advertisement in the Jersey Evening Post from 26th to 31st March 2009 inclusive.

It should also be noted that the construction activities associated with excavation, piling and dewatering are being carried out by local Jersey based companies, namely A.A. Langlois Haulage Ltd, Amplus Ltd and Geomarine Ltd and a number of key Jersey based staff have been seconded to the Spie Batignolles Camerons Limited team from Camerons Ltd.

2.10 DEPUTY T.M. PITMAN OF ST. HELIER OF THE ATTORNEY GENERAL REGARDING THE SUBMISSION OF CAMPAIGN EXPENSES BY CANDIDATES FROM THE 2008 DEPUTIES ELECTION:

Question

Will H.M. Attorney General explain what legal action, if any, can be taken against a number of candidates (successful and unsuccessful but all ‘independents’) in the 2008 Deputies elections who, well into 2009, had still not supplied details to the Judicial Greffe, as required by law, of their electoral campaign expenses?

Answer

The Law regulating election expenses is to be found in the Public Elections (Expenditure and Donations) (Jersey) Regulations, 2008 (the “Regulations”), which came into force on 25th July 2008.

Regulation 4 of the Regulations provides that:

“(1) A candidate’s election expenses shall not exceed, in the aggregate –

(a) where the candidate ... is a candidate for election as Deputy or Connétable, £1,500; and

(b) 10 pence for each person entitled to vote in the election by virtue of Article 2(1), (2) or (3) of the 2002 Law.

(2) A candidate whose election expenses exceed, without reasonable excuse, the limit imposed by paragraph (1) is guilty of an offence and liable to a fine.”

Regulation 6 of the Regulations requires a candidate, no later than 15 working days after the day the Poll is held, to deliver to the Judicial Greffier a written declaration of his or her election expenses and donations of the specified kind received by the candidate. Paragraph (6) of Regulation 6 provides:

“A candidate who fails, without reasonable excuse, to deliver a declaration, or further declaration, in accordance with this Regulation is guilty of an offence and liable to a fine.”

Regulation 15 requires the Greffier to make declarations received by him under the Regulations available for inspection, free of charge, at the offices of the Judicial Greffe, during normal working hours.

The legal – as opposed to political - enforcement mechanism for these Regulations lies in the bringing of a criminal prosecution. Such a prosecution will be considered in cases where a file is prepared by the police and passed to the Law Officers’ Department, or alternatively to a Centenier, for a decision as to whether or not to prosecute.

The lodging of this question last week led me to make some enquiries of the Judicial Greffier. I understand there are two candidates from the Deputies' elections, neither of whom were elected, who have not yet filed a note of their election expenses as the Regulations require. I believe the Greffier is pursuing that matter to the extent he can. As far as I am aware, the Law Officers Department have as yet received no such police files for consideration in relation to the 2008 Deputies' elections.

2.11 DEPUTY T.M. PITMAN OF ST. HELIER OF THE ATTORNEY GENERAL REGARDING THE INVESTIGATION OF BREACHES OF THE PUBLIC ELECTIONS (JERSEY) LAW 2002:

Question

Would H.M. Attorney General clarify whether he, the States of Jersey Police or the Judicial Greffier had responsibility for monitoring and investigating any complaints of alleged breaches of the Public Election (Jersey) Law 2002 during the 2008 elections?

Answer

Unless provided otherwise in statute, the responsibility for investigating breaches of the criminal law is that of the Police. It is the Police that have the responsibility for investigating alleged breaches of the Public Elections law.

To decide whether or not to carry out such an investigation the Police normally need to be in receipt of a complaint. That complaint may be made to them directly by a member of the public or, if the matter has been raised with or comes to the attention of the Judicial Greffier or to the Law Officers, a complaint may be referred by those persons to the Police for investigation.

2.12 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE EXCHANGE RATES FOR THE NEW ENERGY FROM WASTE PLANT:

Question

Would the Minister clarify the exact total figure, as of 1st April 2009, of the additional cost to the Island's taxpayers resultant from the failure of the previous Minister for Treasury and Resources to ensure that the exchange rates for the part of the incinerator contract to be paid in Euros was fixed before the rate dropped?

Answer

The Comptroller and Auditor General's report identified the cost of not hedging the foreign currency element of the Energy from Waste Plant - which was NOT a decision made by the previous Treasury and Resources Minister - to be £3.06m.

2.13 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE FUTURE MANAGEMENT OF THE YOUTH SERVICE:

Question

Would the Minister confirm whether responsibility for the Jersey Youth Service has changed from the Assistant Director: Lifelong Learning to the Assistant Director: Sport and Leisure, and, if so, will he, as a result of this change, give assurances that Jersey will not follow the direction of some UK authorities with youth work losing its informal education focus to that of simple leisure provision?

Answer

Whilst this is an administrative matter for the Department, I can assure the Deputy of St. Helier that Jersey will not follow the direction of some UK authorities and that youth work in Jersey will not lose its informal education focus as a result of the structural changes that have taken place within my Department.

Whilst Assistant Directors within DfESC have clearly defined responsibilities, they also have a collective responsibility for the overall management of the service.

The change of the Principal Youth Officer's responsibility from the Assistant Director Lifelong Learning and Culture to that of Assistant Director Sport and Leisure is an administrative change to balance workload between Assistant Directors, to ensure that the Youth Service has adequate access to the senior management of the Department, and to enable us to explore the natural synergies which exist between community development work, youth work, sport and leisure.

There has been no change in the philosophy which underpins youth work practice and the Youth Service – supported by the Assistant Director Sport and Leisure will continue to work towards the achievements of its published strategy.

2.14 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING INCOME TAX RETURNS FOR 1(1)(k) CATEGORY RESIDENTS:

Question

Would the Minister advise the Assembly as to the actual (or projected) income tax return from the Island's 1(1)(k) residents for 2008; further still, how these compare to that of 2005, 2006 and 2007?

Answer

The total tax receipts from the Island's 1(1)(k) residents for 2005, 2006 and 2007, compiled from the latest Tax Returns and tax assessments at the Income Tax Office, incorporating personal, corporate and trust tax paid by or on behalf of 1(1)(k)'s, are as follows:

2005 - £7.1 million

2006 - £8.1 million

2007 - £8.8 million

It is not possible to give 2008 details at the current time as the 2008 assessing programme for all personal taxpayers, including 1(1)(k)'s, will not be completed until end October, 2009.

2.15 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING ARTICLE 38 OF THE JERSEY TEACHERS DISCIPLINARY AND GRIEVANCE PROCEDURES:

Question

Given that Article 3.8 of Appendix B of the States of Jersey Teachers' Disciplinary and Grievance Procedures (page 50) specifically precludes employees from taking part in political activities other than their statutory right of voting, will the Minister state how this policy in any way conforms with the spirit of P.17/2006 ('Political activities by States employees') or with the human right to full electoral participation?

Answer

The document to which the question refers was a draft which was given to the Teachers' Unions at a meeting of the Education Consultative Council on 12th March 2009 as policy in the course of development. They were asked to revert to the Education Department by 15th May 2009 but have not done so at this stage.

There was an error on the initial draft document concerning political activities. What it should have contained was a set of words similar to those now contained in the Civil Service Disciplinary Policy and Procedure since the adoption of the new arrangements regarding political activities of States employees. That reads as follows:-

“4.11 Engaging in Political Activities

4.11.1 A politically eligible employee must be careful not to participate in political activities in a manner that might constitute gross misconduct which might render them liable to disciplinary action. Such misconduct is described as follows:-

- Commenting on existing States' Policies in an immoderate manner;
- Engaging in personal attacks on members of the States;
- Using for political purposes information that the employee was only able to obtain because he/she is a States' employee.

Even in the case of an employee not seeking election, a similar approach would be applied where an employee takes a public part in a political manner and behaves in a similar manner to that described above.

4.11.2 Politically ineligible employees must not address electors or stand or announce that they propose to stand as a candidate for election to the States, nor can they publicly support the candidature of any person standing for election to the States. They may not take a public part in political activities other than to exercise their statutory right of voting.”

Under the new Regulations, teachers are deemed to be “politically eligible” and Head Teachers and Deputy Head Teachers and deemed to be “politically ineligible.”

The error, which would have been detected in the normal course of consultation, has been corrected by the Education, Sport and Culture Department.

In my view the policy is proportionate and complies with the spirit of P.17/2006, as well as with the principles of Human Rights. However I will consider and review any representations made as a result of the consultation process.

2.16 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING JERSEY'S RATIFICATION OF UNITED NATIONS' CONVENTIONS:

Question

Will the Chief Minister inform members what the precise reasons are for the Island's failure to sign up to and implement the United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which came into force in June 1987, and in what timescale he proposes to address these reasons for the delay?

Will he further inform members of the Island's position and intentions regarding the UN Conventions on the Rights of the Child and Disabled persons?

Answer

1. Unfortunately the question is not correct, in that the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was extended to Jersey on 9th December 1992 at the request of the Island Authorities. Jersey prepared its fourth periodic report on implementation to the UN Committee Against Torture in October 2008.
2. In August 2000, the Jersey authorities indicated to the UK that, in principle, they would wish the UN Convention on the Rights of the Child to be extended to Jersey, but there were a number of issues that first needed to be resolved. These included introduction of the new Children's Law 2002, which came into force in 2005, and child employment legislation which is the subject of a consultation paper published by the Minister for Health and Social Services in January 2009. An officer working group is also considering a number of further legislative, practical and resource implications which may need to be addressed before the Convention can be extended to Jersey.
3. On 20th January 2009, I published a progress report to the States on international conventions and agreements, R.3/2009. In that report I stated that Jersey had been asked to consider whether they wished the United Nations Convention on the Rights of Persons with Disabilities to be extended to the Island.

The States of Jersey has indicated that it will examine the legislative and administrative implications of the Convention and inform the UK whether or not they wish it to be extended to the Island. This remains the present position.

2.17 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE FISCAL POLICY PANEL:

Question

1. The most recent advice from the Fiscal Policy Panel warns against the impact of 'leakage' on the economic stimulus plan. Will the Minister

- a) detail for members the major ways that leakage occurs in our economy, and
 - b) what impact this leakage will have on his priorities for action under the economic stimulus plan, and
 - c) what measures he will take to mitigate such leakage?
2. Does he accept that now is not the time to take money out of the economy through additional taxes or other means and does he accept that the imposition of a wage freeze in the public sector in the 2009 settlement would reduce the quantity of money in the economy by £7.4 million and therefore increase the impact of the recession?

Does he further accept that the depth of the recession would also be made worse by any redundancies in the public sector and that he will take appropriate steps to protect public sector jobs?

3. Will the Minister inform members how the figure of £2 million for the extension of transition protection on Income Support for a further year was arrived at?

Answer

1. The most recent advice from the FPP (in their 26th March 2009 letter to the Treasury and Resources Minister) is that discretionary fiscal policy is necessary, if the intention is to mitigate the adverse effects of the international crisis on the Jersey economy in the near term.
- a. The FPP also point out in that letter that it is “worth bearing in mind that in a small open economy like Jersey there will be a risk that any stimulus put into the economy by the States will quickly leak out of the economy through spending on imports”. Leakage through spending on imports is one of the major ways that leakage can occur in our economy. However, it can also occur through money intended to stimulate the economy ‘leaking’ into savings, not being spent and not adding to demand in the economy.
 - b. The Minister will listen to the advice of an independent Evaluation Team made up of key officers before deciding on the projects that will be funded by the money identified for discretionary fiscal stimulus. The Evaluation Team will be required to assess the business case, value for money and economic benefits of each proposal. Leakage will be a key consideration in determining the nature of the economic impact.
 - c. The rigorous evaluation process as outlined in part b will help to mitigate the extent of any leakage from the overall stimulus package.
2. In setting out the plans for the fiscal stimulus package it is clear that it is accepted now is the time to be using the Stabilisation Fund to put additional money and therefore demand into the economy. However, it is not accepted that a wage freeze in the public sector would reduce the quantity of money in the economy. The overall impact of the States finances on demand in the economy is determined by the difference between all expenditure and all income not the policy adopted for public sector pay. It follows that it is not accepted that such an approach would add to the depth of the economic downturn.

It is also not accepted that the depth of the recession would be made worse by any redundancies in the public sector. The external economic environment, the success of the global policy response and our own fiscal stimulus package will be the key to determining the depth and length of the downturn in Jersey.

3. The States have agreed transitional funding as set out in the table below:

	Original 2007	Extra from BP amendment 2008	Revised Total 2008
	(£ Million)	(£ million)	(£ million)
2008	9.7		9.7
2009	5.6	2.17	7.77
2010	3.7	1.9	5.6
2011	2.2	0.95	3.15
2012	0.9	0.55	1.45
2013	0.4	0.18	0.58
2014			
Total	22.5	5.75	28.25

From the table it can be seen that the drop in funding from 2009 to 2010 is approximately £2M. Maintaining 100% protection for an additional year will therefore add approximately £2M to the 2009/2010 cost. Additional funds would also be required in future years.

It should be noted that since this funding was approved by the States in the Business Plan debate in September 2008, there have been other changes to the Income Support scheme which have an effect on the cost of transitional relief.

A full analysis of these changes and a revised estimate of the cost for each year of the transition is currently being prepared and will be included in the final bid made by Social Security Department to the Economic Stimulus panel.

2.18 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE DEVELOPMENT OF A POLICY FOR CHILDREN IN CARE:

Question

What emphasis, if any, will be placed on listening to and acting on the wishes of the children themselves when developing services for looked-after children in Jersey?

Answer

In terms of individual care, all looked-after children in Jersey have a named, qualified and experienced Social Worker allocated to their case who is responsible under Looked After Children Procedures for visiting, consulting and listening to the individual child on an a regular (minimum six weekly) basis. This is on top of the child's daily contact with residential staff or foster carers.

Each child then has a comprehensive 'care plan' which (where age appropriate) is developed in consultation with the child and which is reviewed and updated through a system of regular six monthly review meetings, which the child is encouraged to attend and to contribute. The 'Independent Chair' of these meetings is highly skilled at welcoming the individual child and in assisting them to contribute to these meetings.

When it comes to 'service development', the position is as outlined in Recommendation 5 of the Williamson Report: Implementation Plan, where it is identified that there is much that is already being developed that will assist in providing a 'voice for the child' and for 'service users' in developing services for children and young people in Jersey:

- The newly formed Jersey Child Protection Committee - Safeguarding Children Away from Home Sub-Committee is working on the development of a formal 'Looked after Children Advocate role' for those in care or who have recently left care.
- The JCPC Procedures and Audit sub-group has within its remit the responsibility to design accessible and non-threatening ways for parents and young people to have the opportunity of feeding in their views about the child protection service and process so that the JCPC can take appropriate action to achieve change and improvement.
- The JCPC Communications sub-committee is also looking at ways of making the work of the JCPC better known in the community, with one of its aims being to encourage Jersey citizens to contribute to the task of protecting children. A website is being established which will eventually provide links to self-help and voluntary representative groups which provide help to vulnerable children and families.
- The Youth Service YESS project, which though a universal advice service for young people, also has an important role to play as a user friendly accessible service with a track record of engaging with young people including those who are vulnerable and disaffected.

All of this sits alongside other already established mechanisms:

- Young people from within the care system being involved in meeting and 'interviewing' potential candidates for children's social work vacancies to provide advice and guidance to service managers and HR professionals on those applicants that are considered, by the young people themselves, to be the most appropriate for the posts.
- A Fostering Panel: made up of independent members and those drawn from relevant disciplines. The function of this Panel is to advise on the suitability of persons who apply to become Foster Carers; consider their continuing approval following annual review or any complaint, allegation or other significant change in their circumstances; and to advise on any other matter relating to the fostering service.
- An Adoption/Permanence Panel: constituted in a similar way to the Fostering Panel. This body advises of the suitability of persons who apply to be adoptive or long term foster carers; considers their continuing approval as above; considers the case of any child referred to it and makes a recommendation as to whether the child should be placed for adoption; and considers proposed placements for such children and make recommendations accordingly.
- An Independent Board of Visitors for Greenfields which has been established under the Children (Jersey) Law 2002 Regulations.

If full funding for the Williamson Implementation Plan recommendations was to be made available, then an Independent Visitor Service for Looked After Children and an Advocacy Service for children and young people (as outlined in full in Recommendation 5 of the Implementation Plan) would be developed to enhance the existing provisions outlined above.

2.19 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHAIRMAN OF PRIVILEGES AND PROCEDURES COMMITTEE REGARDING PARLIAMENTARY PRIVILEGE:

Question

Will the Chairman outline for members the extent to which parliamentary privilege extends to the protection of the privacy of members' correspondence and documentation, whether in hard copy or electronic forms:

- (a) relating to the business of the States of Jersey
- (b) relating to the representation of individual constituents

and how that compares with the UK and other parliamentary bodies?

Does the Chairman consider that the actions of the States of Jersey Police in their behaviour towards Senator Syvret constitute a breach of such privilege?

Answer

The extent of parliamentary privilege is an extremely complex and wide-ranging issue that parliaments across the world have cause to consider frequently. It is therefore only right at the outset to point out that it would be naïve to suggest that a complete and definitive statement of the position in Jersey could be prepared and presented to members in the one week period since the submission of this question. PPC is nevertheless extremely aware that members are keen to understand more about this issue and had already initiated research into this subject when this question was submitted. The Committee expects to be in a position to provide a more comprehensive statement to members in the coming weeks.

As a general rule parliamentary privilege is only applicable in relation to 'proceedings in Parliament', with that protection extending to parliamentary proceedings such as committee work and matters such as reports and propositions presented to parliament. It does not extend to members' activities outside Parliament unless they are directly related to 'proceedings in Parliament' and in this context members do not benefit from any additional legal protection when compared to other members of the community.

The most definitive work in recent years on privilege in the United Kingdom Parliament, even though its conclusions have not yet been implemented, is still considered to be the First Report of the Joint Committee on Parliamentary Privilege of the House of Lords and the House of Commons that was published on 30th March 1999¹. The Joint Committee worked for nearly 2 years on this topic and its Report sets out in great detail the nature of parliamentary privilege and its practical implications. The most relevant sections of that Report as it relates to this question are as follows –

Members' correspondence

103. One important area of uncertainty is members' correspondence. There has been long-standing concern about correspondence and other communications undertaken on behalf of constituents by members of the House of Commons. Members of both Houses now engage in many different activities in discharging their parliamentary duties. As well as speaking in debates, participating on committees and asking parliamentary questions, they write letters and make representations to Ministers, government agencies and a wide variety of bodies, both public and private. Constituents of members of the House of Commons expect their members to take up their concerns at local and at national level. In recent years members' work has been transformed by a very substantial increase in this type of constituency correspondence. Most of these activities are not protected by parliamentary privilege. Article 9 [of the Bill of Rights 1689 which states that "*freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament*"] protects parliamentary proceedings: activities which are recognisably part of the formal collegiate activities of Parliament. Much of the work of a member of Parliament today, although part of his duties as a member of Parliament, does not fall within this description.

104. This issue arose in 1958 in a case concerning a member, Mr George Strauss. He wrote an allegedly defamatory letter to a Minister on a matter he might later have wished to raise in the House, namely, criticism of the purchasing policies of the London Electricity Board. The House resolved by a narrow majority that the letter was not a proceeding in Parliament as it did not relate to anything then before the House.

105. Both the 1967 House of Commons committee on parliamentary privilege and its 1977 committee of privileges, as well as the 1970 joint committee on publication of proceedings in Parliament, considered the House's decision was right in law. But all agreed that the argument in favour of correspondence with Ministers having the benefit of absolute privilege in defamation actions was so compelling that the law should be changed. The 1977 committee considered it was anomalous for a member's communications with the parliamentary commissioner for administration to enjoy absolute privilege under the Parliamentary Commissioner Act 1967 while his communications with a Minister did not. The 1970 joint committee's proposed statutory definition of 'proceedings' included:

'all things said, done or written between members or between members and officers of either House of Parliament or between members and Ministers of the Crown *for the purpose of enabling any member or any such officer to carry out his functions as such . . .* ..' (our italics).

106. There is force in the view that proceedings in Parliament should include letters to Ministers raising matters which could equally well be pursued by parliamentary question and thus be absolutely privileged. The parliamentary question developed as a device for raising specific matters capable of being answered shortly and without the need for debate. The 1967 committee commented:

'Many members now use the parliamentary question as a weapon of penultimate resort to give publicity to its subject-matter when, and only when, they cannot obtain satisfaction by correspondence; yet the House has taken the view that such correspondence does not fall within the ambit of 'proceedings in Parliament' The practical effect of this distinction seems to Your Committee to be indefensible'.

To some extent the distinction has recently been blurred further, now that a question to a Minister may elicit a reply in the form of a letter from the head of the executive agency more directly concerned. Even if not 'proceedings', such replies, when published in the official report, are protected by the absolute privilege afforded by the Parliamentary Papers Act 1840.

107. An extension of absolute privilege to members' correspondence with Ministers would therefore seem logical. But on closer examination it would create problems of principle. Why distinguish between a member's letter to a Minister and a member's letter to a public official or a local authority? Should a constituent's correspondence accompanying a member's letter be considered part of a 'proceeding'? Should a member's reply to the constituent have the same privilege? When a matter is raised in debate in the House a member may be subject to challenge from other members. Parliamentary questions should be short and to the point, and are subject to rules of order. Letters can be extensive, and if absolutely privileged under article 9 might be used as a means of publishing with impunity defamatory statements or trade secrets. With modern photocopying facilities and e-mail, many people can easily see copies of letters, sometimes inadvertently. One reason why letters to Ministers have increased appreciably is the rise in the number of constituency cases ill-suited to proceed by way of written questions, because they are too detailed or for some other reason. If parliamentary privilege were extended to members' correspondence, Parliament would probably become involved in attempting to make rules for correspondence, both constituency correspondence and generally, as it has for questions and other proceedings. The comparison drawn by the 1977 committee is not convincing. Correspondence with the parliamentary commissioner for administration consists mainly of complaints of maladministration by constituents, forwarded by members for investigation by the commissioner under statutory powers. By their nature these complaints may be defamatory, and exposure to defamation actions would unduly obstruct the commissioner's investigations.

108. It remains the case that the distinction between a member's letter and a member's speech or parliamentary question can be somewhat arbitrary. A letter may relate to the same subject matter as an existing proceeding, and may simply be for the member a more convenient or sensible way of pursuing the same objective. It is anomalous that a member who, for example, received information that children were being abused in a named institution, would have the benefit of article 9 if he tabled a question but not if he wrote to the responsible Minister first. But the boundary of privilege has to be drawn somewhere, and the present boundary is clear and defensible. Moreover, although members taking up difficult constituency cases often receive threatening letters from solicitors, cases in court are rare. Professor Bradley summed up the position in evidence:

'There was a strong case for [absolute privilege] in 1957 at the time of the *Strauss* case. . . . That strong case is still there. However, we have had the last 40 years in which the qualified privilege of common law seems to have enabled members of both Houses to carry out their functions satisfactorily'.

109. This practical consideration has weighed heavily with the Joint Committee, coupled with the absence of any defensible line between constituency correspondence with a Minister and constituency correspondence with others.

110. There is another consideration. Article 9 provides an altogether exceptional degree of protection, as discussed above. In principle this exceptional protection should remain confined to the core activities of Parliament, unless a pressing need is shown for an extension. There is insufficient evidence of difficulty, at least at present, to justify so substantial an increase in the amount of parliamentary material protected by absolute privilege. Members are not in the position that, lacking the absolute immunity given by article 9, they are bereft of all legal protection. In the ordinary course a member enjoys qualified privilege at law in respect of his constituency correspondence. In evidence the Lord Chief Justice of England, Lord Bingham of Cornhill, and the Lord President of the Court of Session, Lord Rodger of Earlsferry, both stressed the development of qualified privilege at law and the degree of protection it provides

nowadays to those acting in an official capacity and without malice. So long as the member handles a complaint in an appropriate way, he is not at risk of being held liable for any defamatory statements in the correspondence. Qualified privilege means a member has a good defence to defamation proceedings so long as he acted without malice, that is, without some dishonest or improper motive.

111. Admittedly, qualified privilege is less effective than the sweeping, absolute protection afforded by article 9, in two respects. Article 9 provides a defence not only to defamation claims but also to any claim that by sending the constituent's letter to the Minister the member committed an offence under the Official Secrets Acts or a breach of a court order. Secondly, defamation proceedings brought contrary to article 9 will generally be dismissed peremptorily, without any need for a trial, as it will be obvious from the outset that they are bound to fail. With a defence of qualified privilege, if there is sufficient prima facie evidence of malice the case will ordinarily proceed to trial for a verdict by the jury. So a member may be put to the inconvenience and expense of defending an action before he is vindicated.

112. Constituency correspondence has burgeoned over the last 30 years, but since Strauss there have been remarkably few, if any, instances of defamation actions against members who were acting on behalf of their constituents. We **recommend** that the absolute privilege accorded by article 9 to proceedings in Parliament should not be extended to include communications between members and Ministers.

Members' drafts and notes

113. Drafts and notes frequently precede speeches and questions, and members often need assistance and advice in preparing them. By necessary extension, immunity accorded to a speech or question must also be available for preparatory drafts and notes, provided these do not circulate more widely than is reasonable for the member to obtain assistance and advice, for instance from a research assistant. It would be absurd to protect a speech but not the necessary preparatory material. The same principle must apply to drafts of evidence given by witnesses. This principle must also apply to drafts of speeches, questions and the like which in the event are not used. A member cannot always catch the Speaker's eye, or he may change his mind.

114. This approach accords with the view expressed by the select committee of the House of Commons on the Official Secrets Acts (1939). The appointment of this committee arose out of the action taken by a member, Mr Duncan Sandys, in threatening to table a question regarding the inadequacy of London's anti-aircraft defences. The draft question included information, classified as secret, about the number of available guns and their state of readiness. Mr Sandys sent the draft to the Minister. In its report the committee said there were some:

'communications between one member and another, or between a member and a Minister, so closely related to some matter pending in, or expected to be brought before the House, that though they do not take place in the chamber or a committee room they form part of the business of the House, as, for example, where a member sends to a Minister the draft of a question he is thinking of putting down or shows it to another member with a view to obtaining advice as to the propriety of putting it down or as to the manner in which it should be framed'.

The House agreed with this conclusion.

The above extract shows that, in the United Kingdom, the protection provided by parliamentary privilege is not considered to extend to matters such as correspondence sent by members and there is no reason to believe that the position in Jersey is any different. PPC does nevertheless intend to

research the position relating to documentation such as draft propositions or correspondence from a States member relating directly to a matter being brought to the Assembly to ascertain the point at which parliamentary privilege begins.

PPC notes that some members have referred to the concerns expressed in relation to the recent arrest of Damien Green MP and the search of his office and other premises. The recent report by the House of Commons Home Affairs Committee “Policing process of Home Office Leaks Inquiry” (HC 157 published on 16th April 2009) raises concerns firstly in relation to the manner in which the Police were allowed by the Serjeant-at-Arms to access the Palace of Westminster without a search warrant and secondly to the proportionality of the actions of the Home Office and the police in the light of the nature of the ‘leaked’ documents. Questions of parliamentary privilege were said by the Committee to be outside its remit.

During the States sitting of 20th January 2009, the Deputy of St. John asked H.M. Attorney General to advise whether States members had any protection from investigation by the police within the States Building while carrying out their business as Ministers, Scrutiny Panel members or Back-Benchers, and to outline what protection exists and whether a warrant to search Members’ possessions, lockers, desks and computers within the States building could be issued, by whom and on what grounds.

The Attorney General responded as follows -

‘There is no special protection for any Member from investigation by the police, whether within or without the States building, other than through the ordinary parliamentary privileges which might be claimed. A warrant to search Members’ possessions, lockers, desks and computers could be issued under relevant provisions in the Police Procedures and Criminal Evidence (Jersey) Law 2003. Such warrants can only be obtained where there are reasonable grounds for believing a serious offence has been committed, of which there is evidence on the premises, and where the evidence is relevant, not legally privileged, and does not consist of excluded or special procedure material. Under the Police Procedures and Criminal Evidence law, warrants can be issued by the Bailiff, the Deputy Bailiff, or in the case of many statutory provisions, by Jurat. It may well be that the Privileges and Procedures Committee, in consultation with the Bailiff will want to consider what guidance ought to be given to Members in relation to parliamentary privilege.’

As set out above PPC has already begun the research as suggested by the Attorney General and expects to be in a position to present a more definitive statement once that work is completed.

The Committee plans to publish this in the form of a comprehensive report covering all aspects of parliamentary privilege and this will include addressing issues that are raised in this question such as the relationship between parliamentary privilege and the arrest of members, the search of their premises (including searches of the States Building) and the seizure of their documents under the Police Procedures and Criminal Evidence (Jersey) Law 2003 and other legislation.

It would not be appropriate for PPC to comment at this stage on the individual case of Senator Syvret as it knows nothing about the circumstances of the police action or the nature of the material seized.

2.20 DEPUTY A.K.F. GREEN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE CONDITION OF LA FOLIE INN:

Question

Given that up until its closure, La Folie Inn on the Old Harbour had been a working public house, albeit run down, will the Minister explain what works, if any, have been undertaken within this listed building and outline -

- (a) who carried out this work and on whose authority?
- (b) whether planning permission was given for this work?
- (c) how much will it cost to reinstate any aborted work and who will pay for it?
- (d) what the department's plans, if any, are for this building?

Answer

- a) No internal works have been carried out within La Folie Inn since its closure as a public house. A structural report was carried out by a potential developer in 2005 which involved removing some wall panels and flooring.
- b) Planning permission was not given for this report to be carried out.
- c) Any repairs required will be made good as part of the eventual redevelopment of the site.
- d) Referring to my answer to Deputy Power's written question of 10th March 2009, work is on-going to vacate the entire La Folie site. This will be completed this summer when the workshops are relocated to the newly converted former Harbour Works building at La Collette. La Folie quay is currently being master-planned by Jersey Harbours, WEB and Property Holdings with the intention of maximising the value of the whole site for marine leisure in the long term.

2.21 DEPUTY A.K.F. GREEN OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING DESIGN CHANGES TO THE NEW ENERGY FROM WASTE PLANT:

Question

Could the Minister -

- (a) advise the Assembly what, if any, design changes he, as the Minister for Planning and Environment, made to the original specification to the Energy from Waste plant which was discussed at a meeting on 6th November 2008?
- (b) Provide a copy of the minutes of the meeting of 6th November 2008?

Answer

- (a) As Minister for Planning and Environment my first formal involvement with the Energy from Waste Plant was in considering an application for outline planning permission – PP/2007/0050- submitted in January 2007. That application sought only to establish the principle of development of the Energy from Waste Plant.

During consideration of that application I was conscious that the scale of the building would have to be such that its impact could only be mitigated by an architectural design of exceptional competence complimented by similarly excellent landscaping proposals. I felt that the originally proposed 'armadillo like' steel building would not achieve the necessary high standards and therefore Hopkins Architects were appointed to advise on appropriate architecture.

Hopkins agreed that the existing scheme was unacceptable and suggested a completely revised design whereby the building mass was reduced by externally expressing the roof structure. Hopkins have used this device in other building designs, most notably at Glyndebourne where it helps to reduce the perceived bulk of their multi award winning fly-tower.

TTS retained Hopkins to prepare an outline planning application. I determined the outline application in October 2007, requiring that the details of the scheme be the subject of a further reserved matters application.

I must emphasize that I was not party to the decision by TTS to engage Hopkins as their architects for the preparation of the reserved matters application.

The reserved matters application was prepared by Hopkins and a consent was given. Conditions attached to the consent will ensure the quality of construction and the delivery of the detailed finishes are all of the necessary high standards.

It would appear that if the cost of the building rose it was between the outline application and the reserved matters application. During that period I was not materially involved in progressing the design and therefore cannot be held responsible for any cost increases.

This is a hugely important building as it will have a massive impact on the southern approach. Not only will it have an impact from the perspective of Islanders but it will also be seen by the approximately one million who enter the port. I have been clear throughout my tenure as Minister for Planning and Environment that Jersey deserves outstanding architecture and design. This must apply to all buildings whether public or private and only by adhering to my philosophy will the quality of the built environment of the Island improve to the standards which I consider reflect the unique nature and character of the Island.

I fully accept that the approved proposals are likely to be more costly than the cheapest alternative. However this is always the case with proposed buildings and it is my job as Minister to deliver buildings of architectural competence and to set a high standard.

Furthermore I made it very clear throughout the development of the proposals that Hopkins should endeavour to work within TTS's budget and indeed was complimented by the former TTS Minister for taking this approach.

- (b) I would like to clarify the situation regarding the meeting of 6 November 2008 referred to in the question. That meeting was, I understand, held between TTS and the Treasury and no-one from my Department was involved. I am only aware of the meeting through the disclosures that have been made in respect of the finance issues regarding the EfW project. Consequently I have no notes or minutes.

2.22 THE DEPUTY OF ST. MARY OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE TESTING OF SEA WATER FROM THE CASTLE QUAYS SITE:

Question

Would the Minister inform the Assembly whether tests have been carried out on the sea-water which has been flooding the excavation pit at the Castle Quays site on the higher tides, and if so, would he give the Assembly full details of the chemical composition of this water, any variations in the test results and the causes of these variations?

Answer

Environmental Protection staff have not carried out tests on sea-water in the Castle Quays site because, to date, there has been no requirement to do so.

Prior to any works commencing on site, and in accordance with Condition 1 of their planning permission, the developer produced a *Construction Environmental Management Plan (CEMP)*. This CEMP, which was submitted to the Department after significant negotiation establishes that whilst it is likely that groundwater will be present in the excavation, these waters will not require controlled discharge.

This is because, as the CEMP states, if groundwater were to seep into the excavation, work would cease in order to allow the water to drain away naturally. In addition, it notes that the construction of the basement floor slab is timed to avoid high tides and that any surface water drainage from the site will be connected, by gravity, into the existing public sewer in Rue de L'Eau.

The CEMP requires that the Principal contractor will ensure that any water that may have come into contact with contaminated materials will be disposed of to the satisfaction of the States of Jersey. The contractor is therefore bound by the terms of the CEMP to be aware of the potential for waters to become polluted and to look out for any such occurrences.

Disposal methods may, in these instances be to Foul sewer, the receipt of which is the responsibility of TTS, or if the waters are capable of cleaning to strict standards imposed by discharge consent conditions, to controlled waters. If therefore, at any point, the developer requires to discharge, he is bound by the terms of the CEMP and The Water Pollution (Jersey) Law 2000 to consult Environmental Protection and, before any controlled discharges would be allowed, a permit must be applied for and granted. During this process the applicant and the regulator would take samples of the waters as part of the determination process.

2.23 THE DEPUTY OF ST. MARY OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING SAVINGS FROM 'SCOPE ADJUSTMENTS' ON THE NEW ENERGY FROM WASTE PLANT:

Question

In view of the fact that in the Comptroller and Auditor General's Report "Energy from Waste Plant: Management of Foreign Currency Exchange Risks" of March 2009, the table on page 97 shows that a saving of £1.923 million was made on an item called 'scope adjustments', would the Minister inform the Assembly exactly what these adjustments were, how it was decided that they should apply, how they led to the savings quoted, and how they will affect the future performance of the incinerator?

Answer

The scope adjustments approved within the Engineering Procurement and Construction Contract are as follows:

- Rationalisation of the Bulky Waste Facility for the removal of a tipping bay
- Reduction of 4°C to the air conditioning control temperature differential
- Removal of the hot standby Continuous Environmental Management System
- Use of existing Jersey Electricity Company chimney liners
- Bunker chutes to be included in the bunker wall
- Adjustment for an increase in grate size
- Sludge system - civil engineering and essential mechanical works
- Removal of operational support to the purchaser
- Removal of one shredder from Bulky Waste Facility
- Additional excavation of rock due to movement of buildings
- Refined landscaping allowance
- Professional Indemnity insurance increase to £20 million cover
- Additional requirement for an Advanced Payment Bond

Following extensive negotiations with the Contractor, it was decided by the Minister for Transport and Technical Services, on the recommendation of the Energy from Waste Project Board (which includes the Technical Adviser), that these adjustments should apply. The scope adjustments were either identified by the Contractor or proposed by the Purchaser following detailed technical review of the implications.

The scope adjustments lead to the savings quoted when these were added to the base contract price at an assumed conversion rate of €1.2729 to the Pound. The precise sums are subject to a confidentiality agreement between the Minister and the Contractor.

Whilst there is some loss of capability from the reductions identified as necessary within the scope adjustments, none will prevent the adequate functioning of the facility against the desired primary operational outcomes or lead to any reduction in the ability of the plant to meet consent requirements.

2.24 THE DEPUTY OF ST. MARY OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE COST OF TRANSPORTING CONTAMINATED LANDFILL TO LA COLLETTE 2:

Question

Can the Minister give full itemised details of the cost to the States of transferring 133,000 tons of contaminated landfill from the Castle Quays site to La Collette 2 (whether by payments to Dandara to cover costs incurred by them, or by payments to contractors, or by the application of concessionary rates (reduced or zero) for taking this material at La Collette or in any other way) and advise where this cost is to be found within the Transport and Technical Services Department's budget?

Answer

The Transport and Technical Services Department did not incur costs for transferring the excavated material from the Castle Quay site. As previously stated, to date, 133,132 tonnes of material has been received from the Castle Quay development.

However, the Department incurred costs for receiving this material and these are detailed below:

107,000 tonnes was received free of charge under the Le Pas Holdings agreement, this equates to a 'lost income' of £1,177,000 based at £11.00 per tonne.

26,132 tonnes were charged for with gate fees that amounted to an income of £330,039

Within these tonnage figures was a component of incinerator ash (10,990 tonnes) which was separated and disposed of within a newly constructed ash pit at La Collette. The cost of receiving and encapsulating the 10,990 tonnes of ash from Castle Quays was calculated at £16.72 per tonne equating to a cost of £183,752

The revenue costs of handling waste on the La Collette site have been calculated based on the La Collette budget divided by the total tonnages received in 2008. This equates to a cost of £4.21 per tonne. Therefore the cost for receiving the remaining 107,000 tonnes of inert waste is £450,470.

In conclusion the cost of receiving 133,132 tonnes of Castle Quay's waste is calculated as being in the region of £634,222

Departmental Budget.

These costs are to be found within the La Collette Reclamation Site budget (QBSW01).

2.25 THE DEPUTY OF ST. MARY OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING CNIM INCINERATOR PLANTS IN THE UNITED KINGDOM:

Question

Further to a written response to a question on 24th March 2009, would the Minister now provide details of all CNIM incinerator plants built in the UK, give details of when pollution limits at these plants were exceeded, the reasons they occurred, and for those plants where exceedances took place, an explanation of why the department believes that such failings will not apply to the Jersey CNIM plant.

Answer

The Energy from Waste plants built by CNIM in the UK are:

South East London Combined Heat and Power Plant, Lewisham	1994
Staffordshire County Council, Stoke on Trent	1997
Dudley Metropolitan Council, Dudley	1998
Wolverhampton Metropolitan Borough Council, Wolverhampton	1998
Hampshire City Council, Chineham	2002

Hampshire City Council, Marchwood	2004
Hampshire City Council, Portsmouth	2005
Sheffield City Council, Sheffield	2007

Details of if and when pollution limits are exceeded at these plants are held by the Environment Agency who regulate waste to energy facilities in the United Kingdom via the Environmental Permitting scheme.

As was indicated in the previous answer to written question 4635, emission limits for this type of plant are extremely tightly regulated under the European Waste Incineration Directive.

According to the Environment Agency records provided by the Department's Technical Adviser, none of the four most modern CNIM plants have had any recorded emission breaches.

It is important to recognise that a breach is not evidence of an environmental problem and is not an offence in the United Kingdom. Limits are set at levels well below those likely to cause any environmental concern.

Where a breach is reported, the Environment Agency will investigate to see what has happened and what action is appropriate. If the breach is significant, the Environment Agency will take immediate action such as imposing "Improvement" or "Prohibition Notices". In the majority of the breaches no action is taken and is only necessary if the breaches become persistent.

Of the four older CNIM plants, it is understood that breaches for Hydrogen Chloride and Carbon Monoxide have occurred. In the large majority of breaches, simple actions such as removal of blockages or better control and mixing of waste entering the plant rapidly resolve the issue.

Modern plants are better designed to cope with such issues. The Jersey plant is designed in line with the modern plants such as that in Sheffield incorporating similar gas cleaning and monitoring equipment, and will be operated to the same standards.

Since the end of 2006, the CNIM plant in Sheffield has had no reported breaches of air emissions. To have no reported emission limit breaches in over two years attests to the quality of the plant and the way the plant is operated. Emissions are continuously monitored which enables the operator to take appropriate actions if required during any potential disturbances.

2.26 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR HOUSING REGARDING THE SALE OF STATES-OWNED PROPERTIES:

Question

Could the Minister inform members how many units to date have now been sold off as agreed in the Social Housing Property Plan 2007-2016 (P.6/2007) and outline what type of units they are, as well as the location of those units?

Answer

The following properties have been sold, through the provision of the deferred payment scheme approved in P6/2007 :-

Property
18 x units at La Cambrette (Le Squez Phase 1A)
23 x units at Le Selliere (Le Marais Phase1)
40 x units at Les Cloches (Le Squez Phase 1B)
108 Clos Des Sables
109A Clos Des Sables
11 Les Hoummets
1 Le Bel Collas
80 Grasett Park
74 Grasett Park
6 Grasett Park
9 Grasett Park
18 Grasett Park
48 Grasett Park
53 Grasett Park
70 Grasett Park
2 Oak tree Gardens
3 Oak tree Gardens
15 Oak tree Gardens
27 Oak Tree Gardens
37 Oak tree Gardens
38 Oak tree Gardens
39 Oak tree Gardens

These sales represent a mix of new build houses, refurbished houses purchased by the current 'sitting' tenants and those houses which became void 'vacant' due to natural turnover and were then sold to other States tenants who then released their existing homes for re-letting. These processes ensured that no tenants were displaced.

Open Market Sales

The following properties have been sold on the open market since July 2007.

4 Boulevard Avenue
17 Devonshire Place
19 Devonshire Place
39 Midvale Road
Medina, Seale Street
10 & 12 Duhamel Place

2.27 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE NATIONALITIES OF THOSE CURRENTLY REGISTERED AS UNEMPLOYED:

Question

Could the Minister advise members of the nationality by percentage of the over 1,000 unemployed persons registered with the department?

Answer

The percentage breakdown of individuals registering as actively seeking work at the end of March 2009 is:

British (including Jersey born)	82%
Portuguese	9%
Other	5%
Polish	2%
Irish	2%

The “Other” category includes at least 14 nationalities.

Currently, nationality is recorded at the time of initial registration with the Department, based on an official photo-ID, such as a passport or national identity card. Historically, nationality was recorded on the basis of a self-declaration by the individual.

2.28 DEPUTY S. PITMAN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE NUMBERS IN RECEIPT OF VARIOUS INCAPACITY AND INVALIDITY BENEFITS:

Question

How many people are currently in receipt of Long Term Incapacity Allowance (LTIA), Short Term Incapacity Allowance (STIA) and Invalidity Allowance, and what are the illnesses/injuries that they suffer? And how many of these recipients are currently receiving an Incapacity Pension?

Would the Minister inform Members as to how many recipients of LTIA, STIA and Invalidity Allowance are currently deemed by the Medical Board as a 100% loss of faculty, and therefore unfit to work?

Could the Minister explain why a person being assessed by the Medical Board is only assessed on the specific body part affected by an illness/injury, and why the Board does not take into account the affect on the whole body of the illness/injury and the likelihood of that person being unable to work, given that many employers will not employ such a person due to there being a potential financial liability?

Answer

As at 7 April 2009, Departmental records indicate the following open claims:

	Number of open claims
Long Term Incapacity Allowance	3,035
Short Term Incapacity Allowance	721
Invalidity Benefit	1,353
Incapacity Pension	9

Incapacity benefits were updated in 2004 and LTIA was introduced by the States to replace two benefits- Invalidity Benefit (paid in respect of long term illnesses) and Disability Benefit (paid in respect of injuries). Individuals claiming LTIA are assessed by a Medical Board and awarded a benefit based on their percentage loss of faculty. Individuals receiving LTIA can receive the benefit and undertake paid employment at the same time.

There are currently 98 individuals claiming LTIA with a 100% award.

STIA is awarded on the basis of a medical certificate signed by a General Practitioner, who certifies that the individual is temporarily incapable of work, and the benefit is paid at the standard rate of £172.83 per week.

Invalidity Benefit is only available to individuals who have been claiming this benefit continuously since before October 2004, when incapacity benefits were updated. This is a long-term benefit paid at the standard rate of £172 83. Individuals receiving Invalidity Benefit are not allowed to work whilst they receive the benefit.

These benefits cover a very wide range of medical conditions. The most common conditions across all three benefits are anxiety/depression and back pain. An analysis of the open claims at 7 April provides the following breakdown:

	Depression/Anxiety/Stress	Back pain/Back
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		injury
Long Term Incapacity Allowance	13%	14%
Short Term Incapacity Allowance	27%	9%
Invalidity Benefit	29%	10%

The Medical Officer of Health's report for 2008 provides information on the conditions giving rise to the highest amount of benefit paid in 2007.

These are:

Rank	STIA	LTIA
1	Depression	Depression
2	Pain-back	Pain-back
3	Stress	Mental illness
4	Operation	Nervous disorder
5	Upper respiratory tract infection	Heart disease
6	Post-operation	Anxiety
7	Hospitalisation	Arthritis
8	Anxiety	Epilepsy / fits
9	Hospital Treatment	Arthritis
10	Virus infection	Chronic fatigue syndrome

The Social Security Law (Article 16) and the Social Security (Assessment of Long-Term Incapacity) Order set out the assessment principles for the award of benefit. They set out how the Medical Board should assess the loss of faculty that the individual has suffered as a result of the long-term condition.

The ability of the individual to work is specifically excluded from the assessment of the loss of faculty. The assessment is a medical assessment, not a financial one. If the individual is unable to work as result of a long-term medical condition, the Income Support scheme is available to provide financial assistance.

2.29 DEPUTY S. PITMAN OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING GLOBAL WARMING ISSUES:

Question

Given the attendance of the Minister at the recent British-Irish Council, would he inform Members what the States of Jersey is doing right and wrong in terms of global warming issues? Would he outline what we should be doing better and advise what action, if any, he plans to take to ensure this happens?

Answer

1. Background

I thank the Deputy for the timely nature of this question given that the theme of the British Irish Council, Environment (BIC(E)) summit, held on the 17th April, was climate change. The opportunity to work with the other British Irish jurisdictions on this matter was an invaluable chance to exchange experiences and knowledge and in particular receive an update from Professor Mitchell of the UK Met Office, Hadley Centre on the latest climate change scenarios. Attending Ministers were as detailed in the notes at the end of this answer.

2. Awareness of Climate Change

2.1 The production of ‘Turning Point’ – the ECO-ACTIVE guide to the Science and Impacts of Climate Change

A critical area identified by the BIC(E) forum was that of awareness of the issue of Climate Change and I feel we are making good progress here in Jersey on that issue. I refer to the recent production of ‘Turning Point - the ECO-ACTIVE guide to Climate Change’ that all Members will have received their copy of. I hope that you will agree with me that it is a highly accessible summary of the science behind climate change and the effect of greenhouse gas emissions arising from human activity on our global climate.

In addition, ‘Turning Point’ outlines the impacts of climate change on Jersey and highlights the challenges ahead as a result of the predicted climatic shifts for example longer hotter summers and warmer wetter winters. Attendees of the BIC(E) commented that ‘Turning Point’ provided a very comprehensive summary of the subject that will raise awareness and understanding of the issue preparing the way for challenging proposals for mitigation and adaptation.¹

Copies of ‘Turning Point’ have been issued to a number of stakeholders and are available from the Planning and Environment Department in hard copy as well as being posted on www.ECO-ACTIVE.je for downloading. In addition we will be distributing copies to all the schools accompanied with a resource pack that highlights how climate change and associated issues can be integrated into the curriculum.

2. Mitigating Climate Change - An Energy Policy for Jersey

Awareness and understanding is the first step in addressing the challenges of climate change. Mitigation, however is encompassed by an Energy Policy and an extensive Green Paper – ‘Fuel for Thought?’ was consulted upon in 2007/2008. The Green Paper and the feedback from the consultation process has been developed into a draft White Paper and the principles of this were endorsed by the Council of Ministers in autumn 2008.

The proposed goal of Jersey's energy policy is to achieve '**Secure, Affordable, Sustainable Energy**'. This recognised that energy is essential to our quality of life, our economy and social equity. The Green Paper put forward a number of options that described the fiscal, legislative and policy measures to achieve this goal. The measures proposed fall into the following categories:

- Doing more with less – reducing energy use;
- Adopting sustainable energy solutions;
- Ensuring a secure and resilient energy supply;
- Preparing for the future.

To help make sense of the priority for action, an Energy Hierarchy for Jersey was established. In this hierarchy the first step is to reduce energy demand followed step two which is to use low-carbon fuels. Step three is to use less imported energy and then the hierarchy proposes that the other impacts of energy use are reduced. The lowest action priority in the hierarchy is to negate unavoidable carbon emissions.

The Energy White Paper will be brought forward to the States later this year and will encompass the principles of the green paper and propose a suite of policy options to mitigate Jersey's contribution to global emissions and achieve 'secure, affordable and sustainable' energy for the Island into the long term. The White Paper is a cross-departmental piece of work led by the Energy policy Steering group comprising myself, the Minister for Treasury and Resources and the Minister for Economic Development. It will propose challenging carbon-reduction targets in line with European best practice such as a reduction in Jersey's carbon emissions of at least 80% by 2050 (on a 1990 baseline). The Energy White Paper will also identify the need to bring forward a strategy to measure and cope with the effects of climate change.

3. Progress ahead of the publication of an Energy Policy

Considerable progress has been made on three critical workstreams ahead of the publication of the Energy White Paper: delivering an Energy Efficiency Service; progressing investigations into large-scale renewable energy for Jersey and improving the minimum statutory thermal performance of new buildings.

3.1 An Energy Efficiency Service

Funding for the first phase of an energy efficiency programme in 2009 was agreed by the States in September 2008 (£1M); this has been supported by a voluntary contribution of £500,000 from the Jersey Electricity Company. The programme is aimed at helping low-income and vulnerable householdsⁱⁱ reduce their energy bills and improve the energy efficiency of their homes by providing up to 100% grants for a range of measures including loft and cavity wall insulation.

A full service will be offered incorporating, inspection, supply and fitting through approved contractors. We aim to treat approximately 800 homes over the next 12 months and the benefits are three-fold :

- Low-income groups will benefit from a reduction in energy use and thus lower energy bills;
- There are environmental benefits since overall energy use (and thus carbon emissions) will be reduced;
- There is a stimulus to the local economy by the injection of considerable sums into the building sector e.g. cavity wall and loft installers.

The intention is that the first phase of this initiative will act as a stimulus for recurring funding and more substantial States funded programmes to encourage people to use energy sustainably and to act on climate change.

The Service will be advised by the 'Jersey Energy Trust' an independent unpaid body which is being constituted with a remit to monitor the progress of the scheme and provide advice for the development of the project now and in subsequent phases. An external advisor from the UK's Energy Savings Trust sits on the Jersey Energy Trust and has been able to provide invaluable assistance in the development of the scheme as have the Advisory Group on Environmental Sustainability (AGES)ⁱⁱⁱ

2. Renewable Energy for Jersey

The potential for the exploitation of renewable energy, at a large enough scale to displace fossil fuel imports in the long-term was identified in the Energy Policy Green Paper. In the summer of 2008, I appointed a Tidal Power Steering Group (TPSG), chaired by the Constable of Grouville, to advise how the Island might best exploit tidal stream technology in its territorial waters.

The TPSG kindly reported back in December 2008 with the unanimous conclusion that tidal power could, in the medium term, make a significant and increasing contribution to the energy requirements and security of the Island for the rest of this century. Furthermore, the possibility should be actively pursued by an appropriately qualified and mandated group. The TPSG have recently recommended to me the format of the mandated group with a remit to:

- Investigate funding options around the environmental and technical investigations;
- Investigate the legislative and commercial framework necessary to attract resource developers;
- Liaise with our neighbouring jurisdictions to explore potential collaborations both in harnessing the resource and selling to potential markets.

I am convinced that this is a vast long-term opportunity for Jersey and shall be shortly be convening the first phase of this group. I had the opportunity during the BIC(E) summit to hold extremely productive discussions with Lord Hunt of Kings Heath^{iv} whose portfolio includes tidal power.

I consider opening discussion with the UK and our neighbouring Channel Islands critical to achieving the most advantageous progress. Should the Island develop large scale renewable energy generating capacity, it is likely to wish to export the majority into a larger grid system for two reasons : i) to ensure a smoothed supply (renewable generation is intermittent) and ii) to take advantage of higher tariffs from European jurisdictions which have legal and financial incentives to purchase renewably generated electricity. Any such approach will require careful consideration of the benefits to Islanders but early discussions are essential and the BIC(E) presented a welcome opportunity to begin this process.

3. More challenging building bye-laws

Over 30% of our carbon emissions arise from the built environment locally so the thermal performance of this sector is very important in ensuring minimal energy use and emissions as well as an improved living environment for the eventual occupier. I have been working to bring forward more challenging updated building bye-laws to ensure that new developments perform to the highest standards and I expect these to be completed and in force by the autumn.

The Deputy also asks if I would outline what we should be doing better and advise what action, if any, he plans to take to ensure this happens. My answer to this is that I would have liked to have seen the Energy Policy White Paper brought to the States earlier. However, over the last year there has been considerable movement in the global market place in respect of energy prices as well as in the global economy as a whole. We have taken the view that we must account for this rapidly changing scene in the White Paper and so further work has been carried out to ensure it is robust but unfortunately this has caused a delay. Nevertheless, I believe my commitment to progress the three significant workstreams outlined above has meant that we are still making considerable meaningful progress whilst ensuring that we will be bringing forward a challenging policy for debate by the States that proves Jersey takes its global environmental responsibilities seriously.

NOTES

Ministers Attending the BIC(E) event

- Lord Hunt of Kings Heath, Minister for Sustainable Development and Energy Innovation and Deputy Leader of the House of Lords, UK
- Mr Michéal Kitt TD, Minister of State, Department of the Environment, Heritage and Local Government, Ireland
- Stewart Stevenson MSP, Minister for Transport, Infrastructure and Climate Change, Scotland
- Jane Davidson AM, Welsh Assembly Government Minister for Environment, Sustainability and Housing, Wales
- Hon John Shimmin, MHK Minister for the Department of Local Government and the Environment, Isle of Man
- Deputy Peter Sirett, Minister, Environment Department, Guernsey
- Minister Sammy Wilson, MP, MLA Minister of the Environment for Northern Ireland, Northern Ireland
- Minister Conor Murphy MP, MLA, Minister for Regional Development, Northern Ireland
- Senator Freddie Cohen, Minister for Planning and Environment, States of Jersey

ⁱ *Mitigation* involves taking actions to reduce greenhouse gas emissions and to enhance carbon sinks aimed at reducing the extent of climate change. *Adaptation* involves taking action to plan for and minimise the impacts of climate change.

ⁱⁱ The Phase 1 target group for this initiative are those home-owners in receipt of either the Cold Weather Payment or that are on the 65+ Health Scheme. Further phases of the scheme are expected will to extend this group. Those in States housing are not included in the scheme since there is a parallel scheme running within the States to upgrade these properties. Ways in which to extend the scheme to tenants living in accommodation owned by private landlords are being explored.

ⁱⁱⁱ AGES is Co-Chaired by Dr Lee Durrell and Sir Nigel Broomfield

^{iv} Minister for Sustainable Development and Energy Innovation and Deputy Leader of the House of Lords

2.30 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING OUTBREAKS OF THE NOVOVIRUS IN JERSEY:

Question

On how many occasions, if any, in the last 5 years have there been serious outbreaks of the Norovirus or other vomiting and diarrhoea type bugs in Jersey?

How many serious food poisoning admissions and/or treatments were classified or treated by the Hospital during the last 5 years?

Answer

In the 5 years to the end of 2008:

- There were 8 Norovirus outbreaks across all hospital sites.
- There have been 2 large confirmed food borne Norovirus outbreaks and an extended outbreak in summer 2005 affecting some 13 hotels, 3 coach tour businesses, the ferry and airport.
- There were 22 bacterial food borne outbreaks.
- 25 patients with food poisoning were admitted to hospital.

2.31 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE MINISTER FOR HOME AFFAIRS REGARDING THE RECRUITMENT OF SECRETARIAL STAFF:

Question

Would the Minister explain how the recent advertisement for a Personal Assistant and Secretary to provide services to himself and the Department's Senior Management Team is consistent with seeking efficiencies in government?

Answer

The Home Affairs Department has been fortunate to date in having had no need to provide administrative support to previous Ministers, who had different working arrangements. Consequently, although the Department has been able to make running cost savings in the past, it is nevertheless the case that Ministers cannot function efficiently without the appropriate level of administrative support.

The advertised post is part-time and seeks to provide support to the Minister and Assistant Minister who are now based within the department. The new appointee will only provide cover to the wider Department in the absence of the Department's only other PA / secretary, who currently provides all administrative support.

2.32 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING NEGOTIATIONS WITH THE OWNERS OF THE PLEMONT HOLIDAY VILLAGE:

Question

Would the Minister outline the negotiations, if any, that have occurred with the owners of the Plemont Holiday Village site given the terms of P152/2008, which required that the outcome of such negotiations be presented to the States to enable members to decide what further action, if any, they might choose to take?

Answer

A meeting took place on 21st January 2009 with representatives of Northern Trust, the company which owns the Plemont Holiday Village site, in order to establish whether or not this company would consider the sale of this property to the Public, and, if so, at what price.

Northern Trust made it clear that whilst, as with any other property in their ownership, they might consider a sale, prior to entering into any negotiation, they intended to proceed with a planning application for either 30 large houses (that number being the officer's recommendation when they previously submitted a scheme for 36) or the scheme they have now submitted for self catering units. Northern Trust also indicated that they considered this site to be a significant investment opportunity, from which they fully appreciated value might only be realised in the long term.

A previous report to the Council of Ministers identified that Northern Trust had acquired the Holiday Village in December 2005 for £4.85m. Current Holding costs, including consultants fees, interest etc have been estimated to be in excess of £6m.

The open market value of the site depends on its current use and the ability to generate an income stream from that use, or any change in use permitted by planning consent. It is difficult to assess the value of the property based on the current building stock without an accurate assessment of the costs of restoration of these buildings to a "fit for purpose" condition. However, it is likely that such costs would be prohibitive, yielding a value significantly below current holding costs. As Northern Trust have already indicated that they would not be prepared to consider a sale which did not produce a return on their original investment, it would be pointless to proceed with a valuation based on current use of the existing buildings.

It is unwise to speculate in an open report as to the price which might be achieved for a purchase by the Public of the Plemont Holiday Village site, as to do so could prejudice the Public's ability to eventually secure a negotiated acquisition price at best value.

The outcome of the current planning application will establish the likelihood of Northern Trust materialising hope value on this property.

Architects representing Northern Trust have requested a further meeting on the 6th or 7th May in order to progress negotiations, following which it is anticipated that it will be possible to provide States Members with an indication of the likely cost of acquiring the Plemont Holiday Village

2.33 DEPUTY A.K.F. GREEN OF ST. HELIER OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE COST OF CHANGES MADE TO THE ENERGY FROM WASTE PLANT DESIGN:

Question

Would the Minister provide a detailed breakdown of any extra costs incurred as a result of changes made to the original specification to the Energy from Waste plant by the Minister for Planning and Environment?

Answer

There are no extra costs that can be directly attributed to the Minister for Planning and Environment for changes made to the specification for the Engineering Procurement and Construction Contract for the La Collette Energy from Waste Facility.

However, as indicated in a previous response to written question 4362 from Deputy Tadier, it has been made a Planning condition that the Department employ Hopkins Architects Limited and Townshend Landscape Architects Limited throughout the contract until commissioning in order that the building be designed in accordance with agreed Architectural Design requirements and the

landscape design which received planning consent. The full additional cost of this has not yet been confirmed, but has been estimated for budgetary purposes at £260,000.

3. Oral Questions

3.1 The Deputy of St. Mary of the Minister for Transport and Technical Services regarding the withholding of information relating to the increased cost of the incinerator when the matter was debated on 9th July 2008:

There is a slight difficulty with this question because it has got garbled in transmission. I know not why and I did ask for it to be rectified but I still see that it is the same question down here. So I hope the T.T.S. (Transport and Technical Services) have been able to answer question I meant. **[Laughter]** It is just one figure and because of editing process through the Greffe it has got changed. So I will point that out as I read the question. Would the Minister advise whether information was withheld from Members regarding the fact that the cost of the incinerator had increased by £3.62 million when the matter was debated on 9th July 2008 from the £106.31 million (not as it says in the Order Paper) indicated in Projet 73/2008 and, if so, why was this done and what purpose was served by this action?

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

I think my response should cover the Deputy's question. I can confirm that no information was withheld from States Members regarding the cost of the La Collette Energy from Waste facility when P.73 of 2008, the Energy from Waste facility funding, was debated on 9th July. The additional architectural costs required to obtain a detained planning consent was the result of design negotiations that took place between my department, the preferred bidder and Hopkins Architects Limited. These negotiations formally commenced in August 2008 and progressed until the point at which the plant had received detailed planning consent and the engineering procurement and construction contract was signed on 14th November 2008.

3.1.1 The Deputy of St. Mary:

If I may ask a supplementary; I am fairly astonished by that answer: "No information was withheld in Projet 73" but the fact is that the cost given for the overall project, including de-commissioning of Bellozanne, was £106.31 million. That was the cost when the proposition was lodged 6 weeks before. We learned from the Auditor General's report that in the intervening 6 weeks the costs had gone up by £3.62 million and I can refer to the exact paragraph if the Minister wishes.

The Bailiff:

Just ask the supplementary question, please, Deputy.

The Deputy of St. Mary:

So I am just putting it to the Minister again that the £3.62 million hike in 6 weeks should have gone to this House and Members were faced with evaluating the cost comparison report without that data.

The Connétable of St. Brelade:

I refute that and suggest once again that no information was withheld from States Members regarding the cost of the plant. The details of any additional costs have been included within a Ministerial Decision and I can refer to Ministerial Decision 2008-0105. That all has been completely open and my department has no wish to conceal anything from States Members and is always open to Members communications when necessary.

3.1.2 Deputy R.G. Le Hérissier:

Would the Minister not concede that the sum of £3.62 million is an awful lot of money to be sloshing around which, late in the day, has apparently to be found because of ongoing negotiations between, among others, his department and the Minister for Planning and Environment? Where did this £3.62 million come from? What programmes were dropped in order to come up with this rather flexible amount of money?

The Connétable of St. Brelade:

Clearly, on a construction of this magnitude, there are several decisions which have to be made during the course of its construction and contingency funds were put in place to cover these. Clearly the demands on these have been probably in excess of what was initially anticipated in that there were increased costs referred to by the questioner regarding the exchange with the Minister for Planning and Environment and also, of course, was the well-documented exchange rate scenario which prevailed at the time. There is also a need, in any contract of this size, to have an engineering contingency. There will be a stream of decisions to be made during the course of the project which will inevitably incur changes in cost. The department is aware of this and contingencies were put in place.

3.1.3 Deputy R.G. Le Hérissier:

A supplementary; would the Minister announce how much the Minister for Planning and Environment's very worthy but apparently very expensive intervention cost his department and whether there was any serious negotiation in terms of reducing it?

The Connétable of St. Brelade:

The Minister for Planning and Environment costs the department very little. I think, in terms of changing of planning arrangements, there was some £200,000 cost and that has been referred to in the answer to other questions. Effectively, the Minister for Planning and Environment put in place his principles on the design and construction of what is going to be a landmark building and I fully accept he has his views and wishes to stick with them. From a T.T.S. point of view, an ideal situation would be to have no controls over the planning whatsoever, which is logical because we want to build the plant for as cheap as possible. But I do respect the Minister for Planning and Environment's views and they have to be accommodated.

3.1.4 The Connétable of St. Helier:

The Minister referred to contingencies being required for changes in costs where I think he means increases in costs. Could he advise the Assembly of the current estimated out-turn costs of the incinerator?

The Connétable of St. Brelade:

Regrettably I am unable to do this on the basis that, with exchanging of the changing currency rates which we are all well aware of, the exact price is fluctuating. Now, at the moment, I think that the euro exchange rate is somewhat better than it was at the time when the contract was signed and when the first milestone payments had to be made. But I do not think we would be able to pinpoint the exact costs until such time as either the funding is ... if and when the funding is hedged, if the Minister for Treasury and Resources decides to take that approach, or the contract is finalised in July of 2011. Clearly we can get a closer figure and I can produce the closer figure if Members so wish. I am happy to do that, of, shall we say, the estimated figures to date.

3.1.5 Deputy A.K.F. Green:

I am just a little confused because on one hand we have £3.6 million difference and then we are told it is £260,000 because of planning and yet, in the Comptroller and Auditor General's report, unless I have misread it - and I do not have it in front of me, unfortunately - refers to a £4 million cost of change in design. Which figure is it?

The Connétable of St. Brelade:

There were no changes in design as a result of the Hopkins intervention, if you like, in that when the original design plan was put forward it was a design by the contractors' architects. Clearly these were not acceptable to the Minister for Planning and Environment and, when the design was submitted, it was submitted on the basis of consultation with Hopkins and that probably altered figures from the original conceptual situation. So, in terms of changes from the submission of design to acceptance, the cost was very little. The department was obliged, I suppose, to take on board either Hopkins or an equivalent architect of merit to produce a building of design which was acceptable to the Minister for Planning and Environment, and this is something that we have to live with if, in the Island, we wish to cultivate a high standard of designs which are tending to come into place throughout the town and the Island. It is a philosophy, I think, that most of the Island agrees with.

3.1.6 Deputy D.J. De Sousa:

Bearing in mind what the Minister has just informed the House, that the cost of the incinerator we are not sure of because of the fluctuation of the euro, are you informing the House that nothing has been safeguarded yet against the euro and the amount we are losing?

The Connétable of St. Brelade:

This is really a matter for the Minister for Treasury and Resources, who I am sure will deal with this in due course. Clearly my department is extremely concerned that costs are minimised. But, by the same token, it could be argued that a fixing of the exchange rate at this stage may be to disadvantage, and the public of Jersey and I would be keen to see that that does not happen. I am well aware that the Minister for Treasury and Resources has the whole situation well in hand and will, no doubt, look after the public interest to the best of his ability.

3.2 Deputy S. Pitman of the Minister for Social Security regarding back-payments from Social Security for claimants of Long Term Invalidity Allowance, Short term Invalidity Allowance or Invalidity Allowance:

Would the Minister inform Members whether claimants of long-term invalidity allowance, short-term invalidity allowance or invalidity allowance received back-payments from Social Security once they were in receipt of their benefits for the period when a claim should have been made?

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

If a claimant makes a claim for a contributory benefit late then the Social Security (Jersey) Law sets out how these claims should be dealt with. The rules are contained within the Social Security Claims and Payments Order. There are specific rules for each benefit. Long-term incapacity claims can be backdated for up to 3 months, short-term incapacity claims can be backdated up to 30 days and invalidity benefit is an old benefit that is only paid to claimants who had a valid claim before October 2004. There is also a general rule that states if there is a good reason for the delay it is possible to backdate a claim for up to 6 months.

3.2.1 Deputy G.P. Southern:

Is it not the case that recipients of income support, if they do not apply within a fortnight, are debarred from claiming from the original date of income support application?

Deputy I.J. Gorst:

I am not sure what question the Deputy is asking. Debarred from what date from what?

Deputy G.P. Southern:

Can I clarify? It was a bit of a clumsy question. I am obviously out of practice. My understanding is that when an applicant for income support makes an application and the application form is sent, it is sent out with a date on it and if the form is not returned, complete and accurate in all details within a fortnight, that the claim date then moves on a fortnight. Is that not the case?

Deputy I.J. Gorst:

I am not aware that that is the case. The application form and officers try to make sure that information requested with a form is correct. Officers are and cannot be responsible for the length of time that it might take for an individual to return the form to the department so it is difficult for me to give an accurate answer because each case might, in fact, be different.

3.2.2 Deputy G.P. Southern:

A supplementary, if I may? Is it not the case that that is the practice and that that, therefore, removes any form of backdating?

Deputy I.J. Gorst:

Sorry, I did not catch that supplementary.

Deputy G.P. Southern:

Is it not the case that that is the mechanism used and, if so, does that not remove any form of backdating, even a fortnight?

Deputy I.J. Gorst:

I am not certain whether the Deputy has got a specific case in mind. I am not able to say exactly in answer to his question because it is slightly confusing. As I say, each case might be slightly different and that, I believe, is how the department deal with it.

3.2.3 Deputy S. Pitman:

The Minister talked of claimants having backdates of up to 6 months if their circumstances were exceptional. Can he inform the House whether or not this is a Ministerial discretionary decision and if he has made any such decisions?

Deputy I.J. Gorst:

I am not sure now whether the Deputy's initial question was in regard to contributory benefits. The second Deputy's question was in regard to income support. It is important that we do not confuse them because the contributory benefits are prescribed in law and that is the Social Security Law and those backdating abilities, as I understand it, are in law as I outlined in my initial answer. However, as the Deputy is aware, with income support, which is not the contributory benefit, there is the possibility of Ministerial discretion.

Deputy S. Pitman:

I was referring to L.T.I.A (long-term invalidity allowance), short-term invalidity allowance and the invalidity allowance. Has he made any discretionary decisions on exceptional circumstances whereby a person has been given 6 months' back-pay?

Deputy I.J. Gorst:

Maybe it is just me that is getting confused by the movement between the benefits but, as I just answered, the contributory benefits are prescribed and the backdating elements are prescribed by the Social Security Law.

3.2.4 Deputy G.P. Southern:

The Minister may not know that we have on record officers of his department stating clearly that when an application form is requested it goes out with a date stamp and if not returned in a

fortnight's time, a new form is sent out and re-stamped with a fortnight further on, effectively removing all form of backdating from payments for income support. Will he seek advice from his officers that that is in fact the case of what happens?

Deputy I.J. Gorst:

Of course, I am always prepared to seek advice from my officers and I am prepared to do it in this case for the satisfaction of the Deputy.

LUNCHEON ADJOURNMENT PROPOSED

The adjournment is proposed. If Members agree we will adjourn until 2.15 p.m.

LUNCHEON ADJOURNMENT

The Deputy Bailiff:

Before we return to question time I can inform Members that Projet 63, Code of Conduct for elected Members of the States - review, has been lodged by the Deputy of St. John. I understand that replaces a previous one.

Deputy P.V.F. Le Claire:

I would like to inform Members that I would like to withdraw my proposition for splitting the Minister for Planning and Environment. Having spoken with him ... **[Laughter]** I knew what I meant. I mean what I meant. Having spoken with the Minister for Planning and Environment this afternoon at lunch, he has assured me a new system is being put into place to address some of the concerns that I have expressed and I feel that, rather than going ahead into a second debate at this stage when Members would like to continue with present arrangements having taken a sounding, it would be better for business and better for the Assembly if I withdraw this at this time to allow these measures to take place and to monitor the outcomes. So I would respectfully request to withdraw that.

The Deputy Bailiff:

Very well. Thank you very much, Deputy. That proposition is withdrawn.

Senator F.E. Cohen:

May I make a comment? I would like to thank the Deputy for his considered approach to this matter. He has raised this on a number of occasions and has been instrumental in my changing the way the political responsibility is held within the Planning and Environment Department. I do propose to make one additional change and that is that the appointment of the next Assistant Minister. The next Assistant Minister will not necessarily chair the Planning Applications Panel, which will ensure a further separation of the roles and further ensure that the Environment Department has its own independent champion. Thank you.

Senator A. Breckon:

Sir, if I may, if we are talking about public business, there was another matter that was tabled for today which was P.41 in reference to electricity tariffs and, under that, I was asking the Minister for Economic Affairs to address some of the issues. He is having to take some professional advice and needs some time to do that. I have been in discussion with him and copied Members in regarding the terms of reference. So I would ask the leave of the House for that not to be debated today and to be deferred for the time being.

The Deputy Bailiff:

Very well, that will be deferred. So we return to question time where I am advised that some 17 minutes of the allocated time have been counted towards that.

3.3 Deputy M. Tadier of the Minister for Economic Development regarding the removal of the cash machine in the Arrivals Hall at Jersey Airport:

Due to an idiosyncrasy in the protocol, I believe that I already know the answer for the first part of my question but I have been told to ask it anyway. So here goes. Will the Minister advise the Assembly whether the cash machine in the Arrivals Hall at Jersey Airport will be removed within the next few weeks and, if this is the case, would he explain the circumstances which led to this decision and inform the Assembly whether any consultation has taken place with airport users and service providers who could be adversely affected?

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

I am disappointed to advise that the HSBC Bank has taken the decision to remove the cash dispenser from the land-side arrivals terminal as from later on this week. The reason given by the bank for this has been that, since the facility was introduced in August of 2007, it has never been used at a level which they have considered to be viable. However, HSBC has committed to retaining the existing cash dispensing service offered in the air-side departures lounge which continues to be popular with departing passengers.

3.3.1 Deputy M. Tadier:

A supplementary, the Assistant Minister may be aware that the Tourism Department were unaware of this news until Thursday when I told them. Could I ask the department at what stage they became aware that the machine was going to be removed and also were any negotiations entered into with the bank to try and retain the machine?

Senator P.F. Routier:

We have tried to negotiate with the bank to retain the machine. They have indicated to us on a number of times that they are concerned about the level of use of it and it is a commercial decision of the bank to ... they do not see it as a well-used facility and they do not feel that they can warrant the cost of maintaining it and topping it up on a regular basis because it is not used very often.

3.3.2 Deputy S. Power of St. Brelade:

If I may ask another question on this; has the Assistant Minister ever discussed with HSBC the possibility of fitting this machine on an external wall of the building as distinct from an internal arrivals hall or an internal departures hall? If the machine was available 24 hours a day on an external wall within the airport complex does he not agree with me that it would probably be justifiable?

Senator P.F. Routier:

I have suggested that to the department, to carry out the investigations with the current bank and also other banks. I have asked them to look at all the options which are available to see if there is another way forward of providing cash on the air-side facility.

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

I understand that the machines at the airport and possibly the harbours are the only ones that dispense U.K. money as opposed to Jersey money and I just wondered if that could be brought to the attention of the banks, that it does provide a valuable service? I know when I was on Education a lot of parents used to use it outside hours.

Senator P.F. Routier:

Yes, I do recognise that people do value the ability to acquire U.K. currency from the cash machines and the indication we have from the banks that do have facilities on the air-side, it is their intention to continue to do that.

3.3.4 Deputy R.G. Le Hérissier:

Can the Assistant Minister tell us the percentage under-use that there was compared to what the bank would expect?

Senator P.F. Routier:

No, I cannot.

3.3.5 Deputy M. Tadier:

I think part of the question remains unanswered. Were there any negotiations and were the thoughts of the taxi drivers, for example, and concessions at the airport sought and will an alternative service provider be sought?

Senator P.F. Routier:

The consultation with taxi drivers would be something which the banks would, no doubt, have to carry out because it is their facility. It is certainly something which ... it is their customers which they are providing the service for. All that the airport does is give the facility for a bank to have a cash point within the building. It is the banks who are providing the service and it is not the airport itself.

3.4 Deputy T.M. Pitman of the Minister for Home Affairs regarding the investigation of complaints regarding allegations of breaches of the Public Elections (Jersey) Law 2002 during the 2008 elections:

Would the Minister clarify whether all complaints regarding allegations of breaches of the Public Elections (Jersey) Law 2002 during the 2008 elections were investigated and pursued equally and, if not, why not?

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

This is yet another question which partly relates to 2 prosecutions which are currently pending. The question, therefore, relates partly to matters which are currently *sub judice*. The question is, therefore, in my view, grossly improper and I am only willing to answer it under protest, which I do with 2 answers; the first of which is yes and the second of which is yes.

3.4.1 Deputy T.M. Pitman:

I thank the Minister for his answer. Could I just ask if he could perhaps clarify the following statement from the complainant in St. Helier No. 3 who complained to the police and was told unfortunately that it was a civil matter and he should go the Citizen's Advice Bureau; then complained to the Judicial Greffe who said, and I quote: "I should clarify that this matter does not fall within my own jurisdiction. However, I am quite sure that the Solicitor General, as the returning officer for the constituency in question, and a Law Officer will address matters." He then contacted the Solicitor General who, after a few days, told him: "Unfortunately my responsibilities in that capacity have now lapsed. However, I would suggest that he contact the police who have responsibility for such matters." No one taking responsibility, no investigation. How can that be? Nothing to do with *sub judice*.

Senator B.I. Le Marquand:

Well, I only take responsibility in answering questions for the police. I, therefore, cannot account for the actions of the Judicial Greffe, the Solicitor General or anybody else. It does not seem to me that that particular complaint has yet come to the attention of the police and if the complainant wishes it to be investigated, then they should most certainly bring it to the attention of the police.

3.5 Deputy R.G. Le Hérissier of the Chief Minister regarding the number of apprenticeships currently offered within the States:

How many apprenticeships, if any, are currently offered within the States? Will the number be increased given the economic climate and if so, when and by how many?

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

There are 3 craft apprentices currently employed in the Transport and Technical Services Department. It is the intention of that department to maintain this number of apprentices in order to maintain its own internal manpower succession plans. I very much support the view that in the current economic climate the States should employ more apprentices, and I can advise the Assembly that this matter is being actively considered by the Skills Jersey Executive in connection with the proposed economic stimulus plan along with other measures for assisting those seeking to find work and helping young people and graduates and those seeking to up-skill and change career. However, that consideration is still at an early stage and I do not, at present, have any greater detail.

3.5.1 Deputy R.G. Le Hérissier:

Would the Chief Minister not acknowledge, given the very large workforce, given the successful apprenticeship and indeed secretarial training scheme that used to operate in the States, 3 apprentices in T.T.S. is a very dismal record?

Senator T.A. Le Sueur:

I think the question highlights the fact that there are other means of delivering additional training and that is very much to the forefront of both the States Employment Board and the Skills Executive. Apprenticeships are one aspect of that but training - in-house training, on-the-job training - in a variety of roles is provided by the States and long may that continue.

3.5.2 Deputy G.P. Southern:

Given that it has taken 3 years to put the Skills Executive together, one might have thought that they could have immediately got on with creating fresh apprenticeships in this time of hardship. Does the Chief Minister not so agree?

Senator T.A. Le Sueur:

I am sure that the Skills Executive are working as hard as they can to ensure that a proper apprentice programme is put in place along with other opportunities such as I have mentioned.

3.5.3 Senator A. Breckon:

I wonder if the Chief Minister could say whether he is aware of a scheme that was operated by the States years ago? It was called, I think, Skills and Trade Training for a variety of crafts and office skills where employers and the States trained young people and returnees in surplus of their requirements. The idea was to skill them to do jobs. I wonder, in the current economic climate, if the Chief Minister would consider reintroducing such a scheme with the Skills Executive or anybody else?

Senator T.A. Le Sueur:

I must say, I have only the vaguest recollection of such a programme but I am more than happy to recommend to the Skills Executive that it should be resurrected and re-examined and, if appropriate, brought back into life.

3.5.4 The Deputy of St. John:

Given that retraining is one of the areas that the Chief Minister has mentioned, can it be right to retrain somebody in his late 50s as an electrician, which takes 4 or 5 years to train that person, only to find that, within a year of being fully trained, he will be retiring from the States. When the

person is already a highly qualified tradesman, i.e. as a motor mechanic, would the skills not have been better used and the finances better used in training a much younger person?

Senator T.A. Le Sueur:

I think, on the contrary, there is a danger that we regard anyone over the age of 50 as being on the scrapheap or potentially on the way downhill. I believe there is a lot more that we could do to stimulate and encourage employers as well as employees to continue to train and retrain staff and keep them in employment longer than currently happens.

3.5.5 Deputy R.G. Le Hérisier:

Would the Chief Minister promise to carry out a survey, finding out what apprenticeship training is occurring or departments would wish to occur because 3 only sponsored by T.T.S. does really seem abysmal? Secondly, would he carry out a survey, based on anecdotal information I have heard, on the assumption that people seeking a change of career or, like plumbers, a U-turn, do indeed have opportunities in the States. I think he will find the picture is not as rosy as he is perhaps portraying.

Senator T.A. Le Sueur:

Yes, I am more than happy to arrange for a survey to be carried out but I very much hope that it could be carried out on some sort of statistically reliable basis rather than just anecdotal. If that can be achieved then I am happy that that be implemented.

3.6 Deputy G.P. Southern of the Minister for Health and Social Services regarding the future of the Brig-y-Don children's home:

Indeed, it is the newly appointed. I thought for a millisecond this morning I might be asking myself this question. **[Laughter]** No, stet that; for a microsecond. **[Laughter]** Would the Minister advise Members of the progress of negotiations with the Trustees of Brig-y-Don over the future of that children's home along with its experienced staff as outlined in the implementation plan for the Williamson Report?

The Deputy Bailiff:

Minister, are you in a position to reply to that one yet?

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

Only just being appointed, I will ask the good Deputy if he would mind deferring this question until the next States sitting, please, where I will get briefed, get up to date and be able to answer his questions fully.

Deputy G.P. Southern:

Yes, I will concede that.

3.7 Deputy D.J. De Sousa of the Minister for Housing regarding the number of new 3 and 4-bedroom houses due to be built for States rental in the next 3 years:

Will the Minister inform the Assembly how many, if any, new 3 and 4-bedroom houses are due to be built for the States rental in the next 3 years and how many similar homes from current housing stock are intended to be sold to existing tenants?

Senator T.J. Le Main (The Minister for Housing):

The following properties will be developed over the next 3 years: Le Marais Phase 2, nearing completion, 24 3-bed homes, 4 4-bed homes; Le Squez Phase 2, 18 3-bed homes, 7 4-bed homes; Salisbury Crescent, 7 3-bed homes and 2 4-bed homes. The programme of sales is demand-led

from tenants wishing to buy the homes they occupy or properties which become void elsewhere in the stock throughout the year. It is, therefore, not possible to forecast exactly how these sales will be made up. Apart from a very small number of open market sales previously agreed by this Assembly, all of the 113 sales carried out to date have been to existing States tenants who would otherwise be occupying a rental home as a tenant rather than as a home owner. Members will no doubt recall a very important element of the social housing programme which was that sales would be carried out in a managed sustainable way without imposing unnecessary strains on the wider housing market and relate at all times to current levels of supply and demand within social housing. It is believed essential that decisions on sales for the open market and for tenants should be balanced against the delivery of new social rented housing and the needs reflected in the States rental waiting list. In the present economic climate, the department is keeping a very close eye on the waiting lists and would not pursue sales if the waiting lists indicated a significant increase in demand for rental homes.

3.7.1 Deputy D.J. De Sousa:

I have a supplementary if I may. The buyers that are sought for these homes, where do they come from, what criteria do they have, i.e. children and, as these properties do not appear to be sold to sitting tenants who are they sold to?

Senator T.J. Le Main:

All the tenants are entitled, as a tenant, to purchase their existing homes and all of them that have purchased family homes have got children and they are tenants and they all qualified, even if they have been home owners before. If they are a tenant they qualify to purchase as a first-time buyer, with first-time buyer onward sale conditions.

3.7.2 Deputy G.P. Southern:

The Minister failed to put any figures on the question of how many houses have been sold or will be sold over the coming 3 years. Will he assure Members that he will come back to the House with a viable estimate of how many he intends to sell in the coming 3 years?

Senator T.J. Le Main:

No, I will not come back with a viable estimate but I have promised to come back this year with a full report on the way the sales are going, the demand and everything. So all the information that the Deputy and anybody requires on how we are going with the sales demand and otherwise will come back as a report some time in the middle of this year.

3.7.3 Deputy G.P. Southern:

As a supplementary, can the Minister state yet when he would be producing Professor Williams' (is it?) report? I hope it is before June this year.

Senator T.J. Le Main:

Hopefully before June this year. As I said, I think the last occasion in question time, Professor Christine Whitehead's report has been in draft form for some time but due to the economic climate and with the issues on home purchasing and what have you ...

The Deputy Bailiff:

I think you said hopefully before June.

Senator T.J. Le Main:

Well, I did not say that, Sir. I said a report would come before June on how we are selling homes. The Christine Whitehead Report will come in sometime hopefully in the summer this year.

3.8 Deputy K.C. Lewis of the Minister for Education, Sport and Culture regarding youth and sport facilities to eliminate anti-social behaviour:

Will the Minister undertake to increase funding and work with other agencies to provide greater youth and sports facilities in St. Helier and other Parishes to eliminate anti-social behaviour?

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

My department is already actively working with the Parishes and other agencies to provide a wide range of positive activities for young people and, while I am unable to increase funding at this time, I am totally committed to ensuring that current levels of funding are directed to areas where there is most need. It should be recognised that anti-social behaviour is limited to a relatively small number of individuals who, for the most part, choose not to take advantage of the opportunity to participate in the wide range of activities currently provided across the Island. It would, therefore, be wrong to believe that additional funding in the areas mentioned will necessarily deal with the problem.

3.8.1 Deputy K.C. Lewis:

While I fully appreciate that we are talking about a very small minority of troublesome teenagers, we are seeing reports increasing every weekend. The provision of improved youth facilities and funding will go a long way towards keeping young people off the streets. Does the Minister not agree?

The Deputy of St. Ouen:

I believe that it is part of the solution but not the full and complete method of dealing with this issue. We are currently carrying out, at officer level, work with other departments to address this particular area and see where resources need to be best used.

3.8.2 Deputy S. Power:

Can I ask the Minister what is being done by his department to investigate the damage being done by users of the BMX jumps at Les Creux Country Park where the toilet block has recently been rendered useless by vandalism, most of the low-level lights in the car park destroyed, fences and gates have been ripped down and rocks and stones from walls within Le Creux have been thrown across the road and have damaged cars and private property?

The Deputy of St. Ouen:

I have personally met with users in the Les Creux Park area and with individuals that have been faced with certain issues. I would hasten to add that, contrary to what the Deputy suggests, I do not believe it is the users of the mountain bike area that are indeed the problem. I think there are other individuals, as yet unidentified, who are causing the concerns and raising concerns in the area. Work is being carried out in conjunction with the police to improve the security in the area and user groups are being set up to monitor that particular area and ensure that, where possible, we can minimise the destruction.

3.8.3 Deputy S. Power:

Can I just ask the Minister if he is prepared to give an undertaking to repair some of the property that has been damaged in Les Creux, and I was not associating that the users of the BMX jumps were exclusively responsible for the stones and rocks that were thrown across the road. There is evidence that the rocks and stones from the walls of Les Creux were used to damage adjoining property.

The Deputy of St. Ouen:

It is unfortunate that currently we have a toilet block that is closed because of the concerns raised by vandalism and this is one of the issues that we are dealing with. Clearly we have also implemented, in the last month, a youth worker who is linked to St. Brelade to work with the

youngsters in the area and to help us identify exactly what the problems are. I am sure that if the Deputy wants to again engage with... as the Constable has already done, we might be able to better understand this issue. Thank you.

3.8.4 Deputy M. Tadier:

Does the Minister acknowledge the correlation between the closure of the drop-in café in Liberation Square and the rise in delinquency in town, particularly around Liberation Square?

The Deputy of St. Ouen:

I absolutely believe that it is essential that the Move On Café is re-opened as soon as possible and I think that it is appalling that a particular facility like this, that was required to be delivered by the developers, has yet to be seen to be done. I would encourage all those involved in the delivery of this very important project to wake up and get it sorted. Thank you. [Approbation]

3.8.5 Deputy R.G. Le Hérisier:

Would the Minister indicate to the House, having had his department undertake a survey of youth service provision, whether there are areas of St. Helier or St. Saviour which, in his view, are at present under-resourced, such as Longueville and Five Oaks? [Laughter]

The Deputy of St. Ouen:

I do not believe that that is the case.

3.8.6 The Deputy of St. John:

Given that the new skateboard park in St. Helier has been highlighted in this Chamber several times in recent months, has the Minister attended down there in the evenings and seen the behaviour of the youngsters; given that we have now got to a situation that the skateboarders themselves cannot get on to their skateboard park because of mountain-type bikes and also motorcycles within that park, thereby pushing the users out? What is his department doing to police this, given the problems that we have had recently?

The Deputy of St. Ouen:

I am currently unaware that motorbikes are using the facility. I find that rather disturbing. I am equally aware that mountain-bike-type cycles can be used successfully on the facility, as well as skateboards and roller-skates. With regard to attending at the site, I have attended on a number of occasions and so has my Assistant Minister, who is responsible for the youth service, and I must admit that I have been encouraged by the attitude and the way that the youngsters are using that area. Again, I accept that there are individuals that are or could be causing concerns in that area and, as in any other case, my department will clearly be doing all that they can to address the concerns.

3.8.7 The Deputy of St. Martin:

I think the Minister will agree with me that, for some youngsters, they do not particularly like the traditional youth club. For them it is old hat. But they would rather the drop-in type of establishment. Can I ask the Minister, how much money do we devote to this form of drop-in establishments which do seem to fit the bill for some of those youngsters who do not prefer the traditional type of youth club? Has he got any money set aside that he could put towards establishing more drop-in type establishments? I know that he had £2 million left over last year, so maybe some of those funds could go towards the drop-in centres.

The Deputy of St. Ouen:

We are actively engaging with the Parishes to ensure that the correct provision for our young people in all areas of the Island are addressed and I can happily say that in recent times discussions have been taking place with the Constable of St. Helier who is equally committed to addressing this

issue, to ensure that drop-in facilities, and especially the Move-On Café, is properly provided for and supported with a youth worker.

Deputy K.C. Lewis:

May I just thank the Minister and fellow colleagues for their constructive comments. Thank you.

3.9 The Deputy of St. John of the Chief Minister regarding the admittance of staff from private schools to the Public Employees Contributory Retirement Scheme:

In recent years a few private schools have applied and been admitted to the Public Employees Contributory Retirement Scheme. Would the Minister inform Members whether the taxpayer contributes to this scheme and, if so, how is it acceptable for public funds to go into the private sector?

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

Any employers awarded admitted body status into the Public Employees Contributory Retirement Scheme pay all the relevant employee contributions as calculated by the scheme's actuary. There is no cost to the States. The structure of the scheme provides the admittance of employers other than the States. A number of organisations participate in this way, including 8 of the Parishes, the Jersey Advisory and Conciliation Service, the Jersey Heritage Trust and Family Nursing. The States Employment Board are mindful of the potential for various problems that could arise in relation to admitted bodies and adopts a cautious approach when awarding admitted body status. I would add that teachers in the private schools are, of course, admitted to the Teachers Superannuation Fund and, again, the employers pay all their contributions.

3.9.1 The Deputy of St. John:

In recent months has any private school been refused permission to join this particular scheme?

Senator T.A. Le Sueur:

An application from one school has been turned down, yes.

The Deputy of St. John:

Could the Minister repeat that, please?

The Deputy Bailiff:

Yes, it has, he said.

3.10 Deputy M. Tadier of the Minister for Treasury and Resources regarding increasing the upper limit of income tax:

Following the announcement this week that the U.K. Chancellor will be increasing the upper limit of income tax to 50 per cent and given the urgent need for Jersey to consolidate its tax base in coming years, will the Minister advise the Assembly if he would consider a similar policy for Jersey, albeit at a much lower rate, so that those who can contribute more will be able to do so?

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

I have answered the Deputy and others on a number of occasions on this issue and the answer is from me an emphatic no. I consider the 20 per cent rate of tax in Jersey to be sacrosanct and I believe it to be the foundation of our prosperity. I would remind the Deputy that the recent fiscal strategy approved by this Assembly phased-out tax allowances for high earners, something that I was very interested to see the U.K. Chancellor - perhaps that is something that we agree on - announce in his budget last week. I believe that it would be extremely unwise to change Jersey's

tax system. I believe that we now need a period of stability. I intend to focus my energies on dealing with the downturn, protecting the jobs of Jersey people and improving the efficiency of State's departments, not tinkering with the tax system.

3.10.1 Deputy M. Tadier:

A supplementary; notwithstanding the discord within the Council of Ministers regarding the sacrosanct nature of the 20 per cent tax level, is the real reason not that, even were the Minister minded to increase the upper tax rate, we have created so many tax avoidance mechanisms in Jersey that we would effectively be hoisted by our own petard?

Senator P.F.C. Ozouf:

I think it is very clear that the U.K. Chancellor will want to review the outcome. I understand the U.K. Labour Party view that they want to symbolically put in a 50 per cent rate of tax, but there are some hard questions about the amount which it is going to raise. I repeat to the Deputy, I believe that our low tax system is the foundation of our success and I have no intention of bringing forward to this Assembly proposals to engage in tax policies that other governments have shown, to their cost, wrecks their economies.

Deputy M. Tadier:

With due respect, I would suggest it is the source of the Senator's success.

The Deputy Bailiff:

Deputy, please, when I am speaking will you cease speaking. You have asked 2 questions already. It is now somebody else's turn.

3.10.2 Deputy G.P. Southern:

Does the Minister not accept the growing body of evidence that the success of any society on any social measure whatsoever is directly linked to the degree of equality in that society? What measures does the Minister for Treasury and Resources envisage in the Strategic Plan to create a more equal society in Jersey?

Senator P.F.C. Ozouf:

I intend to continue the policy of the previous Minister for Treasury and Resources and the previous Council of Ministers. I would remind the Deputy that we have put substantial benefits in place - increases in benefits - for the less well-off in the income support system. My job as Minister for Treasury and Resources is to ensure that we can continue to afford that low income support, afford a pension system which other governments would dream of in terms of setting pension rates and earnings instead of inflation and other issues which are the foundation of our prosperous society of which we share with low income families.

3.10.3 Deputy G.P. Southern:

Does the Minister, nevertheless, wish to answer the question; does he accept the growing body of evidence that the most successful societies in the world are linked to the high degree of equality in those societies?

Senator P.F.C. Ozouf:

I believe in equality. I believe in ensuring that we have a successful economy which means that we can fund low income support and benefit from the less well-off. I would have thought there is a growing body of evidence which suggests the Deputy's type of politics is ruinous to economies as I think has been found out in the U.K. at the moment.

3.10.4 The Deputy of St. John:

In the forthcoming budget will the Minister give serious thought to raising the tax threshold so that middle Jersey who are suffering greatly at the moment can have some benefits?

Senator P.F.C. Ozouf:

I am grateful for the Deputy's question because there are strong representations being made about the issue of '20 means 20' and the effects that has been the case, and I would remind the Deputy that the fiscal strategy had within it the introduction of G.S.T. (Goods and Services Tax) but also the eliminating of allowances for middle and higher earners, and I think the situation that was put in agreed policy of the States was that we would put in place a broadly progressive tax system which the '20 means 20' system, which meant that you pay '20 means 20' and your whole of income is part of the overall package, so I will give consideration to it and obviously it will be a matter for the States but I have got no plans to defer any of the '20 means 20' arrangements in the short term, as I think I have explained the reasons why.

3.10.5 Senator S.C. Ferguson:

Does the Minister agree that it is the equality of opportunity that we should be offering and not the equality of this world's goods, and would he further agree that you cannot make the poor richer by making the rich poorer?

Senator P.F.C. Ozouf:

I think I agree with what the Senator is saying. [Laughter]

3.10.6 Deputy T.M. Pitman:

Just referring back to the answer given to Deputy Southern; does the Minister not concede that in reality his political philosophy is bankrupting much of the world and leading us to ruin?

Senator P.F.C. Ozouf:

If the Deputy is suggesting and aligning himself with those commentators in recent weeks that are seeking to cast offshore centres, such as Jersey, at the heart of the economic difficulties then I have to say that he is wrong. Clearly his views are known - his views of Jersey as an international finance centre - and I do not share them.

3.10.7 Deputy T.M. Pitman:

Could I just ask if the Minister could clarify whether he would not concede that free market capitalism is bankrupt?

Senator P.F.C. Ozouf:

I am not sure that this is testing the boundaries of the original answer. What is clear is that there is a reappraisal of the way that governments are interacting with their economies. What is clear is that in terms of the U.K. I would not wish to be a Finance Minister of a jurisdiction which is borrowing in order to stimulate their economies and promising taxpayers and users of public services the hangover of debt for the next 10 years, as we are seeing in the United Kingdom. I hope that that is not what the Deputy is suggesting we should do because it is a diversity of what we see, which is an Island that can afford strong public services and sharing with those people who cannot take part in the economic growth themselves.

3.10.8 Deputy R.G. Le Hérisier:

The phrase "middle Jersey" is used a lot by both sides of this argument; could the Minister define in tax terms who he sees as middle Jersey?

The Deputy Bailiff:

I think that is going too far away from the original question. [Laughter] Deputy Tadier, final question.

3.10.9 Deputy M. Tadier:

I would just ask, would greater redistribution of wealth in the first place not be the ultimate solution so that we have true equality, so that we do not have to fund those on low income because there would be less of a divide in the first place?

Senator P.F.C. Ozouf:

Jersey is built upon an economy which has approximately 24 per cent of government spending in terms of total G.D.P. (Gross Domestic Product). We have some of the best funded public services of any jurisdiction in the world. Is he really, and are the other people that have questioned me in this oral question, really suggesting we start Kango-hammering up the foundations of our prosperity and success? I do not want to do that.

Deputy S. Pitman:

Sir, I did have my light on before Deputy Tadier.

The Deputy Bailiff:

I am sorry, Deputy, but we have to move on.

3.11 The Deputy of St. Mary of the Minister for Treasury and Resources regarding where the additional funding of £1.65 million was found for the Energy from Waste Plant:

Keep him on the rack, eh? Please note when we listen to this question because there was some confusion with my last question. This is not about the £3 million that the P.A.C. (Public Accounts Committee) are pursuing to do with Treasury employees. My question is, given that the Comptroller and Auditor General's report states via section 103: "All of the £3.6 million unallocated balance in the fluctuations element of the States Capital Reserve Vote, has been earmarked for this project." By this project he means the incinerator. Would the Minister advise where the additional funding of £1.65 million was found when the contract was signed on 14th November 2008 to meet the cost of the currency movements which then stood at £5.25 million?

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

The additional cost of any currency exchange transactions will be met from the contingencies maintained for the project within its capital risk reserve. As has been the case since the submission of P.73, which the previous Minister for Treasury and Resources brought forward Energy from Waste funding, and that has a total contingency of £7.2 million, I am happy to give the Deputy the breakdown of it.

3.11.1 The Deputy of St. Mary:

£7.2 million will not cover it, will it, because we have £3.6 million up to the date of the debate, even though the Minister for T.T.S. could not tell us that. We then have an additional £1.65 million up to 14th November and then an additional 3, maybe £5 million, after that which comes in my reckoning to more than £7.2 million. Where is the extra money going to come from?

Senator P.F.C. Ozouf:

Where is the extra money going to come from is a different question. I need to be, and I know the Deputy of St. Mary does not agree with the incinerator, but I want to be absolutely clear with him about what the facts are. There is a £7.1 million risk reserve of which the estimated contingency for exchange rate covers any locked in arrangements as at present. We do not know what the additional cost of the exchange rate will be. I know that the Deputy was pressing, and other Members were pressing, the Minister for Transport and Technical Services on the issue of the closure of the exchange rate risk. Upon advice, I have been advised that it would be too expensive or it would have been too expensive to close down the exchange rate risk, when all the evidence

going forward as far as the euro pound rate is that it is going to improve over the lifetime that we need to make the euro payments. To make a payment now or to close down that risk would have cost up to 7 per cent of the remaining outstanding value.

3.12 Deputy T.M. Pitman of H.M. Attorney General regarding the decision to arrest Senator Stuart Syvret and search his residence:

Would the Attorney General inform the Assembly whether he was aware in advance of the decision to arrest Senator Stuart Syvret and search his residents, and if he was not, would he inform the Assembly whether the decision to search the Senator's home without a search warrant was legal?

Mr. W.J. Bailhache Q.C., H.M. Attorney General:

Yes, I was aware in advance of the police decision to arrest Senator Syvret on suspicion of committing offences under the Data Protection Law and to search his residence.

3.12.1 Deputy T.M. Pitman:

Could I just have clarity on the second part, I did not understand if the Attorney General considered it legal and could he perhaps clarify for us why that would be?

The Attorney General:

I did not answer the second part because the question did not ask me to having answered yes to the first part. To the second part, yes, in my opinion the search of the residence without a warrant was lawful. Article 29 of the Police Procedures and Criminal Evidence Law clearly confers that authority. If the Senator wishes to challenge that the right place to do so is in a court of law.

3.12.2 Deputy G.P. Southern:

Could I ask the Attorney General why the regulations for a search warrant to be issued under the Data Protection Law were not followed in this particular case, if he would care to speculate as to the thinking of the police, and whether that should have taken priority?

The Attorney General:

I am certainly not going to speculate on what the decisions of the police might be. The police are entitled to exercise the powers which are conferred on them by the Police Procedures and Criminal Evidence Law and, in my view, that is quite clear.

The Deputy Bailiff:

Are you going to declare an interest, Senator Syvret, in this matter.

3.12.3 Senator S. Syvret:

Yes, Sir, I will declare certainly an indirect interest, yes. It is an example a few other Members in this Assembly could follow. If the Attorney General is asserting, as he did, that the use of Article 29 of P.P.C.E. (Police Procedures and Criminal Evidence) in this context was lawful, does he then accept by extension that similar grounds could be invoked to use Article 29 of P.P.C.E. to basically search any property by simply using the mechanism of arresting a person who steps out the door?

Senator S.C. Ferguson:

I must protest at this line of questioning is going on while there is a subject under investigation.

The Deputy Bailiff:

There are no court proceedings going and therefore it is not possible for the Chair to rule that it is *sub judice* at present. The wisdom of asking such questions is a matter for Members.

The Attorney General:

I perhaps should repeat that in my view if the Senator wishes to challenge the lawfulness of the police action the right place to do so is in a court of law, but in answer to his question he describes the use of a mechanism for achieving a search. The provisions of Article 29 which enable the police to search premises follow upon the arrest of a person. Under Article 3(1) of the Police Force Law where a police officer with reasonable cause suspects that any person has committed, is committing or is about to commit an offence the police officer may arrest that person. So this is not a mechanism. This is a case where the police believe, have reasonable cause for believing or suspecting, that a person has committed, is committing or is about to commit an offence. Where that predicate party is satisfied, the police have the powers to search premises consequent upon that arrest.

3.12.4 Senator S. Syvret:

Supplementary, if I may. The question was not really concerning the power of arrest. It was concerning the use of arrest under Article 29 as a device to then search a property without the police having to go through the standard protections and procedures of obtaining a search warrant.

The Attorney General:

Certainly I have nothing to say about the suggestion that the use of the arrest was a device. That is a matter which the Senator ought to raise in a court of law if that is what he feels inclined to do. It is a matter upon which the police will be heard with the evidence which they had to support their view at that time.

3.12.5 Deputy G.P. Southern:

Is it the Attorney General's opinion the powers outlined under section 29 of P.A.C.E. (Police and Criminal Evidence) take precedence over the conditions laid out in the Data Protection Law and indeed any other laws?

The Attorney General:

When the Deputy refers to P.A.C.E. I take it he means the Police Procedures and Criminal Evidence Law, and Article 29. The answer to that is, in my view, the powers which are conferred by the different pieces of legislation are cumulative and there is absolutely no reason why the police should not exercise the powers conferred by Article 29. I am not sure which particular regulations the Deputy is referring to in relation to the Data Protection legislation but if he is referring to schedule 9 then those provisions are available for the Data Protection Commissioner to take steps rather than the police. The police are still perfectly entitled to investigate offences under the Data Protection Law.

3.13 The Deputy of St. John of the Chief Minister regarding the number of local applicants for the post of Director of Human Resources and local succession planning:

Would the Minister advise how many local applicants applied for the post of Director of Human Resources, whether the historical Civil Service exam system which existed to pick out high fliers early on is still operational, and whether any local candidates are currently being trained for chief officer positions? If this is not the case, explain why.

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

The post of Director of Human Resources for the States of Jersey was advertised in January 2009, both within the Island and nationally in the U.K. There were 2 Jersey residents out of 29 applicants, one of whom who had only recently moved to the Island and was not "locally qualified". Neither of the applicants were existing States of Jersey employees. Four people were short-listed for interview, all of whom had substantial H.R. experience over a number of years,

together with the appropriate qualifications. The Civil Service exam system ceased over 30 years ago during the 1970s and there have been a number of initiatives introduced since then to deliver the States commitment to developing and retaining staff. There are 2 comprehensive development programmes running at present. The Future Leaders Programme which commenced in 2007 and currently has 11 participants which is designed to develop future senior managers and chief officers, and the Modern Manager Programme, which is an 18 month programme aimed at developing middle and senior managers, which has 191 registered participants since that scheme commenced in September 2006. All appointments are made within the framework of the Appointments Commission Code of Practice which requires that normally open competition takes place for each post. We do have a succession and career management policy and discussions are continuing with the Appointments Commission about how the States succession plans can be tailored to meet the needs of that policy.

3.13.1 The Deputy of St. John:

In my time on the Public Services Committee of the day - which has been succeeded by T.T.S. - we put in place a training programme for chief officers of which the current chief officer, who is in fact about to move on from his position, was one of the successful trainees. Has that department taken any steps to train a successor to the current post holder given that he has just been elevated to another post within the States, and if not, why has a succession planning policy not been put in place in that department.

Senator T.A. Le Sueur:

The training programme which the Deputy refers has, as I said, been superseded by the Future Leaders Programme but having the same objectives just delivered in a different and more up to date way. Having had that chief officer who was successfully trained under that scheme promoted - and I think that validates the benefit of that scheme - we shall now be trying to do the same thing to ensure that a future chief officer can also achieve the same objectives. It is an ongoing process, at the current time none of the cohort of that programme is in a position to take that level of responsibility at this stage.

3.13.2 The Deputy of St. John:

Given that the chief officer has been in place for quite a number of years within T.T.S. and his senior staff within that department are very, very able, can the Minister explain why they are still looking outside the Island, although they have had a selection procedure, and identified what I call a high flier, why they are still looking outside of the Island for a person to take over that particular department?

Senator T.A. Le Sueur:

We have indeed got some very good staff at T.T.S. and we have a person in place currently acting as chief officer who is a very sound, and I believe will deliver a very good service in that department. But I repeat, our objectives within any appointment is to get the best person for the post, for a challenging role. In order to do so one needs to be able to validate and get regional experience from different candidates with different skills. Ideally, and in many cases, it would be possible, for a local resident candidate to deliver and demonstrate the same or even better levels of skills than his competitors.

3.13.3 The Deputy of St. Martin:

I am a little bit concerned about it because we continually find we are always employing someone from outside the Island. Would the Chief Minister not agree that surely if someone ... if he confirmed that there was a deputy in this particular occasion, in this particular area, but why are deputies not promoted? It always seems to be that - I am not talking about Deputies of the States - I am talking about a deputy to the post holder, why are these deputies not ever promoted on to taking over the full role and was there a deputy in this particular case who was overlooked?

Senator T.A. Le Sueur:

It is certainly not the case or the intention that deputy chief officers should not be promoted if they meet the criteria. Equally I like to think that deputy chief officers from one department might well move to a different department, but I do stress the need to get the right person for the post, and in many cases I have to say, perhaps somewhat sadly, that there is a reluctance of some senior staff, especially to go forward for promotion to take the top jobs, and that is, as I say, disappointing to me and I think something that we do need to look at as an Employment Board to try to improve upon.

3.13.4 Deputy R.G. Le Hérisier:

Would the Chief Minister not concede that despite years and years of best intentions these policies have always ground to a halt? For example, rather than appoint out of Island chief officers for 5 years, they come for 5 and then they are transformed into full permanent appointments thereby losing the benefit of passing on their experience to other senior managers. Will he also not acknowledge that inevitably - and this is a difficult issue - a person from outside has a broader experience and will always generally speaking win over a local candidate, but where they will not win over is on the ability to handle the local situation and the politics of the local situation: issues which have often been underestimated. Would he therefore not accept that the system needs to be applied in a much more nuanced way and people should not be imported and for years thereafter block positions? **[Approbation]**

Senator T.A. Le Sueur:

It is a very difficult task which any Appointments Board has in trying to select a single candidate. They have to match the abilities and the local skills that a person can bring which an outsider cannot bring to cases where an outsider may have more experience and more to offer. One has to set down criteria for any job application, job specification, and I am sure that Appointment Boards when selecting a candidate have to take into account and balance those criteria in a very difficult way. It is not an enviable job which is why I believe it is equally, if not more important, that the task is overseen by the Appointments Commission which can be independent and can validate the actual selection process. Other than that, all I can do is maintain that although we do not always achieve the success which I would like, and I am sure other Members would like, we do have success from time to time and we should be grateful and rejoice in them.

3.13.5 The Deputy of St. John:

Given that we have some very high fliers within the engineering field at T.T.S., and I mean high fliers because they know the system that works in Jersey, whether it is our waste system, whether it is our incinerator, *et cetera*, they are specialist in their field in engineering within Jersey, which is totally different to running a single system in the U.K. where you are just responsible for one area. These people are multi-tasked. Can the Minister explain who writes the job description when they go off Island and are the people who apply locally, would they have, shall we say, the extra qualification that somebody who writes a job description, and I have seen these done in the past in my time on the committee, but somebody who writes a job description adds in something a little different that the local person will not have within their C.V. (curriculum vitae) and that really always worried me. I want to know from the Minister that we are getting like from like, that the job description that was given to the members here who applied for the position several months ago are having the same job description advertised in the U.K. and it has not been altered in any way?

Senator T.A. Le Sueur:

The Deputy makes some serious allegations there which I would like him to validate privately with me at some early stage in the future. If there is any evidence that the job description has been flawed or biased or tampered with in any way in order to eliminate local applicants then that is certainly against my principles, against those of the States Employment Board, and I think those of the Members of this House. I believe job descriptions are made in a fair and valid way and should

be validated also by the Minister and the chief officer concerned. But I think in his question the Deputy raises maybe some fundamental difficulties. Yes, we do have some splendid engineering staff at the Department of Engineering Skills, staff in other departments with technical skills. The skills one needs to be a competent engineer are not always the same skills as one needs to be a competent chief officer, and I think there is a danger here in trying to simply transfer skills from one regime into another, and all I can do is emphasise the fact that the selection process is done rigorously and, in my view, if it can be improved further we will do but I think that it is not as biased as the Deputy would have me believe at the moment on little or no actual fact.

3.14 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the disregard of employee social security contributions for income tax purposes:

Will the Minister confirm that while employee social security contributions are not disregarded for income tax purposes, employer contributions are allowed to be set against taxation on company profits at the rate of 52 per cent and, if so, will the Minister undertake to address this anomaly?

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

I am not sure that the Deputy understands the system here. I will attempt to explain it. Employees get no tax relief for their social security contributions in their tax assessment, however Article 70A of the Income Tax Law allows as a proper deduction against profits of a trade or profession by a self-employed individual 52 per cent of the total of social security contributions paid by the self-employed person. That equates to the employer's social security contribution that would be payable if the person was an employee and which an employer obtains tax relief as an expense. The measure was introduced in 1980 on grounds of equity for the self-employed as opposed to companies and professions. There is no anomaly as I can see it, indeed quite the opposite. This measure was warmly welcomed, I am told at the time, and has caused no controversy since it was introduced some 30 years ago.

3.14.1 Deputy G.P. Southern:

Will the Minister undertake to ensure that Lord Foot who has this statement in the back of his latest report is clarified equally as I just have been?

Senator P.F.C. Ozouf:

I do not believe it is Lord Foot, it is Michael Foot, and if he requires, and his officials, any confirmation then I am happy to do so at a meeting that we are having later on today.

3.15 The Deputy of St. Martin of the Chief Minister regarding Article 26(1) of the Court of Appeal (Jersey) Law 1961:

We are flying along, I thought I might be having to seek to lift Standing Orders. Would the Chief Minister confirm that Article 26(1) of the Court of Appeal (Jersey) Law 1961 is not in line with the equivalent United Kingdom law whereby since 1968 an appeal against a conviction must be allowed if the jury's verdict is in all the circumstances of the case considered unsafe or unsatisfactory and, if so, will he in the interests of human rights bring forward, for approval, an amendment?

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

I am aware that the Jersey Court of Appeal Law is different to that of the U.K.'s equivalent law. I have not seen any case for suggesting that Jersey's law needs to be changed and I do not assume that the U.K. provision is any better than ours although that may be the case. I will be asking the Law Officers' Department to review this issue and offer advice in due course. However, given the current work programme of the Law Officers' Department I do not regard this as a high priority at

this time. Once I have received the advice from the Law Officers' Department I will, of course, be happy to deal with more fully the question the Deputy has raised.

3.15.1 The Deputy of St. Martin:

The Chief Minister will recall that one of the reasons for delaying the implementation of the Jersey Human Rights Law for 6 years was to allow for an audit of all the laws which might not be human rights compliant, can the Chief Minister inform me whether in actual fact an audit on this particular law was carried out to ensure that it was human rights compliant when we agreed the Appointed Day Act in 2006?

Senator T.A. Le Sueur:

I cannot specifically confirm or deny whether this particular law was validated for human rights compliance. I have no reason to question that it is, but now that he has raised the point with me I will make that actual firm question to be asked, and clearly if it is not human rights compliant I will come back at an early stage.

3.16 The Deputy of St. Martin of the Minister for Home Affairs regarding the arrest of Senator Syvret and the action taken by the States of Jersey Police:

It is good I did not put any money on the horses because obviously the draw was very poor for me, but we are getting in there. Given the concerns expressed regarding the arrest of Senator Syvret, would the Minister advise whether he has asked the States of Jersey Police for a report which addresses the concerns? If he has, is he satisfied with the action taken? If he has not called for a report will he give his reasons for not doing so?

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

This question relates to a current criminal investigation which at this stage is still an operational matter. I have not asked the States of Jersey Police for a full report because this would only be appropriate once the matter is concluded. It is a very important constitutional principle that States of Jersey Police Officers have operational freedom without political interference from the Minister for Home Affairs or from any other politicians. However, the States of Jersey Police are ultimately accountable for the way in which operational matters are handled. I have, however, received a detailed factual statement as to what occurred, part of which I would have shared with this House last Tuesday if the debate had taken place and will share when the debate takes place. I am satisfied that the police had a power of arrest in this case and a power to search under Article 29 of the P.P.C.E. Law and that the operation was carefully planned with the benefit of legal advice from a senior prosecutor.

3.16.1 The Deputy of St. Martin:

I am pleased to hear that the Minister has now called for a report but I would have hoped that we would not have had to wait for a States appearance or until we particularly debate a particular proposition. I would have thought it might be prudent to maybe, with hindsight, that the Minister will agree that possibly he should really have made a statement soon after the arrest to allay the fears of other States Members and the general public to keep them informed. As I said last week, if it was not for the *J.E.P.* (*Jersey Evening Post*) many of us States Members would not have been aware what was going on, so will the Minister possibly be persuaded to make his statement earlier than States Members having to wait until 12th May?

Senator B.I. Le Marquand:

No, my opinion is that this is not a matter in which it is appropriate for me to make a statement for a whole number of reasons. First, because if I make a statement that will give the impression wrongly that I am in charge of what is essentially an operational matter, and that I am not.

Secondly, because if I do so it will give the impression that this matter is treated differently from other matters concerning people who are not States Members. No, I am very strongly of the opinion that all people, whether States Members or not, should be treated in the same way by the police. No one is above the law but no one should be treated differently because they hold an important public position. If I had made a statement that would have been singling out the individual and the case for special treatment which, in my opinion, would be wrong.

3.16.2 The Deputy of St. Martin:

I can understand that the Minister comes to that conclusion however, possibly, if I had been a Minister I would have handled it differently. I think the public have a right to know when something splashed all over the front page... and it is in the public interest, I would have thought, to have a statement from the police. All we had... I do recall seeing a letter in the *J.E.P.* almost condemning the *J.E.P.* about the statement they themselves had put in the paper and it may have been helpful if the Minister had made the statement. Can I just ask again, and I will make it quite clear, there is no way that I would expect the Minister to advise whether the police should have 10 men down King Street on duty doing the role but I do think the Minister's role is to ensure the accountability of officers of an operational duty, and possibly again could I try to persuade the Minister to make a statement ahead of the debate on 12th May.

Senator B.I. Le Marquand:

I think I have already answered that question and given my reasons why I do not think that is appropriate.

3.16.3 Senator S. Syvret:

Since the raid I have spent some days, in fact, writing to a variety of my constituents whose often deeply personal private information including some case files relating to child abuse issues were taken by the States of Jersey Police Force. I have had to inform my constituents of that profoundly shocking fact and they are deeply disturbed by it. Will the Minister undertake to have examined the taking of the police and the copying by the police of this information, and take legal advice as to whether it was lawful or in fact whether it was a breach of the rights of my constituents?

Senator B.I. Le Marquand:

I am afraid I find the question too complicated to understand it. Could it be simplified?

Senator S. Syvret:

Certainly it can be simplified. Have my constituents had their human rights breached and indeed the Data Protection Law breached in this respect by the police taking substantial quantities of their information and their files and copying it during the raid?

Senator B.I. Le Marquand:

I am unable to answer that question.

3.17 Deputy R.G. Le Hérissier of the Minister for Home Affairs regarding the accountability of the Police:

It is a slightly different take on the same issue. To whom and in what ways are the police accountable?

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

This is almost a good question. **[Laughter]** The reason why it is not quite a good question is because as the questioner well knows I am involved solely with oversight of the States of Jersey Police and not with oversight of the Honorary Police, and therefore I am going to decline to answer any questions in relation to the Honorary Police who are, of course, ultimately accountable to the

Attorney General. They also have some accountability no doubt to their Connétable, so I have probably answered that question anyway without answering it. **[Laughter]** The answer in relation to the question concerning the States of Jersey Police is quite complicated. Ultimately they are accountable to the people of Jersey but in fact in practice the mechanism is that they are accountable to the people of Jersey by virtue of the senior officer, the Chief Officer of Police, being accountable to the Minister for Home Affairs. The Minister for Home Affairs, in turn, is accountable to the States of Jersey and the States of Jersey Members are, at least theoretically, accountable at election time to the public of the Island. That is the general structure. I have certain statutory duties. I have duty to secure the maintenance of an adequate and efficient force. The Chief Officer is responsible to me for the general administration and discipline, training, and organisation of the force. I deal with disciplinary matters relating to the Chief Officer and I have the power to suspend him. Lower ranks of police officers are accountable to the higher ranks. The Chief Office of Police is also responsible for the implementation of policy which is set by myself as part of the Council of Ministers in accordance with the States Strategic Plan and, in particular, there is of course an annual policing plan into which the Minister again has input. Although the States Police have operational freedom, which I have said repeatedly today is an important constitutional principle free of political interference, they are ultimately accountable to the Minister by virtue of the chief officer being made accountable to the Minister, and that would include in relation to the way in which they carried out operational matters.

3.17.1 Deputy R.G. Le Hérissier:

With everyone being accountable to everybody it all seems fairly tight. But I wonder, if for example we had a situation... and there was one, as the Minister may recall in the north of England, where a Chief Constable was particularly enthusiastic in arresting certain members of the community, as you may recall. Would that be allowed to continue under this incredible system of accountability which he has outlined to us? At what point would he intervene, for example, if he felt the Chief Officer of this force was, for example, becoming over enthusiastic in arresting certain members of a certain section of the community?

Senator B.I. Le Marquand:

I would be entitled to intervene if I thought that a policy decision was not being carried out and, of course, I would be entitled to start asking questions about general policy matters at a fairly early stage. But, of course, there is this tension between the responsibility for policy and overall responsibility on the one hand and operational matters on the other. In the U.K. of course there is a police authority who are effectively the employers of the police officers, so the situation is made even more complicated.

3.17.2 The Deputy of St. Martin:

Could I ask the Minister; how frequently does he meet with the Chief Police Officer to discuss operational matters and how the success of operational matters took place? How often do you meet with the Police Chief Officer?

Senator B.I. Le Marquand:

I do not generally meet to discuss operational matters. I meet to discuss policy matters more so. I have meetings probably once a fortnight, we are now setting up a structure of monthly meetings, but I meet when need occurs and of course I may sometimes pick up the phone to talk to the Acting Chief Officer about a particular matter about which I was concerned. I mean, for instance, in relation to the matter in which the Deputy of St. Martin was asking questions before, when I saw there was an issue in relation to search powers I spoke to the Acting Police Chief to check that the police did have appropriate search powers and to receive assurances from him in that regard. But that was unusual.

3.17.3 Deputy T.M. Pitman:

Earlier I asked about a complainant who had attempted to complain to the police, it was sent away to Citizens Advice Bureau; who are the police accountable to for failing in their duty in that type of situation?

Senator B.I. Le Marquand:

I cannot answer that because do not know ... I must apologise to the Deputy, I may have misunderstood him earlier on. I did not realise he was saying that an attempt was made to complain to the police. I failed to understand that. I have to say that the police were wrong if, in relation to a complaint of the nature he was talking about, it were sent away. That could be a failing of an individual officer to understand the situation.

The Deputy Bailiff:

That completes question time but the Bailiff has given leave for one urgent additional oral question which is on the Member's second supplementary paper and it is a question which Deputy Shona Pitman wishes to ask the Minister for Housing.

4. Urgent oral question to the Minister for Housing

Deputy S. Pitman:

I do ask this question because there are 69 potential first-time buyers who have been asked to find a mortgage within a very short period of time and the risks that are involved in that. Would the Minister advise whether people who have expressed an interest in the purchase of properties under the Homebuy Scheme at La Providence have been told that they must set up a mortgage by 1st May 2009, and if so would he confirm that only one bank has so far expressed an interest in the scheme. If so, advise why the scheme is still going ahead.

Senator T.J. Le Main (The Minister for Housing):

First of all I would like to thank my Assistant Minister who has done a tremendous amount of work, many, many hours of negotiating, working with officers in bringing this scheme virtually to fruition, so I would like to thank him publicly for all the work he has done. In answer to the Deputy, it is not correct that the 69 people who have expressed an interest in purchasing a Jersey Homebuy home at La Providence have been told they must have mortgages in place by 1st May. All buyers were written to last week to advise them of the prices of the homes, the allocation process and the likely timeline. In practice, while most banks will give in principle advice, mortgages cannot be confirmed until such time as the specific property being bought has been identified, and that cannot happen until the allocation process has commenced and each individual buyer has been allocated a property. The allocation process is set to run from 1st May until 30th May. In regard to the second part of the question, we are well aware that there is one bank that has agreed to loan on several of these properties but we are in an unprecedented time as far as the economy is concerned. It is fair to say that some banks are not lending and those that are are being more prudent in respect of what they lend and who they lend to. My department has been working behind the scenes on this and there have been numerous meetings of lenders and with the Jersey Bankers Association. Further meetings are planned for the next 2 weeks with specific lenders who have indicated a willingness to lend on the Homebuyers Scheme, not predominantly one bank but several others.

4.1 Deputy S. Pitman:

As there are 69 potential buyers and only 46 homes, there is a lottery that will be held on Thursday, I believe, and in the letter that has been sent to these people the department asked for confirmation from a lender of borrowing potential by 1st May. We are talking about 69 families with hopes of owning their own home. Is it not highly risky to ask these people with 5 days' notice, because they got a letter just on Saturday, to go out and get confirmation of a potential mortgage when all, bar

one bank, has expressed that they do not want to be part of the scheme and this one bank has only expressed an interest. Is it not nonsensical and irresponsible on the part of the Minister for Housing that most of these people will find that their bank will not give them a mortgage? Bearing this in mind, why has the department asked these families to do so?

Senator T.J. Le Main:

All these persons that have indicated they would like to purchase Homebuyer have already sought financial advice from lenders on mortgages. They have still all indicated that they are willing to proceed on the prices indicated. There may be, and there probably will be, one or 2 that may drop out for one reason or another. But this is a fair process. It will be drawn as we did years ago with a lot of other developments we did in a fair and transparent manner by the Greffier, and those who are lucky to be in the 46 will then be able to look at the properties and then firm-up their mortgages. It is high time this development ... we have people who have sold properties living with parents desperately waiting for these homes.

4.2 Senator S.C. Ferguson:

Could the Minister with regard to the Homebuyers Scheme clarify the position regarding the warranties on these new-build houses? It seems to me that the States are buying a new house and then reselling them from the description we had. The Minister can correct me if I have understood incorrectly, because where does the liability for the warranty fall?

The Deputy Bailiff:

I am not entirely clear that arises out of the question, Senator.

Senator T.J. Le Main:

Perhaps my Assistant Minister could answer that point if that was ... as far as I am concerned ...

The Deputy Bailiff:

I think, Minister, it does not, in my opinion, arising out of the question. No doubt you can take it up privately and ask a further question.

Senator T.J. Le Main:

I am very happy to speak with the Deputy after, but as far as I am concerned we are not purchasing the properties.

4.3 Deputy R.G. Le Hérisier:

I wonder could the Minister tell the House, if these clients, notwithstanding the excellent programme, were to find difficulties in getting finance and there were to be a number, what contingency plan does the department have in place?

Senator T.J. Le Main:

There would be no contingency plan. The 46 homes will be sold to the first 46 that come up with the mortgages and we are very, very confident among the 300 we have on our waiting list for a homebuyer, that if we could not find 46 out of the 69 that we will find others to take their place.

4.4 Deputy G.P. Southern:

Will the Minister please answer the question; does he not consider it negligent of his department or, at the very least, careless to leave it to 5 days' notice to seek confirmation of such a major thing as the potential for a mortgage?

Senator T.J. Le Main:

No, all the prospective purchasers have known for months the criteria and the gateway and what was expected of them. This letter that went out last week, which I have circulated to all Members, so they will understand it, was a clarification of what they already know.

4.5 Deputy G.P. Southern:

Can the Minister then either confirm or deny that there is only one bank interested in participating in this scheme?

Senator T.J. Le Main:

No, that is not true at all. The Deputy was either out of the Chamber or not listening. There is one bank that seems to be quite dominant but there are several other lenders involved in the 49 number of people.

4.6 Deputy S. Pitman:

The information I have received is from a reputable mortgage agency and several constituents who have received this letter. He has not answered my question; is it not highly irresponsible that there is only bank who has only expressed an interest in this. All other banks have said no, they do not want it, and yet you are asking people to go out and get a mortgage.

Senator T.J. Le Main:

Surely the Deputy is not listening. I have said there is one bank willing to lend, quite dominant at the moment. There are other lenders in the marketplace and, as I said 5 minutes ago, the officers are meeting again with the Jersey Bankers Association and several other lenders within a fortnight have said they are very interested in coming on board for Homebuyers Schemes. These 46 homes can be well accommodated by 2 and 3 and 4 mortgage lenders.

4.7 Deputy G.P. Southern:

Can I ask the Minister to consider carefully his answer? He appears to be very categorical that there is more than one bank. Is he confirming that there is more than one bank interested in the scheme and willing to lend?

Senator T.J. Le Main:

The answer to that is yes. The advice by my officers is yes.

4.8 The Deputy of St. John:

Could the Minister tell Members what the latest state of play is with the States loan system within the Island? Is it no longer in play for first-time buyers to have a home?

Senator T.J. Le Main:

I do not know what that has got to do with Homebuyers; it is in play and the maximum to borrow is £120,000.

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

5.1 The Deputy of St. John:

Can the Minister please give the Members the total value of monies that the States are being asked to put out for the Alternate Insurance Service Limited given that we read in the media that sums of money are going to be given to quite a number of persons who have made bad investments. That being the case, is it his intention to bring this item to the House for debate?

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

The total sum is not clear at this stage, but it will be no more than £600 million. **[Laughter]** I am glad to see such a reaction, Members are clearly awake. In particular the Minister for Treasury and Resources. The maximum amount that any investor would receive under the scheme, we are following the scheme which is currently operating in the U.K., the Investor Compensation Scheme which allows a maximum of £48,000 per investor. As far as the second and final part of the question the Deputy raised; will the matter come to the House? No, the decision has been made. The decision was taken or the request or information was taken to the Council of Ministers and the request was made to the Minister for Treasury and Resources for the appropriate funding, which he has approved in principle.

The Deputy of St. John:

Could we be told the total exposure to the Island please?

Senator A.J.H. Maclean:

Maximum £600,000.

5.2 Deputy M.R. Higgins:

The Deputy of St. John has asked the first part of the question I was going to ask; the second part, it may have been partly answered but I would like to explore it a bit further. There is no investor compensation scheme in place in the Island except for recognised funds and I would like to know, although you are following the U.K. Financial Service Compensation Scheme Rules, under what powers has the Minister approved this particular payment?

Senator A.J.H. Maclean:

The decision was taken to follow the guidelines of the U.K. system and that was exactly the decision taken. That is a scheme that runs in the U.K. and we felt that it was reasonable to use those parameters when deciding on whether or not to support this request for compensation. Is there a second part to the question?

Deputy M.R. Higgins:

It was questioning under which powers you were able to make this payment considering there is no law in place that I am aware of.

Senator A.J.H. Maclean:

We can make the decision under Ministerial Decision by Ministerial order.

5.3 Deputy K.C. Lewis:

Can the Minister inform Members if there have been any expressions of interest from any other carriers on the northern or southern car carrying sea routes?

Senator A.J.H. Maclean:

No, there have not.

5.4 Deputy S. Power:

Can the Minister confirm whether that since the beginning of April the port of St. Malo is now open to the direct landing of fish by Jersey fishermen?

Senator A.J.H. Maclean:

I think the Deputy has asked a similar question before, and I think he is probably aware from a previous answer that ...

Deputy S. Power:

Before April, a whole month has passed since.

Senator A.J.H. Maclean:

Yes, indeed, and an agreement was reached between Jersey fishermen and their counterparts in St. Malo. There have been some difficulty in terms of putting this in place but I understand that progress has been made and that fish can, in fact, be landed by private vessels.

5.5 Deputy R.G. Le Hérissier:

Could the Minister indicate where the costs of the new fencing at the airport - £500,000 - is coming from? Will some of it come from the sale of excess bollards? **[Laughter]**

Senator A.J.H. Maclean:

Over the years that I have been in this Assembly the Deputy has shown a great deal of interest in the bollards at the airport and I must say that if he would like to make an offer, I am sure we would be more than delighted to consider it very seriously. As far as the costing for the fencing, just over £500,000, that is coming from the airport funds. What I am delighted to say about that particular project is that it is a local company ... it went out to tender and a local company has won the contract, so I am delighted the local firm is going to benefit.

5.6 Deputy M. Tadier:

I am sorry to have to go on about the same issue, but I did not receive satisfaction earlier from the Minister's Assistant so once again; we heard earlier that it was said that consultation with taxi drivers and concessions, *et cetera*, at the airport was not the job of his department but the job of the banks to do this. Given that the portfolio of the airport and tourism, in particular, comes under Economic Development does the Minister agree with that and what steps would he take to make sure tourists are not given the wrong message?

Senator A.J.H. Maclean:

This is clearly a difficult area because as far as the airport is concerned and as far as Economic Development is concerned, we would like the best possible facilities we could have at the airport, including cash dispensing machines and those machines dispensing sterling which are particularly valuable for those going out of the Island. However, this is a matter which is a commercial matter. The bank is providing a facility, the airport and the States do not have the ability to put cash machines in, they have to rely on a supplier and unfortunately it is not - we are told by the bank in question, and we have spoken to other banks as well - economically viable for them to maintain that machine or those machines in that particular area. It is an unfortunate situation.

Deputy M. Tadier:

With respect, it may be a commercial issue but it is an issue which will affect the financial wellbeing of the Island perhaps and this is an area that the department should be leading on. Will the department be seeking an alternative operator for the cash machine which is in a vital location? It is the only one which is available to the public.

Senator A.J.H. Maclean:

We have spoken to a number of other banks looking to see if we could find somebody else interested in putting a facility in there but I must say we have not been knocked over in the stampede of interest. I think one of the reasons is that banks realise that people departing tend to get their cash at the point of departure, not the point of arrival. That is probably why that machine is not being utilised in the way that we would have liked to have seen it and obviously to make it sustainable from the bank's point of view.

5.7 The Deputy of St. Martin:

Last year we were expecting the draft Licensing Law to be lodged. I understand it now going out for consultation. Would the Minister advise Members when the consultation is ending and when the draft Law is likely to come to the States for approval?

Senator A.J.H. Maclean:

The consultation process goes on until June. As far as the actual law drafting and law coming to the States I cannot give a precise figure at this stage but I am happy to liaise outside of this session with the Deputy to give him some more detailed information.

5.8 Deputy G.P. Southern:

Can the Minister inform Members whether the, I believe it was, £500,000 of money found to support the tourism industry through these recessionary lean times was, in fact, fresh money and not money already allocated to the Tourism Development Fund?

Senator A.J.H. Maclean:

Yes, it was in fact a mixture. £250,000 of this £550,000 the Deputy is referring to came from Economic Development. It was re-prioritisation of our existing budget to have delivered that £250,000, £250,000 from the Tourism Development Fund and, what I am particularly delighted about, £50,000 from the Jersey Hospitality Association showing that the industry is also behind the initiative.

Deputy G.P. Southern:

If I may, could the Minister inform Members from which other fund the money was re-prioritised, who is not getting it?

Senator A.J.H. Maclean:

As far as Economic Development is concerned and in the current economic climate it is essential that budgets are re-prioritised at this time. We have to be in a position to be able to move fast. At the current time, with bookings not being particularly strong, we need to take money further in the year from our budgets from different areas to put into there, so we hope to be able to replace that at a later stage from money from the Stabilisation Fund through the stimulus package but essentially it is from Jersey Enterprise budget.

5.9 Deputy D.J. De Sousa:

Following on from the questioning from Deputy Southern, what is the Economic Development Department doing in the current downturn to boost tourism and to continue to encourage tourists to come to the Island?

Senator A.J.H. Maclean:

We are continuing to work with businesses both on the Island and obviously our key airlines and ferry operator to ensure that packages are put together to encourage people to come to the Island, so clearly the marketing of the Island is key. I have just been talking about the question from Deputy Southern about additional funding into tourism marketing, that is television advertising, posters in the U.K. and a number of other initiatives to supplement the existing marketing spend. We will continue to support the tourism industry and help to drive tourists to the Island. I am pleased to say that the levels of inquiries are quite high at the moment. What we are working on is trying to convert them. We are hopeful we can benefit from the currency differentials as well where people will choose to come to a sterling denominated location as opposed to a more expensive euro area.

5.10 Deputy K.C. Lewis:

Following on with the currency, as the Minister is aware that the Battle of Flowers is looming very soon, most Parishes have to buy their flowers from Europe and with the fluctuation of the Euro this

is adding several thousand pounds to each of the Parish Associations. Will the Minister look again at the grant given to Parish floats with a view to increase it?

Senator A.J.H. Maclean:

It is again very difficult at this late stage. I do appreciate the problem that the extra cost of the flowers present and, of course, we will be as sympathetic and lend what assistance we possibly can in that area.

5.11 The Deputy of St. John:

If I could remind the Minister what he said on the figure of £600,000 earlier on, it was a decision being made by himself and his ministry. Given that being the case will he bring to the House for debate by the House the company concerned and the funding that is required and if not will he supply all the papers to a back-bencher so a back-bencher can bring the item to the House for debate?

Senator A.J.H. Maclean:

First of all, I think I need to clarify an earlier comment that I made in that regard to the Deputy's previous question. First of all, I made a request to the Council of Ministers on this matter. I took the information to the Council of Ministers where it was debated and I made a request to the Minister for Treasury and Resources for funding for the payment to the Alternate investors. There were not funds and are not funds available in Economic Development and so it is not within my remit, say, to provide funding. So, in that respect it was the Council of Ministers and supported by the Minister for Treasury and Resources from a funding perspective, the payment has been made so the answer to the second part of the Deputy's question is no.

The Deputy of St. John:

For point of clarification, is that no, he will not supply the papers to a back-bencher for debate or no, that he will not bring it to the House?

Senator A.J.H. Maclean:

The correct approach, if so chosen, is that the matter should be scrutinised and the information would be perfectly available for the Scrutiny Panel. I see he is not in the House at the moment but if the chairman of the Scrutiny Panel wishes to scrutinise it, of course it is entirely within his powers to do so and of course we would assist him in the matter.

5.12 Deputy R.G. Le Hérisier:

Does the Minister, as the flag bearer for the rural strategy, share the extreme disappointment of people as to the rejection of the planning application for allotments and could he reassure the House that he will be putting all pressure to bear in the right quarters for the creation of allotments?

Senator A.J.H. Maclean:

In fact I am very enthusiastic about allotments. Last year I spoke to the department about progressing matters and the Constable of St. Clement, the Assistant Minister, who looks after the agricultural areas in Economic Development, has been tasked specifically with that matter and he is putting a working group together to further the interests of allotments. I think it is a splendid idea and I can understand why, indeed, the request was turned down for good reasons but I am sure there are other sites on the Island and I hope we can progress allotments as quickly as possible.

5.13 Deputy M. Tadier:

The Minister mentioned a moment ago about marketing for tourism which I would say is a laudable initiative but what areas has the Minister identified for the improvement of looking after tourists on the Island from their moment of arrival to departure?

Senator A.J.H. Maclean:

The key involvement that Economic Development have in that area is supporting local businesses. The Deputy would appreciate that most tourist attractions and facilities within the Island fall into small businesses, and through Jersey Enterprise we are working with local businesses to ensure that they are as productive and as able to market themselves as possible. I believe that the Island generally has an excellent range of different facilities for tourists. Of course we can always improve and we will work with local companies to ensure that they offer the best possible services.

5.13.1 Deputy M. Tadier:

Would that also extend, when you talk about local businesses, to taxis and buses because there have been extremely long queues when people arrive at the airport and at the harbour which is frankly embarrassing, I believe, and not sending out the right message to the tourists?

Senator A.J.H. Maclean:

Absolutely and I share the frustrations of the Deputy in that matter. Sadly, the taxis are outside of our direct control. As the Deputy is probably aware it falls with Transport and Technical Services. It is a matter that I have mentioned and will have further conversations with that Minister about. It is a difficult area but we do need to deal with it and try and get a far better service. One point I could add is that a new shuttle service from the harbour is about to be introduced, which is a free service I believe, running from the harbour to the central terminus and that is a very positive sign for people arriving on the Island.

6. Questions to Ministers Without Notice - The Chief Minister

6.1 The Deputy of St. John:

I will go back to my earlier question, if I may. Could the Chief Minister give me the reaction of the Migration Advisory Group and the Minister for Housing with regard to an application for a (j) category U.K. appointment at T.T.S.?

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

I have absolute confidence that the Migration Advisory Group will look at any application for a (j) category licence and field it on its merits. I believe they will do that with this application just as with any other.

The Deputy Bailiff:

Do you wish to ask a follow-up question?

The Deputy of St. John:

Yes, I also asked about what the views were of the Minister for Housing?

Senator T.J. Le Main:

No idea. [Laughter]

Senator T.A. Le Sueur:

I am not going to speak for the Minister for Housing. He is capable of speaking for himself. My view is that I have confidence in the Migration Advisory Group.

The Deputy of St. John:

At the end of the day the question is to the Chief Minister and he should find out what his fellow Ministers are thinking on this. I would expect the answer to come from the Chief Minister, not to have to put the Minister for Housing on the spot. It is not him that has taken on this role.

Senator T.J. Le Main:

I am quite happy to answer that.

The Deputy Bailiff:

No, no. This question is for the Chief Minister.

Senator T.A. Le Sueur:

This is a question for the Migration Advisory Group of which the Minister for Housing is one member. It is the Group which comes to a decision and the Minister for Housing would no doubt put his input, I believe, forcefully at the group meeting and discusses it. At the end of the day if I have any doubts as to the ability of that group then I will certainly raise them but I have none.

6.2 Deputy R.G. Le Hérissier:

With the planning application to remove the caretaker's office from Cyril Le Marquand House in order to accommodate more civil servants in the Chief Minister's Department, would the Chief Minister tell us who are these people who need that extra accommodation and whether this is part of his cutback campaign?

Senator T.A. Le Sueur:

If they were to accommodate more civil servants I would have more sympathy with the question. What we are trying to do is to run the central organisation of the States in a more efficient manner. What I am seeking to achieve is to bring into Cyril Le Marquand House the senior management of the Economic Development Department, who are currently run and operate from a different building, so that we can have that department, the Treasury and the Chief Minister's Department all under the one roof. I believe that that will lead to improved decision making, swifter decision making and more joined-up thinking. That is the reason why this is being done and it will free up other accommodation elsewhere which we are in no doubt paying rent, which we no longer require.

Deputy R.G. Le Hérissier:

Can I follow that up? Therefore, will the States have to pay for an item or unit of accommodation for the caretaker now we are removing one unit out of the Island's housing stock and, secondly, has he got a firm promise that the very dispersed empire of Economic Development will indeed be reduced by that particular building being rented out or being sent back to the private sector?

Senator T.A. Le Sueur:

Firstly, that accommodation has not been occupied by a caretaker for some time now. It has been vacant accommodation serving no useful purpose so it is a good use of empty space. As for the Economic Development Department and any other departments' use of office space, we will be considering shortly an office development strategy as part of the overall property strategy. The Economic Development Department I know is committed, as I am committed and the Minister for Treasury and Resources is committed to making sure that we make the best use of States property assets including office accommodation. It is my intention, and I am sure their intention, to ensure that that accommodation is rationalised and brought together as soon as the leases permit.

6.3 Deputy G.P. Southern:

How seriously does the Chief Minister take the warning from the U.K. Prime Minister that attention will, henceforth, be directed to matters of tax avoidance rather than merely tax evasion by H.M. Treasury and the O.E.C.D. (Organisation for Economic Co-operation and Development) authorities?

Senator T.A. Le Sueur:

I take it very seriously indeed because I think it indicates to me the acknowledgement by the U.K. Prime Minister of the valuable contribution which Jersey has made among the Crown Dependencies generally in promoting the ideas of greater fiscal transparency and greater co-

operation among other nations. We believe that the example that Jersey has demonstrated is being used now by Gordon Brown as a spur to maintain and develop that impetus and we are happy to continue to work alongside the U.K. Government in order to achieve that.

Deputy G.P. Southern:

Does the Chief Minister accept that the signing of a number of T.I.E.A.s (Tax Information Exchange Agreements) will no longer be sufficient to keep Jersey on the so-called 'white list' and when does he propose to engage with the U.K. Government over, what he calls, fiscal transparency?

Senator T.A. Le Sueur:

The signing of agreements is one demonstration of Jersey's commitment to ongoing global co-operation. By itself that is not necessarily sufficient but it does, I think, indicate that Jersey is showing a lead, is showing a good example, and is in the forefront of developing that particular line of approach. I think as that line of approach gets followed by other countries, as no doubt it will, it will lead to standards around the world generally being raised thanks to the impetus shown by Jersey. Will that be enough in the future? No, of course it will not and that is why we continue to work with the U.K. authorities. The Deputy asked: "When will it start?" I had discussions the week before last with Lord Bach, the U.K. Under-Secretary. Today we are meeting, as the Minister for Treasury and Resources said, with Mr. Michael Foot and the team are looking at that and we are continually working to ensure that Jersey continues to demonstrate the highest standards of probity, the highest standards of co-operation and to transparency.

6.4 Deputy J.A. Hilton:

Last week, after reading the proposition that was lodged by Deputy Le Claire on Family X, I emailed the Chief Minister and the Council of Ministers requesting that the funding be found to provide the care that is so desperately needed for these children. There has been a lot of correspondence circulating in the past 3 or 4 days, I want to know if the Chief Minister has had an opportunity to read the correspondence in the papers behind this case and whether he has formed an opinion on the matter and, if so, what is that opinion?

Senator T.A. Le Sueur:

I have read the papers and I have formed an opinion. At this stage it is not a fully informed opinion. I would like to have more background information particularly from the Health Department and from the former Minister for Health and Social Services. Like all such issues there are 2 sides to a story and I want to make sure I get the full picture before I jump to conclusions.

6.5 Deputy M. Tadier:

Does the Chief Minister agree with the Pope's decision to honour John Christensen of the Tax Justice Network by awarding him the medal of Iustitia et Pax, Justice and Peace? **[Laughter]**

Senator T.A. Le Sueur:

Certainly I am happy that the Pope is capable of making up his own mind in choosing to whom he awards and whichever awards he chooses to do so. I am not going to try to influence his decision and certainly I have little comment to add to that particular question.

Deputy M. Tadier:

Am I really to believe that the Pope did not consult the Chief Minister before choosing the award? **[Laughter]**

6.6 Deputy J.M. Maçon:

Given the answer from the Minister for Economic Development, how did the Council of Ministers reach the decision to release funds regarding the Alternate Insurance Services Limited when there is no Jersey statute to do so and what precedent does this set?

Senator T.A. Le Sueur:

The question of the investors in Alternate is one which caused the Council of Ministers considerable discussion but we did have to take a guidance from clear directions in respect of court proceedings in respect of that case which highlighted certain deficiencies which were pointed at the Government to put right. We felt a moral obligation to listen to that legal advice and legal comments from the judge concerned and implemented the position. On that basis we felt that it was the appropriate decision to make to deal with the genuine plight of people who, in this particular instance, were not sophisticated investors but typically what one might call widows and orphans.

Deputy J.M Maçon:

Will the Chief Minister, therefore, bring proper legislation to have this in place instead of going on a moral code?

Senator T.A. Le Sueur:

Yes, we have already had discussions about the way in which some sort of investor compensation scheme might be brought in but I would point out to the Deputy that the origins of this case go back to 2001 since which time our regulatory standards have improved tremendously, and I have every confidence that occurrences such as that will be very rare, hopefully non-existent, in the future. This is only one case that we have ever had in the Island. I hope it will not only be the first but the last.

6.7 Deputy D.J. De Sousa:

How can the Chief Minister and the Council of Ministers justify making a decision for this amount of money when we had to bring propositions to the House and the indignity of the Woolworths' workers, the Pound World workers [**Approbation**] and you can make a decision for £600,000?

Senator T.A Le Sueur:

Decisions are never easy to take. In this case we took the decision on the basis that it was one virtually recommended to us by the courts but also because we were confident this was a one-off occasion unlike situations of redundancy payments where there may have been a number of them and also that, in this particular case, there was no other remedy available.

6.8 Deputy A.K.F. Green:

In a similar vein, if we can find or the Council of Ministers can find £600,000 to compensate the investors, why are we putting Family X through the indignity of a debate in the House [**Approbation**] when the Council of Ministers quite easily see the need for this and make that decision?

Senator T.A. Le Sueur:

I hope that the decision we make in respect of Family X, and any other kind of families in that situation, will be done on the basis of the best needs for their family and not simply on economic financial grounds.

6.9 Deputy G.P. Southern:

Could the Chief Minister inform Members what section of the Public Finances (Jersey) Law 2005 allows Ministers to dispense such sums of £600,000 and Accounting Officers to okay that on the grounds of morality and not law?

Senator T.A. Le Sueur:

The Minister for Economic Development, like all Ministers, has a budget within which he works and providing he works within that budget and applies reasonable principle he is free to spend that money in what I consider to be a very appropriate way for those particular unfortunate individuals.

Deputy G.P. Southern:

Again, I would ask the Chief Minister to inform Members what section of the Public Finances Law, which I thought contained more rigour than appears to be the case, allows that dispensation?

Senator T.A. Le Sueur:

I appreciate the Deputy's question. Unfortunately, I do not have a copy of the Public Finances Law in front of me. I would probably be hard-pushed to find the right clause in the next 5 minutes but I am sure it can be achieved with a bit more time and research.

6.10 The Deputy of St. John:

Given the Chief Minister's reply, will he endeavour, by the close of business today, to inform the Members of this House what that Article is and what that law is, please?

Senator T.A. Le Sueur:

It all depends what other business we have to do during the course of the afternoon. I am about to make 2 further statements. I shall endeavour to find out as soon as possible but I suggest to the Deputy that if it can be achieved in the next 48 hours certainly and by the end of the week, if he is reasonably patient, I am sure that can be delivered.

The Deputy of St. John:

Yes, if the Chief Minister wants to be patient I would say by close of business tomorrow evening. We will be here.

Senator T.A. Le Sueur:

I gather that actions are in hand and it could be even sooner.

6.11 Senator B.E. Shenton:

Will the Chief Minister give an undertaking to produce a report to this House on the spending of the £600,000 giving full details? **[Approbation]**

Senator T.A. Le Sueur:

I fully appreciate the sentiment behind that question. Before doing so I should like to take legal advice to ensure that in doing so that would not create any complication in respect of the nature of the assessment made with the parties concerned. Subject to that, the answer would be yes.

The Deputy Bailiff:

Are there any other questions of the Chief Minister? Very well, we will call a close then to questions of the Chief Minister. There are no matters under J. Under K, Statements of matters on Official Responsibility. Firstly, the Chief Minister will make a statement regarding P.49, child abuse compensation claims: freedom of expression for survivors.

STATEMENTS OF MATTERS ON OFFICIAL RESPONSIBILITY

7. Statement by the Chief Minister regarding P.49/2009 'Child abuse compensation claims: freedom of expression for survivors'

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

I apologise for the length of this statement but in the proposition P.49 the States are asked to agree that in respect of claims being made against the States of Jersey by survivors of child abuse, the

States shall not offer, seek or impose any form of confidentiality clause in the negotiations or settlement with claimants and their representatives and to further agree that the States shall not make a request to the court, future redress board or similar body considering compensation claims to impose such a clause as part of any judgment or settlement. The Council of Ministers completely agrees with the sentiments of this proposition and would want to support it. However, while seemingly very attractive there may be circumstances in which it would not be in the best interests of an individual claimant. The Council of Ministers would, therefore, wish to put forward an amendment to ensure that in one respect, and only in this one respect, the option of negotiating confidentiality should remain open. I would, therefore, ask Senator Syvret to allow the proposition to be deferred to allow such an amendment to be brought forward which I hope would then allow all of us to unanimously agree the amended proposition. I have drafted the outline of an amendment which is before the States today and it is just to add the words to the end of the proposition. I quote: "With the exception that there may be circumstances in which commercial terms, including the sum of the settlement and any associated conditions, may be subject to a confidentiality agreement" so that it reads: "The States are asked to decide whether they are of the opinion to agree that in respect of claims being made against the States of Jersey by survivors of child abuse, the States shall not offer, seek or impose any form of confidentiality clause and any negotiations or settlement with claimants and their representatives and to further agree that the States shall not make any request at court, future redress board or similar body considering compensation claims to impose such a clause as part of any judgment or settlement with the exception that there may be circumstances in which commercial terms, including the sum of a settlement and any associated conditions, may be subject to a confidentiality agreement." Given that the motives of the Council of Ministers seem very similar to those of Senator Syvret, Members are asked to consider sympathetically a request for a short delay in the debating of this proposition. If the proposition is deferred I will undertake to present this or a very similar amendment as soon as is practical once it has been fully considered by the independent legal advisers. I would like to, very briefly, outline the reason for the amendment but first let me be very clear that I and the Council of Ministers believe that any individual should be free to speak openly and honestly about their experiences, always recognising that they must be mindful of the law and the impact on other members of society. We therefore agree that the States should not offer, seek or impose any form of confidentiality clause in any of the investigations or settlements with claimants which would impair their ability to speak of their experiences. However, it is very easy to envisage circumstances in which in order to settle one individual's valid claim, without prejudicing the interests of other claimants or the public, the size and related terms of the settlement should remain confidential. This amendment would allow such an agreement to be concluded where it was appropriate to do so. Civil claims are at a very early stage and the States legal advisers are in discussions with lawyers, appointed by claimants, concerning these claims. There are a number of issues that need to be addressed and one preliminary issue concerns a legal representation of claimants. It is understood that a number of claimants are being represented by lawyers under conditional fee agreements whereby success fees are payable and those fees will operate to reduce any sum that might be payable to any claimant. As claimants are entitled to legal aid in Jersey it is a concern that the best interests of claimants are not best served by the present arrangements, and this is being raised with the lawyers concerned. In conclusion, I hope that States Members will understand that these are very complex matters. People who establish that they have been subject to abuse must receive the support, respect and understanding that they deserve and the Council of Ministers will do all in its power to ensure these are delivered. However, we have also to be aware of the wider public interest. I believe that with this very simple amendment, that will not infringe the rights of any individuals, we should be able to achieve that difficult balance. In the short time available we have not been able to take all the necessary advice from our independent advisers and I hope the States Members will allow us the opportunity to ensure that we take the very best decision in everyone's interest. So I hope that Senator Syvret will agree to defer this proposition in order to ensure that the States has the best advice available before we take our decisions. I do not

believe that there is any overriding urgency for taking the decision today or probably tomorrow as there are no present restrictions on any claimants' rights to speak freely about their experiences nor is there any intention to impose any such restriction. I hope that we are able to consider this amicably in the best interests of the individuals concerned and their families.

7.1.1 Senator S. Syvret:

I wondered if the Chief Minister could inform the Assembly whether this amendment is going to approval because I can certainly say that if I tabled an amendment of this nature it would be rejected out of hand because the effects of the amendment is to negative a proposition. Quite clearly it is a wrecking amendment designed to basically destroy the effect of the proposition. I certainly will not be accepting this amendment nor will I be willingly agreeing to the deferment of the proposition.

Senator T.A. Le Sueur:

I do not believe it is a wrecking amendment as the Senator implies. It has approval in principle but, as I have said, it is a draft amendment which has to be subject to legal clearance so I cannot commit at this stage to say that that really has clearance because clearly the Chair cannot finally clear an amendment until they see the final wording of it.

7.1.2 Deputy G.P. Southern:

That seems to me to be a very confusing statement that the Chief Minister has just made. The fact is he has not addressed the point made by Senator Syvret that this is a negative of the amendment. Will he please address that before I ask him a further question?

Senator T.A. Le Sueur:

In my view and I have sought advice on this, it is not a negation of the proposition. It simply amends one part of it dealing with the financial terms. Other than that the claimants are perfectly at liberty to say what they like, see whom they like, when they like within the normal confines of the law.

7.1.3 Deputy G.P. Southern:

The final paragraph of his statement says that there are no present restrictions on a claimant's rights to speak freely about their experiences nor any intention to impose such a restriction except if that impinges on the commercial terms that are accepted. It seems to me that the statement itself is a contradiction in terms, would the Minister not agree?

Senator T.A. Le Sueur:

No, the amendment is not saying or certainly not intending to say that should there be any commercial confidentiality requirement that would restrict the claimants' ability to speak in general terms about their experiences because I am saying that they can still speak freely about their experiences whether or not there is commercial confidentiality on the actual sum of the settlement. That is not in question. That is why I equally say that this is not a negation of the proposition whether the amendment that I am proposing is accepted or rejected does not affect the individuals' rights to speak freely about their experiences.

7.1.4 Senator B.E. Shenton:

When I lodged P.1, which was lodged for 2 months, the Council of Ministers made their comment 3 days before the debate. When I lodged the Reg's Skips proposition the Council of Ministers lodged their comment on the same day of the debate. The Chief Minister is now coming here at the last minute with an amendment to a proposition, may I respectfully suggest that the Council of

Ministers get their act together and abide by Standing Orders which is quite clear. I would tend to agree with the other speakers that this is a negative amendment and I reluctantly agree with Senator Syvret that it should not be accepted.

Senator T.A. Le Sueur:

I can only accept and apologise that the fact that these are very late comments. They are late partly because we are also being advised by third party lawyers acting for the Health Department and in a situation like this, where an act is under litigation or the claims as the statement says, are at a very early stage but while we have matters of legal process it is something which has to be done very carefully and, unfortunately, takes a longer time than I would expect. This proposition was lodged 3 weeks ago over which time there has been an Easter recess and I apologise that the first meeting of the Council of Ministers was not until last Thursday. Action took place in the meantime but it was only on Thursday that Ministers gave steer as to which way forward we should go. Certainly, what concerns me is that the alternative to not accepting a short delay is that we will simply have to debate the proposition which I would then be required to oppose even though the syntheses of the proposition are one which I and the Council of Ministers totally endorse.

Senator B.E. Shenton:

May I just suggest to the Chief Minister that, like the Chairmen's Committee, he has extra meetings for urgent matters.

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

Will the Chief Minister explain why he felt it necessary to make a statement on the fact that he intended to bring an amendment to a proposition?

Senator T.A. Le Sueur:

I think the proposition is down for debate today and there has to be some explanation of why, at this late stage, the Council of Ministers wanted to request a delay in this debate. I could have just stood up at the appropriate time that the Senator was about to propose it and do so. I believe that that would have been discourteous to the House. I believe that by doing it this way I have given, granted, only a little bit of notice but at least some chance for Members to consider the situation and for the Senator himself to consider the situation. I have heard his reaction which I can understand, but I still maintain the position which the Council of Ministers finds itself in of wanting to support the general thrust of Senator Syvret's proposals but being caught on this narrow point of the financial settlement terms.

7.1.6 Senator A. Breckon:

I wonder if the Chief Minister could clarify that the actual point of the amendment is not to prejudice any other case that may be pending, and that is the intent rather than to frustrate anything that Senator Syvret wants to do?

Senator T.A. Le Sueur:

Yes, I believe that is an important consideration which would come out in the course of the actual debate on the subject itself. Each case needs to be discussed on its merits and one case should not necessarily be regarded as influencing another and if the outcome already determines a settlement. This is not uncommon in cases where there are more than one claimant and I would think that is just good legal practice.

7.1.7 Senator S. Syvret:

Does the Chief Minister not understand that of the dozens and dozens and dozens of abuse survivors out there, a great majority of them have had wrecked lives and they have lived in isolation of each other even, let alone proper support and care and mutual support. Does he not recognise and see that it is now, in fact, entirely right and justifiable that these people who we, as a

society and we as an administration failed, should be able, in fact, to work together and compare notes on each others civil claims. Heaven knows it is not as though we have helped these people in the past. Are we seriously now going to try and further handicap them on a divide-to-rule basis?

Senator T.A. Le Sueur:

No, I think that misrepresents the situation. Certainly, I am sure that those people do and will continue to work together and support one another but every case here potentially is a different situation with different outcomes, just different degrees of severity, and I am not going to second guess the rights of a civil court or anybody else to distinguish between one case and another. All I am saying is that there will be differences from one case to another and that we have to ensure that every claimant gets justice but that the outcome of this new settlement is related to the facts of that case and not simply related to the fact of cases in general. As I say, in view of the fact of the complexities of the way in which the legal claim may well be pursued and the need of the States to ensure that fairness is done to all sides, we believe this is a better way forward.

7.1.8 Deputy A.E. Jeune:

I am just trying to make sure I understand this properly. Could the Minister explain, is his statement about ensuring the claimants' ability to request confidentiality and not for us, as the States, to be putting in confidentiality?

Senator T.A. Le Sueur:

No, it is for the States or independently it is for both sides but it would be including the States. The States may well require confidentiality in respect of each individual case so that each case is dealt with on its own merits.

7.1.9 Deputy M. Tadier:

I think first of all it is important to say that I believe we are all on the same side here. Nobody wants to restrict anyone's freedom of expression and I think that can be said for all of us. It is just simply a case of how we go about this. There does seem to be a negating here of the proposition I feel, and excuse my childlike simplicity if you will, but on the one hand you have a statement that said no restrictions would be imposed to talk about one's experience and then it says, but you must not talk about any settlement. That is, effectively, what we are being told. Now it seems to me that, say, if someone wanted to write a book about their experiences subsequently, any settlement that you enter into the way that that is arranged and any figure that might come out is part of one's experience. You cannot say that it is any different so you may have a very valid reason for explaining in a book or in an interview, for example, how much you received. You might make an allegation, for example, that I received peanuts from the Government and I should have received more. Then if you cannot back that up with a figure then you could be open to a charge of lying. So, I think it is important here that we establish what experience is and I think that really we either support this and say you are allowed to talk about your experiences or you are not, it is one or the other.

The Deputy Bailiff:

Deputy, can I bring you to your question.

Deputy M. Tadier:

Yes, my question is really one for the Chair and I would ask, on a practical point, what happens now if Senator Syvret does not agree to defer the proposition because this seems to be what the nub is of the problem?

The Deputy Bailiff:

That is a matter entirely for the Assembly. That concludes time for questions to the Chief Minister on that statement.

8. Statement by the Chief Minister regarding public sector pay in 2009/2010

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

I would like to inform the House of a decision by the Council of Ministers. At our last meeting we decided that there should be a pay freeze for public sector staff for the pay year 2009/2010. We took that decision with the States Employment Board in attendance. The States will now be asked to withdraw the 2 per cent which has been set aside in department budgets to fund this years pay awards. Ministers also decided that they would recommend a pay freeze to States Members. I am sure Members will understand the financial forecast showing significant reductions in States revenues over the next few years and even when the world comes out of recession there will be ongoing deficits. Any public sector pay awards given during the downturn will simply make it harder to fund any remaining deficit and could mean tax increases or service cuts which I believe Members would like to avoid as far as possible. Finally, we must not forget the impact the current economic climate is having on jobs and pay in the private sector. Any pay rise for States staff and for States Members would ultimately be funded by taxpayers, some of whose own jobs may well be at risk.

8.1.1 Deputy G.P. Southern:

Does the Chief Minister not accept that in freezing pay from his sector, he effectively withdraws £7.4 million from the economy at a time of recession while his Minister for Treasury and Resources is pumping £44 million into the economy in order to keep it going? Does he further accept that pay freezes never work in the medium to long term because sooner or later the workers play catch-up and if that happens out of recession that is the worst time for inflation? Finally, does he also accept that we have deliberately set up an independent pay body to review our pay and does he not think he has a cheek in interfering with the workings of that body at this present time?

Senator T.A. Le Sueur:

Firstly, the Deputy is quite correct that it does calculate at £7.4 million withdrawn from the economy which will have the effect of reducing a deficit and I would point out to the Senator, for the services of the Deputy, that what is really of greater importance is the balance between States income and States expenditure. Is it all right as a long term policy? No, the long term pay freezes do not work and I agree that there is a danger of catch-up. I do not believe in this case there is such a danger of catch-up because we are facing here a situation of considerable economic downturn where not just the public sector but all sectors of the economy are facing wage restraints. I have seen some cases of wage reductions and in other cases job reductions. Finally, in respect of States Members, I did not say that we were going to cut it out. I said we would recommend and I have written to the Remuneration Board who will be making their recommendation. I have merely passed to the States Members Remuneration Board the Council of Ministers recommendation that there should be a pay freeze and my statement makes that quite clear.

8.1.2 Deputy G.P. Southern:

Does the Minister not accept that withdrawing £7.4 million runs in the opposite direction to the Minister for Treasury and Resources' addition of £44 million to the economy?

Senator T.A. Le Sueur:

No, but I understand where the Deputy is coming from. I think, as in all these things, if you put 2 economists into a room you will come up with 3 decisions or 3 different shades of opinion. All I can say is that I disagree in this instance with the Deputy.

8.1.3 Deputy D.J. De Sousa:

How can the Chief Minister justify proposing of pay freeze for public sector workers when some departments have only just accepted last year's pay offer? These people have had many increases including food, electric and you have also just told the House you have agreed to £600,000 to investors that have lost money but you expect people to ...

Senator T.A. Le Sueur:

I accept that the pay award for 2008/2009 has only just been settled. That is not the fault of the Council of Ministers or the States Employment Board. The offer was made last summer and negotiations have been going on for the best part of 12 months and if bodies had previously refused to settle and previously not taken the money which is the same offer they were offered last May, that is not the responsibility of the Council of Ministers. I appreciate that this will be a significant burden on them just as pay restriction generally is a burden to other sectors of the community as well. They are not unique in suffering in this respect.

8.1.4 Deputy M.R. Higgins:

I would like to echo Deputy Southern's comments leading into a question of the Chief Minister. Wage freezes do not work. What I would say is that the private sector ... that can easily be got around by re-grading of staff, benefits, share options, all sorts of things so to impose a pay freeze on one sector of the economy and not on another would not work, is inequitable in that sense. Besides that there are plenty of other ways that ...

The Deputy Bailiff:

Deputy, what is the question? There is only 10 minutes allocated to this.

Deputy M.R. Higgins:

I would suggest that he considers withdrawing this. Would the Minister consider withdrawing this proposition because it is definitely inequitable and it will cause other problems within the economy?

Senator T.A. Le Sueur:

Certainly not.

8.1.5 Deputy S. Pitman:

The Chief Minister says in his statement: "Any public sector pay awards given during the downturn will simply make it harder to fund any remaining deficit and could mean tax increases or service cuts." Should not the Chief Minister instead ensure research is undertaken into alternative sources of States revenue by Treasury and Resources, for example, 1(1)(k) increase in tax contribution and land development tax?

Senator T.A. Le Sueur:

That exercise has already been done and I do not believe that that is a sensible way to proceed. I thought that the Deputy might be suggesting that the States would also look at other ways of trying to save money and reduce expenditure. In that respect I would gladly endorse what that would have achieved which was to make sure that the money that we do spend is used to the best effect.

8.1.6 Deputy S. Pitman:

I am of the understanding that there has just been a stop to land development tax. In reports where it is talked of there is no further research. Could the Chief Minister give evidence of this work on land development tax and 1(1)(k)s?

Senator T.A. Le Sueur:

At the moment there is no additional work being done, certainly on 1(1)(k)s. In my view the current economic situation is such that the revenue one gets per capita from 1(1)(k)s, under the new

arrangements which have been introduced a few years ago now, is a far better way of generating revenue for the Island from a relatively small number of people and I believe it is a policy which needs to be developed rather than tinkered with and further restricted. As for land development tax, that is an issue which is being given some consideration but, as we have discussed that at the final of the fiscal policy debate, it is not a simple matter. Certainly, if the effect would be to increase the price of property it is not something which is a sensible course to adopt. There are other ways of achieving the objectives of a land development tax such as through planning obligations and so on which, in my view, are far preferable to having this blinkered land development tax approach which is very difficult to apply and very good for tax practitioners to find ways around.

8.1.7 Senator A. Breckon:

I wonder if the Chief Minister could say if any other policies were considered in business plans and things, allowances were made for an increase in salaries and now apparently there is not. Was any interim measure considered like, for example, giving people, on less than £30,000, £20 a week or something like that or was it just black or white?

Senator T.A. Le Sueur:

I think it is important that what we have here is a general policy about a pay freeze and within that policy we have had discussions yesterday with employer representatives and they are equally willing to work with us to find constructive ways in which we can make that operation more successful. It could well be that there would be differential arrangements within the pay sector. I say that as a possibility because it is much harder to achieve in practice than it sounds in theory. The important thing, from our point of view as policy setters, is to ensure that there is a freezing of the overall States pay bill.

8.1.8 The Deputy of St. Mary:

In the Chief Minister's statement he says there should be a pay freeze for public sector staff. The Minister for Treasury and Resources says in all questions today, a few hours ago: "I believe in equality" and I quote him verbatim. Does the Chief Minister share this view? Does he also believe in equality and, if so, can he comment on how the pay freeze will contribute to this equality?

Senator T.A. Le Sueur:

The policy is a complex matter and certainly, in this respect, I believe that it will make a contribution towards a fairer society if the public sector workforce is subject to the same sort of strictures as the private sector workforce also has to face. No one likes seeing pay freezes or pay reductions but I think if we are going to have difficult times then in that interest of equality we can all try to share in that situation. That is why this recommendation to the Council of Ministers goes not just to public sector staff but to States Members as well.

8.1.9 Deputy M. Tadier:

Does the Chief Minister acknowledge that a pay freeze disproportionately affects those on lower pay scales who might have already figured in their extra spending in a pay increase and would the Chief Minister rethink the proposition so that he might cut, perhaps, the high earners and give it to the lower paid workers who do a grand job?

Senator T.A. Le Sueur:

There are various difficulties to that apparently worthwhile suggestion. The first is that the majority of States employees are actually in lower paid jobs and the proportionate effect is quite tricky to deliver, but also that independent analysis has shown that in many cases it is the lower paid jobs which compare unfavourably to the private sector and the medium to higher paid jobs which ... sorry, where the States employees in fact are better off than the private sector and in the middle to higher ranking jobs they are worse off than the private sector. So, if we are trying to get the equality that the Deputy of St. Mary was talking about one would do that in the perverse way of

giving more to the higher paid and less to the lower paid. I do not think that that was what would be Deputy Tadier's intention. It is certainly not that of my Council of Ministers. We believe in fairness to all and independence to all here, I am afraid means nothing for anybody.

9. Statement by H.M. Attorney General regarding the results of the Deputies elections in No. 2 District St. Helier

9.1 The Attorney General:

I have been asked by some Members and by members of the public whether I will be challenging the results of the Deputy's elections in No. 2 District of the Parish of St. Helier held last November on the grounds that election offences had been committed. Article 57 of the Public Elections (Jersey) Law 2002 is in these terms: "Application to Royal Court. Every case of a disputed public election shall be dealt with by the Royal Court." At paragraph (2): "Any person, whether or not a candidate in an election, may dispute a public election by making application to the Royal Court, being an application on oath setting out the grounds for the dispute and made before the end of the period of 6 months following the day that has been fixed for delivering the returns to the Royal Court." In my opinion it would be appropriate for the Attorney General to make an application under Article 57 if you are satisfied that he had the evidence to support it and that it was in the public interest to do so. Having the evidence is obviously critical for without it no such application would be ventured. In addition, however, I do not consider that there would be any or any sufficient public interest in an application being made if it is clear that the outcome of the election would not be affected by the application. The purpose of an application under Article 57 must ultimately be to seek a remedy under Articles 60 or 61 with a view to unseating a candidate or candidates who has or have been elected. Although that purpose will always be pursued where what is sought is the declaration of a vacancy under Article 61(2), the same is not true where Article 60 applies which relates to the discounting of numbers of votes. The relevant part of Article 60 is as follows: "If the Royal Court upholds a dispute that turns on any of the following circumstances, it shall order that the relevant return be amended by subtracting from the number of valid votes the number of votes (if any) cast by persons in those circumstances." The relevant paragraph for these purposes being paragraph (e): "that a person recorded his or her vote in a manner contrary to the requirements of this law." The election offences which have been admitted are contraventions of Article 39A of the law in relation to postal voting. The exact number of contraventions relevant to any such application would have to be established by evidence tendered in the case in question. Article 60 of the law is not, in some respects, dissimilar to the United Kingdom provision in section 166(1) of the Representation of the People Act 1983 which provides: "Where, on a parliamentary election petition claiming the seat for any person, a candidate is proved to have been guilty by himself or by any person on his behalf of bribery, treating or undue influence in respect of any person who voted at the election, there shall on a scrutiny be struck off from the number of votes appearing to have been given to the candidate, one vote for every person who voted at the election and is proved to have been so bribed, treated or unduly influenced." The United Kingdom legislation does not have provisions similar to Article 39A and I refer to the provision from the Representation of the People Act as analogous to the provisions of Article 60. In my view, the effect of the election offence under Article 39A is that the voter, exercising the postal vote, has cast that vote in circumstances in which it is recorded in a manner contrary to the requirements of the Law within the meaning of Article 60, paragraph (e). The result is that the relevant candidate's tally of votes stands to be reduced even if it be the case that the voter in question did not in fact cast the vote in the candidates favour. Deputy Southern and Deputy Shona Pitman have pleaded guilty to offences under Article 39A. Accordingly, the tallies of votes cast for them would be reduced by the numbers of offences which they could be shown to have committed. The tally of their fellow Jersey Democratic Alliance candidate, Deputy De Sousa, would only be reduced if she could be shown to be an accessory to the offences contrary to Article 67 or had

committed offences herself. I have seen no evidence against Deputy De Sousa which would justify any such conclusion and the fact that she is, like Deputy Southern and Shona Pitman, a member of the J.D.A. (Jersey Democratic Alliance) is, in my view, immaterial. There is nothing in the law which suggests that wrongdoing committed by a particular candidate can affect a fellow candidate from the same political party. I think you would need express language to produce such a result and there is no such language in the law. It is to be noted that the wider power to declare a vacancy or to declare the entire election void is prescribed in Article 61 of the law but that power is based on 3 different types of circumstance, none of which apply in this case. Deputy Southern and Deputy Shona Pitman would, respectively, need to have 253 and 186 votes discounted in order to be left with an equal total to that of the fourth place candidate. However, they both appear to have given candid confessions of the extent of their offences and in the absence of any evidence that those offences extend to 253 and 186 occasions respectively, I do not consider there is any public interest in my bringing the election result before the Royal Court. An application under Article 57 must be made within 6 months of the date fixed for delivering the returns to the Royal Court. In this case, the application would have to be made by 8th June 2009. Deputy Southern and Deputy Shona Pitman are awaiting sentence which is currently scheduled to take place on 20th May 2009. I would rather have made no statement on the electoral position until the criminal case had been concluded, but given the deadline of 8th June for others to take action if they are so advised, I have decided to make my position clear at this stage. I do not, however, think it would be appropriate for me to answer questions until after the criminal case is over and I, accordingly, ask the Members for variance in that respect.

The Deputy Bailiff:

Does any Member wish to ask a question?

9.1.1 Deputy S. Pitman:

The Attorney General said in his statement that the United Kingdom legislation does not have provisions similar to Article 39A. Could he confirm if he knows this is the case for any Commonwealth country?

The Attorney General:

I rather suspect this is an area where I have been asked questions or Members have tried to ask me questions previously and I have said it would not be appropriate, but I will answer in this case to say I am not aware of other Commonwealth countries which have similar legislation.

9.1.2 Deputy G.P. Southern:

The Attorney General talked about the Representation of the People Act and talked about where votes have been obtained by bribery, treating or undue influence. Will he clarify for Members that undue influence under the United Kingdom law means threatening people to vote for you and that has not happened and is not the same as 39A, which is all to do with helping people obtain a postal vote?

The Attorney General:

I think it is quite clear Article 39A is not to do with undue influence.

9.1.3 Deputy T.M. Pitman:

I will not ask any questions to do with my colleagues. Could the Attorney General just clarify in light of the statement about the subtraction in the tallies of votes, whether he has had any investigation into St. Helier No. 3 where it would certainly make a difference yet nothing has happened?

The Attorney General:

I have seen no evidence or investigation in relation to St. Helier No. 3.

9.1.4 Deputy T.M. Pitman:

Just to clarify, even though the complainants have been to the police, Judicial Greffe, Solicitor General, where is the link there? What happens? Who is accountable? Does the law only apply in certain instances or is it a law that applies for all? The complainants have been waiting for 5 months and no answers. It is the same law; evidence.

The Attorney General:

I am not sure I can add very much to what I have just said. I have seen no evidence. As far as I am aware, the Solicitor General was approached and directed the complainant to go to the police. I do not know the outcome of that.

9.1.5 Deputy T.M. Pitman:

Could the Attorney General then tell us what is going to happen next because clearly it is a very unsatisfactory situation and we would all like the law to be applied equally, would we not? I am sure we would.

The Attorney General:

I am certainly willing to tell Members that I am, as a result of the information which came to me last night, considering the position with the Solicitor General further and I think I do not wish to say any more at this stage except to add that I entirely agree that the law is to be applied fairly and equally.

9.1.6 Deputy S. Pitman:

Could the Attorney General clarify, were any of the members of the public who made representations either an election candidate or representatives of a candidate during the St. Helier No. 2 election?

The Attorney General:

In my view, the question of such communications as the Attorney has with members of the public raises the issue as to whether a duty of confidence arises. I think it is less likely to arise with members of the public than with Members of the States, but in the circumstances of this case I do think a duty of confidence arises and I am not willing to answer the question.

9.1.7 The Deputy of St. John:

It cannot be right for Members who are charged with offences and the Attorney General ... or their families to be questioning the Attorney General when he has asked this House for their forbearance given the circumstances of the case and I ask that we move on to the next item, Sir.

Senator P.F.C. Ozouf:

I heard Deputy Trevor Pitman accuse the Deputy of St. John of wanting cover up. I know that perhaps you did not hear that, but I heard that **[interruption]** ... he used the word "cover ups" in the context of the Deputy of St. John and I think that is inappropriate. Would you care to comment?

The Deputy Bailiff:

Deputy Pitman, what did you say?

Deputy T.M. Pitman:

I asked the Deputy as he was saying a question should not be asked and if he liked cover ups. I think it is a perfectly valid question. It was not an accusation.

The Deputy Bailiff:

It clearly carries an inference, does it not?

Deputy T.M. Pitman:

I would not make that accusation over my colleague, but I think he is very wrong so I will withdraw it.

The Deputy Bailiff:

That completes questions to the Attorney General.

Senator P.F.C. Ozouf:

May it be helpful to Members: the Chief Minister was asked under what arrangement, under the Public Finances Law, allocation was made to Alternate investors. I can advise Members and I circulated an email of the Ministerial Decision which was made public in respect of the Alternate investor compensation together with all other matters which under Article 15(1) of the Public Finances Law the Minister for Treasury and Resources makes on an annual basis in regard to year end under-spends. If any Member wishes to ask me questions in request of that Ministerial Decision, I am more than happy to do so. I have circulated it to Members but it was under Article 15(1) of the Public Finances Law and relates to under-spends from 2008 which are allocated after seeking advice from the Council of Ministers.

Deputy G.P. Southern:

If I may before we proceed to Public Business, I am informed that this is the appropriate moment to ask permission of the House to seek whether I can add P.60/2009, my proposition on the arrest and detention of Stuart Syvret, to the list of matters for Public Business, since on Thursday it will be eligible to be heard if it is on the list and to be dealt with on Thursday and I seek your advice as to how I may do that.

The Deputy Bailiff:

You may at this stage propose that it be added to this session's Order of Business. One moment while I consult with ... Yes, Deputy, we were just checking but you have to give 2 days' notice but I understand you did inform the Greffier that this is what you would ...

Deputy G.P. Southern:

I did, Sir, and obviously while it can be dealt with on Thursday if it is on the list I would also seek permission at the appropriate moment under 26(7) to deal with it one day early if we get to it by Wednesday. So I formally propose that with the House's permission we add P.60/2009 to the list of business.

The Deputy Bailiff:

Is that seconded? **[Seconded]**

The Connétable of St. Mary:

I wonder if I can ask, there is an amendment lodged in the name of the Privileges and Procedures Committee. It was lodged on 27th April. What would happen to the amendment in this case?

The Deputy Bailiff:

Neither of them will have been lodged for the correct time; is that right, Greffier?

Deputy G.P. Southern:

One of them will not be.

The Deputy Bailiff:

If the Assembly agrees to take the proposition on Thursday by which time it will have been lodged, then either the amendment cannot be debated or the Assembly would have to agree that it is so urgent in the interest of Jersey under the Standing Order that it ...

Deputy G.P. Southern:

If it is of any help to Members I am minded certainly at this stage and I think I would be accepting that amendment, I think it is a reasonable way forward.

The Deputy Bailiff:

Yes, but it still requires Members to decide whether it was sufficiently urgent that it could be added. So the proposition before the Assembly is to add P.60/2009 to the matters to be considered at this sitting.

Deputy G.P. Southern:

Can we have the appel please?

The Deputy Bailiff:

Yes. The appel is called for on whether to add P.60/2009, which I think is entitled the Arrest and Detention of Senator Syvret, to the list. I invite Members to return to their seats and the Greffier will open the voting. The Greffier will close the voting. The proposition is adopted: 30 votes pour, 14 votes contre and one abstention. So then it is added to the list.

POUR: 30	CONTRE: 14	ABSTAIN: 1
Senator T.A. Le Sueur	Senator P.F. Routier	Connétable of St. Mary
Senator P.F.C. Ozouf	Senator S.C. Ferguson	
Senator B.E. Shenton	Senator A.J.D. Maclean	
Senator A. Breckon	Connétable of St. Ouen	
Senator B.I. Le Marquand	Connétable of Grouville	
Connétable of St. Helier	Connétable of St. Martin	
Connétable of Trinity	Connétable of St. Saviour	
Connétable of St. Brelade	Connétable of St. Clement	
Connétable of St. John	Deputy R.C. Duhamel (S)	
Connétable of St. Lawrence	Deputy of St. Ouen	
Deputy of St. Martin	Deputy J.A.N. Le Fondré (L)	
Deputy J.B. Fox (H)	Deputy of Trinity	
Deputy J.A. Martin (H)	Deputy of St. John	
Deputy G.P. Southern (H)	Deputy E.J. Noel (L)	
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 I.J. Gorst (C)		
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)		

PUBLIC BUSINESS

10. Police Complaints and Discipline: extension to Honorary Officers conducting Parish Hall Inquiries (P.30/2009)

We come to the first item of Public Business which is P.30, Public Complaints and Discipline: Extension to Honorary officers conducting Parish Hall Inquiries, lodged by the Deputy of St. Martin and I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion: (a) to agree that the Police (Complaints and Discipline) (Jersey) Law 1999 should be amended so the definition of complaints is extended to include complaints against Honorary Police officers conducting Parish Hall Inquiries, and (b) to request the Minister for Home Affairs to bring forward for approval the necessary amendment to give effect to the decision.

10.1 The Deputy of St. Martin:

Before I begin I would like to pick up on a point that Senator Shenton said earlier on this afternoon and it is one that I have made before and it has been made by other back-benchers too, is the fact the unfairness where a back-bencher finds comments on their desk the day of a debate particularly when a proposition has been lodged as long ago as 5th March. **[Approbation]** I also did make a request of the Connétable. I know my good friend, the Constable of St. Ouen, will agree that I did say I would be more than happy to meet and that is when I lodged it way back in March, so it is rather disappointing I have the comments today. That said, they are nothing new; they are more or less a rubber stamp what the Attorney General said so they do not really affect me but the principle is I would ask that people who are going to lodge comments, they do at least lodge them 3 or 4 days before the debate. It gives the person an opportunity to read them. Right, I will get underway and I think we will be running late. So accountability is one of the most important elements in any modern and mature society. Police accountability is vital because the police have the ability and the power to affect the lives of each and every member of the public including States Members. Because of the extraordinary powers and to ensure that police officers can enjoy the respect of the community it serves and like a number of other professions, police officers are subject to a statutory Complaints Law. Jersey is no different. I was present in this Chamber in 1995 when Members gave approval to the Defence Committee to commission a review of the policing system in Jersey. The review was undertaken by a panel of local residents under the chairmanship of Sir Cecil Clothier. During the course of the review, it heard from a considerable number of witnesses and made visits to a number of establishments including Parish Hall Inquiries. In July 1996, the panel published its report and made a number of very important recommendations. Among the recommendations was: "That a Police Complaints Authority should be adopted and passed into law as soon as possible." It also recommended that: "The Honorary Police should be subject to a disciplinary regime as strict as that for States Police and a new discipline code applicable for all members of the Honorary Police should be produced." Just over 2 years later, 22nd September 1998, the States approved P.162/2008, the Draft Police (Complaints and Discipline) (Jersey) Law 1999. The purpose of the law was to establish a Police Complaints Authority and the ability for members of the public to make complaints against States and Honorary Police officers. Part 3 of the law deals with complaints and other matters concerning members of the Honorary Police. In Article 17 a complaint is defined as: "Any complaint about the conduct of a member of the Honorary Police that is submitted to the Connétable of the Parish in which the member serves." I will repeat. A complaint is defined as: "Any complaint about the conduct of a member of the Honorary Police that is submitted to the Connétable of the Parish in which the member serves." Therefore, if the law was intended to exclude any particular conduct of the Honorary Police, the law would have been drafted accordingly. For example, if the law was intended to exclude officers from the ambit of the law when conducting Parish Hall Inquiries, it would have said so. Nowhere in the law does it state that complaints about the decision to charge will not be accepted as a complaint. Neither does it state that the position of a Parish Hall Inquiry is essentially a

prosecution process and to that extent that it is, it falls outside the scope of the 1999 law. Therefore, unless there is some other law of which I am not aware of, I submit that all Honorary Police officers irrespective of their rank, activity, role or the function they perform are within the ambit of the Police Complaints Law Regulations and Discipline Code. It should be noted that nowhere in the Police Complaints Law or the Regulations is a Parish Hall Inquiry defined. There is certainly no mention that it is essentially a prosecution process which I will refer to later. Sir Cecil Clothier and his panel devoted 4 pages to the Parish Hall Inquiry and made 8 recommendations. So Cecil described a Parish Hall Inquiry as an ancient institution in Jersey but it defies classification in a modern legal framework. Some of those whose evidence to us would assert that that is the charm and virtue of the Parish Hall Inquiry, but as a body we are not so easily charmed and we require evidence of virtue. In *Evaluating the Role of the Parish Hall Inquiry* published in 2004, Helen Miles and Peter Raynor said that: "A Parish Hall Inquiry is of great antiquity. It offered a very rare, possibly unique, example of a traditional form of non-court based justice operating routinely in a modern context." I believe it would be helpful for Members to note what the Miles and Raynor report had to say about a Parish Hall Inquiry and I will just quote from page 3 of their report: "For the purpose of this article, it is useful to summarise the characteristics of the Parish Hall Inquiry although this may be familiar to some readers. Any person reported for committing any offence in Jersey will ultimately appear before a Centenier who will decide what action is to be taken in respect of the alleged offence. In all but serious offences, offenders will be invited to attend the Parish Hall of the Parish in which the alleged offence was committed to have their circumstances reviewed by the Centenier of that Parish. A Parish Hall Inquiry refers to the process of preliminary investigation conducted by a Centenier to ascertain whether there is sufficient evidence to justify a prosecution and whether or not it is in the public interest to present the matter before the court. The Parish Hall has no legal definition and is not a court of law. Inquiries are usually held in the evening. Attendance is voluntary and attendees attending at any time request that the case be heard before a Magistrate. If a person warned to attend a Parish Hall Inquiry does not attend, the Centenier may choose to issue a summons requiring a person to appear before the Magistrate unless the evidence or the offence is considered to be so trivial as to waste court time. The purpose of the inquiry is for the Centenier, (1) to decide whether there is sufficient evidence to justify a charge, (2) if so, whether it is in the public interest to prosecute or whether the matter can be dealt with in some other way at the inquiry, and (3) if the matter is to be dealt at the inquiry, the appropriate method of disposal. The term 'Parish Hall Inquiry' is a misnomer in that the hearing is held by the Centenier can be convened anywhere within the boundaries of the Parish in which the alleged offence took place. Parish Hall Inquiries may be conducted on the roadside or in parishioners' homes. Reference to the Parish Halls came only after the construction of the late 19th and early 20th centuries when the alleged offenders would be warned to attend the Parish Hall to see the Centenier. The inquiry is a private hearing and it is a matter for the discretion of the Centenier as to whether an attendee may be accompanied by any person. Results are not published in the widely read local newspaper. The outcome of the inquiry is recorded by the Criminal Justice Unit at the Police Headquarters. This does not constitute a criminal conviction but is regarded as a 'Parish Hall sanction'. This record may be produced at subsequent inquiries and court appearances within the Island. There is no requirement to declare Parish Hall sanctions on job applications or visa requests. There is no reference to sanctions meted out at Parish Hall inquiry in the Rehabilitation of Offenders (Jersey) Law 2001 because they are not recognised as criminal convictions." Like Cecil Clothier, Helen Miles and Peter Raynor, I support the concept of the Parish Hall Inquiry. However, if it is to continue to defy classification in a modern legal framework and be held in private it is of paramount importance that those involved in operating it must be accountable in law. Probably the only thing the Attorney General and I are going to agree on is that this debate is not necessary. However, we agree for different purposes. I believe the debate is unnecessary because I believe the Police Complaints Law which I voted for in September 1998 ensure that any complaint about the conduct or competence of a States or Honorary Police officer whether on or off duty is already within the ambit of the Complaints Law. However, because of the Attorney General's

interpretation and ruling there is now uncertainty as to whether Honorary Police officers conducting Parish Hall Inquiries come within the ambit of the 1999 Police Complaints Law. As one will see in paragraph 2 of his comments, the Attorney General says: "The position is that the Parish Hall Inquiry is essentially a prosecution process and to the extent that it is, it falls outside the scope of the 1999 law. However, that is not to say that there will be some occasions when there is a conduct of Parish Hall Inquiry which merits being treated as a disciplinary issue; the essential differences between misconduct which is disciplinary and incompetence, which is a matter which should be addressed by the Attorney General." I totally disagree with that interpretation. It would be easier to walk away and not bother about the interpretation of law but I believe it is not good government, neither is it appropriate for the Honorary Police or the general public that the Complaints Law now lacks clarity. I would hope that Members by the end of this debate will agree that the law does exactly what it was always intended to do; that if anyone has a complaint about a police officer, whether it is about his conduct or competence including when conducting a Parish Hall Inquiry, the complaint will be investigated in accordance with the law. Members who will have read the report that accompany my proposition will have noted as a result of poor policing and lack of supervision, the motorist was subjected to months of anxiety and inconvenience all because he stood up for what he believed was an injustice. It also proved costly to the taxpayer who has had to pay for the motorist's costs. Following the motorist's unlawful arrest and court appearances, quite understandably he lodged complaints against the States Honorary Police, not out of vengeance, but because he wanted to ensure that the officers involved do not inflict their bad practices on other unsuspecting members of the public. Therefore, I believe it is important that Members know the circumstances which led to the complaint being made against the Centenier who carried out the second Parish Hall Inquiry. It is also important to note that in light of the Attorney General's comments, the complaint was not just about the decision to charge but to a number of other failures either side of the decision to charge. I believe the complaint should have been accepted because as we shall hear, the Centenier's actions were within the ambit of the Police Complaints Law and it would be wrong for the Attorney General's decision to remain unchallenged because in my view the present situation is unsatisfactory. I remind Members it is not a requirement for anyone to attend a Parish Hall Inquiry which is held in private. The Parish Hall is not defined in the Complaints Law or the Regulations and neither is conduct or misconduct, competence or incompetence defined. In late 2007 about 2.30 p.m. in St. Clement a motorist was driving his lorry and accompanied by a 15 year-old son. His attention was drawn by hooting and blue flashing lights from an unmarked car to his rear. He stopped his vehicle and was approached by a man in plain clothes who told him that he had a defective rear light. While checking the insurance the man, who eventually said he was a Vingtenier, saw a piece of cloth on the dashboard which was cluttered by other items including documents and tools. The word "police" was on a piece of cloth. It should have been obvious to anyone that it was not an official police sign nor was anyone impersonating police. The good gentleman up on my right is not a man who could be impersonating police. However, the Vingtenier accused the motorist of impersonating police. The motorist told the Vingtenier that he cleared rubbish from houses and various related jobs. His son had found the cloth when clearing property and asked his father if he could keep the sign because he collected police memorabilia. The boy had put the sign on the dashboard to take it home. When the boy tried to confirm his father's statement, the officer told him to shut up. In the officer's notes he has recorded a motorist allegedly saying: "It was just the lad messing about. He found it in a pile of rubbish." Therefore, the officer knew the sign was not the motorist's but his son's yet he cautioned the motorist for impersonating a police officer and warned him to attend a Parish Hall Inquiry. A week later, as directed, the motorist who lives in St. Ouen went to St. Clement's Parish Hall and after waiting considerable time to be seen, on inquiring when he was to be seen he was told that he was not on the list. He showed the note requesting him to attend a Parish Hall Inquiry and as a result the Vingtenier who had ordered him to attend was sent for. The matter was never formally investigated because the Vingtenier tried to persuade the motorist to plead guilty and accept a caution for impersonating police. Quite understandably, the motorist refused to accept a caution for

something he was not guilty of. He asked the officer for his details because he wished to take the matter further. The officer reluctantly gave his name and told the motorist that he was going to refer the matter to the States Police. So one wonders why the matter was not dealt with by the Centenier and why there was no Parish Hall Inquiry. Also, why were the States Police being asked to intervene? A couple of days later, the motorist wrote to the Attorney General complaining about the Vingtenier and making it clear that if he was to be charged with impersonating police, he should be charged without further notice. If not, he asked that the cloth with the word "police" that had been taken by the Vingtenier be returned to him. A couple of days later the Attorney General very efficiently acknowledged the letter. He said he was directing the Connétable of the Parish to request a Chief Officer of the States Police to conduct an investigation into the complaint. He also said he had notified the Police Complaints Authority of the complaint. Therefore, everyone in a supervisory position in both the States and Honorary Police were aware of the existence of the complaint and presumably the fact that a motorist wished to either be charged without delay or the sign be returned. Also, as a complaint was made presumably it would be investigated without delay. Unfortunately, that was not the case because a week later the motorist was phoned at his home by a States Police officer informing him that they wished to interview him about impersonating police. The motorist told the officer of the complaint against police and said he had nothing further to add apart from either charging him or dropping the matter. Unfortunately, this was not acceptable to the officer who a few days later arrived at the motorist's front door and said unless he attended Rouge Bouillon Police Station he would be arrested. The motorist told the officer that he had previously told him there was nothing more to be said and if it was his intention to charge him then they should do so. This explanation was not acceptable to the officer who then arrested the motorist and took him to Rouge Bouillon where the custody sheet records the reason for the arrest: "(1) was to secure evidence, (2) to preserve evidence and (3) to obtain evidence by questioning." The reason for detention was: "There is insufficient evidence to charge at this time. Detention is required in order to obtain evidence. I am satisfied that the arrest is lawful, necessary and proportionate to the offence being investigated." That statement is very important as we shall see later. I submit the arrest was unlawful. If a Parish Hall Inquiry is not mandatory, the States Police involvement at the request of the Honorary Police was an extension of the inquiry whereby there is no power of arrest by either the Honorary or States Police. However, the unlawful arrest is not germane to the proposition, but the fact that the States Police was of the view that there was insufficient evidence to charge, which is of paramount importance. This is because, as was his right when questioned by the States Police, the motorist exercised his right to remain silent. He had previously twice told the officer he had nothing further to add and the motorist stayed true to his word. Therefore, as no evidence was obtained by the interview, it must follow there was insufficient evidence to charge before the interview and there was insufficient evidence to charge after the interview. After that interview, the motorist, as is his right, lodged a complaint against the police for unlawful arrest and detention. As Members will have read in my report, a month later the same officer disgracefully and vindictively called the motorist's home at 8.15 a.m. on a Sunday morning waking up the whole family to give him a notice to attend a Parish Hall Inquiry a month later. The motorist attended the Parish Hall Inquiry as warned and was seen by a Centenier. It was as a result of the Centenier's conduct that eventually led to the motorist making a complaint which the Attorney General has ruled to be outside the ambit of the Police Complaints Law. The Centenier told the motorist that he had been asked to attend so he could try and resolve the ongoing problem. He said he had a report in front of him and he was totally new to the case so he would be listening to both sides. He had certain recommendations but it was entirely up to him how he would deal with the matter. The motorist never learnt of the recommendations or what the other side had to say because no other person or no one else on the other side appeared. Also one is left to wonder whether the recommendations ... whether the matter should be recorded as no further action because anyone with any modicum of good sense would have realised that that should have been the outcome. It should be noted that even though at the outset the motorist had said the sign was his son's, no one had interviewed his son. It is also apparent the Centenier had not read the

supporting papers including the Vingtenier's notebook which has stated that the sign was the motorist's son. Also no one had checked to see if the sign was an official police sign. I will remind Members that the States Police have said that there was insufficient evidence to charge so how could the Centenier charge the motorist? Had the Centenier investigated the matter in a diligent way there was no way he could have charged the motorist because in paragraph 2(2) of the Code on the Decision to Prosecute it states that it is the duty of the Centenier to make sure that the right person is charged for the right offence and the facts are given to the court. As the Centenier failed to carry out the proper investigation, if there ever was a case he charged the wrong person and also for the wrong offence. However, before being formally charged the Centenier told the motorist that he could charge him with impersonation but he considered it such a minor offence that if he agreed to be charged with the offence he would give him a Parish Hall caution. The maximum fine for the offence was £20. Members will recall that the Vingtenier had previously tried to persuade the motorist to plead guilty and accept a Parish Hall caution. Now we have a Centenier again attempting the same thing. The Centenier failed to carry out the requirements of the Code on the Decision to Prosecute and then failed to carry out the requirements contained in Code C of the Police Procedures and Criminal Evidence Law. He also warned the motorist to attend the Magistrate's Court but did not ensure that the court was advised or submit the papers because when the motorist attended the court his case had to be adjourned as neither the Centenier nor the papers were at the court. I will not continue the catalogue of misconduct other than to say the motorist was found not guilty when the case was eventually heard. The motorist understandably lodged a complaint against the Centenier listing a number of complaints. However, the Attorney General refused to accept the complaint on the grounds that in his view Parish Hall Inquiries are essentially a prosecution process and not a policing matter. Therefore, the complaint was not within the remit of the Complaints Law. On behalf of the motorist, I wrote to the Attorney General questioning his decision. However, the Attorney General maintains his position and says he accepted the complaint against the Vingtenier because at the time the Vingtenier was acting as a police officer and not part of the prosecution. He further stated that his decision was in line with the amendment to Article 21, paragraph 5, approved by the States in 2007. Given that the Attorney General is now justifying his decision to reject the complaint based on the 1988 *Attorney General v Devonshire Hotel Limited* case one wonders why he did not give that reason for rejecting the complaint. However, in his letter the Attorney General claimed that as a result of the amendment, if he did not think he would prefer any criminal charge or hold any disciplinary hearing in relation to the conduct of the Centenier in question as a prosecutor, the matter could consistently be subject to informal resolution under Article 21. Informal resolution, however, would require him to direct the Connétable to deal with the matter and as it is a prosecution matter and not a disciplinary matter, he did not think it appropriate for the Constable to do so. All this shows that the 1999 law was intended to cover policing matters and not prosecution matters. I must admit I had to read the letter a few times to understand the legal speak. However, I am of the view that there was no chance of the complaint being subject to an informal resolution, the complaint should have been registered and investigated. The Attorney General's refusal to accept the complaint because he deemed the Parish Hall Inquiry to be essentially a prosecution matter and not a policing matter was, in my opinion and with respect, an error. This is borne out in paragraph 2 of the Attorney General's comments which I partially refer to: "The Parish Hall Inquiry is essentially a prosecution process and to the extent that it is, it falls outside the scope of the 1999 law. However, that is not to say there will be some occasions when there is conduct at the Parish Hall Inquiry which merits being treated as a disciplinary issue rather than a prosecution issue. The central difference is between misconduct which is disciplinary and incompetence, which is a matter to be addressed by the Attorney General. The 1999 law is structured as it is to give relevant authority to the Attorney General as titular head of the Honorary Police and I suggest that the Attorney General should be left to decide on a case-by-case basis which are matters of competence and which are matters of conduct. If that is the conclusion then no amendment to the 1999 law is necessary." I remain of the view and with respect to the Attorney General but I believe he was in error when he decided to

reject the motorist's complaint because clearly there was incompetence and his misconduct was also incompetent. Clearly, the public are entitled to make complaints about officers conducting Parish Hall Inquiries and it matters not whether the officer's conduct was one of incompetence, there should be no exceptions. I do not think it is appropriate for any law to lack clarity and question whether the Complaints Law should be opened to interpretation. The comments where the Attorney General makes reference to the 1998 *Attorney General v Devonshire Hotel Limited* case, I was surprised to learn of this case because one wonders why no relevance was made when the Attorney General wrote to me or the motorist. I was a strong supporter of the Complaints and Discipline Law and for the independent Police Complaints Authority. I was present, as I said earlier, when we debated and approved the law in 1998. To the best of my knowledge, I do not recall any discussion relating to officers engaged in Parish Hall Inquiries not being within the ambit of the law. That is because I believe that Members were fully aware that any complaint as defined in Article 17 of the law meant exactly that. Neither the President of the Defence Committee nor the Attorney General told Members that because of the *Attorney General v Devonshire Hotel Limited* decision the law did not extend to complaints at Parish Hall Inquiries. Members should note that the case was in 1988, therefore it was relevant to the Complaints Law when it was debated 10 years later and the Attorney General of the day, Sir, who is now you, would have told Members and if it affected the Complaints Law, the law would have been drafted accordingly. In paragraph 14 of his comments, the Attorney General says: "My own view is that the 1999 law does not extend to complaints against Centeniers in relation to the exercise by them of a decision to prosecute or not to prosecute." That view is either right or wrong and at some point may or may not be tested in the court of law. The issue for Members now is whether given that is the view that the Crown takes in relation to the 1999 law, is it appropriate to amend the law to provide expressly the complaint about a prosecution decision at Parish Hall inquiry should be treated as a complaint for the purposes of the 1999 law. I am surprised at the Attorney General's comments because at paragraph 25 he states he reached that view years ago, or some years ago, and that the 1999 law is simply not consistent with treating complaints against the Prosecution Service. He canvassed that view with the chairman of the Police Complaints Authority who shares it. If the Attorney General held that view for so long, one must ask why he has not lodged an amendment to the Complaints Law to remove the Parish Hall Inquiries from the Complaints Law so Members could consider the matter. Not that I want to accuse the Attorney General of pulling a rabbit out of the hat by placing and producing the *Devonshire Hotel* case at the eleventh hour, but one again must ask why, if it was relevant when the Complaints Law was approved 10 years ago and relevant when writing to both the motorist and me last year, it only come to light as a result of my proposition? I repeat: I am of the view that a complaint as defined in 1999 law means that any complaint about the conduct of a member of the Honorary Police includes the decision to prosecute which is one of the most important roles undertaken by a Centenier. The decision to charge could have devastating effects on the lives of members of the public as experienced by the motorist. The decision to charge should only be made after the Centenier has fully investigated a matter before him. This is even more important when Honorary officers are dealing with Honorary Police cases. It should be noted that in Jersey there is no separation between the investigatory and the prosecution powers. The right to decide who to charge and who to carry out the charging function still remains with the Centeniers and I submit that they cannot switch from being police officers to prosecutors when conducting Parish Hall Inquiries and **[Approbation]** thus be outside the ambit of the Complaints Law. Such a notion defies logic. One of the reasons for maintaining the Centenier's role or the sole right to charge is because they are independent to States Police. However, there is no independence when the Honorary Police are dealing with their own cases as experienced by the motorist's case. It is worth noting that in the Vingtenier's statement it appears that the *raison d'être* for pursuing the case was: "... his [the motorist's] contempt of the system by demanding that I write down my name and number." In another paragraph, the Vingtenier says: "It was decided as Mr. A had no regard for the honorary system and he was displaying himself to the public that he was a police officer, then I should ask the States Police for assistance." The motorist was merely seeking details of the officer

who was addressing him. If that is contempt of no regard to the Honorary Police and a reason to be charged, then I am sure I am not alone in thinking that the officer was doing the Honorary Police a great disservice. It should be remembered that the motorist had made a complaint against the Centenier's colleague who at the time of the second Parish Hall Inquiry was now a Centenier. I can understand the Centenier finding himself in a difficult position and may have been seen as unfriendly or unsupportive to his fellow Centenier if he did not charge the motorist. However, he decided to charge and, therefore, should be accountable for his actions. It is apparent that the Centenier was either determined on making the motorist's life difficult or just incompetent. Whatever his conduct was, I believe it was within the ambit of the law. Surely, if someone is charged with an offence which clearly they are not guilty of and this is established following a trial then they have the right to complain about the person who decided to prosecute. If Centeniers fail to carry out a proper investigation before charging or their motives for so doing are questionable, why should their actions not be investigated in accordance with the law? Why should police officers not be accountable? To charge someone for any offence is a very serious matter. The Attorney General has provided guidelines which will be adhered to by all Centeniers and if they fail to do so, then their failure should be addressed in the law and it was clear in the motorist's case the Centenier failed to carry out or adhere to the guidelines. Unfortunately, in his comments the Attorney General has not explained the difference between misconduct and incompetence. I believe he is splitting hairs and is doing an injustice to the 1999 Complaints Law which is clear and unequivocal. However, because of his ruling it now lacks clarity. Also it defeats the purpose of the law which was to allow the public to complain against police officers' conduct even if they are incompetent. As previously mentioned in paragraph 25 of the Attorney General's comments, he clearly states that he reached the view some years ago that the 1999 law was simply not consistent with treating complaints against prosecution decision as a complaint for the purposes of the law. If the Attorney General was inferring that as drafted the Parish Hall Inquiries do come within the ambit of the law but he does not think they do, that is why he refused to accept the motorist's complaint. If that is the case, then I will submit there is no need for me to seek to amend the law but for the Attorney General to lodge a proposition to amend the law so that prosecution decisions do not come within the ambit of the Complaints Law. As an aside, I was extremely concerned that a law approved by elected Members of this Chamber can be set aside by an unelected and unaccountable titular of Honorary Police. It is a fact that the Attorney General is an unelected and unaccountable titular head of the Honorary Police and also head of the Prosecution Service. Where is the impartiality and the independence? What would Members' reaction be if the head of the States Police also decided to flout the law so he could deal with any complaint about the incompetence of one of his officers? Unfortunately, I am now in a dilemma because my proposition is requesting Members to amend the law so the definition of complaints extended to include complaints against the Honorary Police conducting Parish Hall Inquiries. However, it is apparent that the Attorney General and the Committee of Connétables agree that as drafted the law means what it does mean. But they do not agree with the interpretation and the ruling that complaints about officers' competence should be a matter for the Attorney General and his opinion is not within the law's ambit, and I am sure I am not the only Member who will be interested to hear the Attorney General's views on the matter. In particular, it has been of the view that the law was not intended to include matters of incompetence. Why has he not brought an amendment so that elected Members could debate the matter? If the Attorney General is of the view which he and the chairman of the Police Complaints Authority has held for years, that there are occasions when Parish Hall Inquiries are not within the ambit of the Complaints Law then he should bring forward an amendment to make it absolutely clear what part of the Parish Hall Inquiry should be within the ambit of the law and what part should not be. This will allow Members of the House to decide accordingly. Perhaps then we shall have a law which is clear and unequivocal and ensure that people like the motorist are not denied justice. If the Attorney General is minded to lodge an amendment to exclude complaints about the decision to charge, then this debate could be shortened and I could withdraw my proposition. However, I think the House deserves to seek clarity of the

law and which, indeed, will the Attorney General agree that possibly an amendment is required but I will leave that for the Attorney General. I make the proposition.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** The adjournment is proposed so the Assembly will adjourn and reconvene at 9.30 a.m. tomorrow morning.

ADJOURNMENT