

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 15th MARCH 2011**

<b>QUESTIONS .....</b>	<b>9</b>
<b>1. Written Questions.....</b>	<b>9</b>
1.1 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE LIFEGUARD SERVICE FOR THE ISLAND: .....	9
1.2 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE KYOTO PROTOCOL: .....	10
1.3 DEPUTY J.M. MAÇON OF ST. SAVIOUR OF THE MINISTER FOR HOUSING REGARDING MAINTENANCE WORKS:.....	13
1.4 THE DEPUTY OF ST JOHN OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE JERSEY ENERGY TRUST:.....	13
1.5 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING JERSEY POST SERVICES: .....	15
1.6 SENATOR F. du H. LE GRESLEY OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING OPTIONS FOR RAISING I.S.E. FEES: .....	17
1.7 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE CONTRACT OF THE HOSPITAL MANAGER: .....	17
1.8 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING PROGRAMMES TO PREPARE STUDENTS TO ENTER THE WORKPLACE: .....	18
1.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING COMPANY AND PERSONAL TAX REVENUES:.....	21
1.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING COMPANY TAXATION:.....	22
1.11 SENATOR S.C. FERGUSON OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING MIDDLE GRADE DOCTORS:.....	25
1.12 THE DEPUTY OF ST. MARTIN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING MIDDLE GRADE POSTS:.....	26
1.13 THE DEPUTY OF ST. MARTIN OF THE CHIEF MINISTER REGARDING THE NAPIER TERMS OF REFERENCE: .....	27
1.14 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING STAFF RESOURCES: .....	27

1.15	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE ADVANCE TO WORK SCHEME: .....	30
1.16	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE DEVELOPMENT OF AN ECONOMIC GROWTH POLICY: .....	31
1.17	THE DEPUTY OF ST. MARY OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE USE OF CONSULTANTS: .....	31
1.18	THE DEPUTY OF ST. MARY OF THE CHIEF MINISTER REGARDING THE MIGRATION POLICY: .....	32
1.19	THE DEPUTY OF ST. MARY OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING PROTOCOLS GOVERNING INVESTIGATIONS INTO POLLUTION INCIDENTS: .....	33
1.20	THE DEPUTY OF ST. MARY OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE AVAILABILITY OF AGENDAS AND MINUTES: .....	34
1.21	THE DEPUTY OF ST. MARY OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING NURSING POSTS: .....	35
<b>2.</b>	<b>Oral Questions .....</b>	<b>38</b>
2.1	Deputy K.C. Lewis of St. Saviour of the Minister for Treasury and Resources regarding the future of the old Fort Regent swimming pool: .....	38
	The Connétable of St. Peter (Assistant Minister for Treasury and Resources - rapporteur): .....	38
2.1.1	Deputy K.C. Lewis: .....	39
2.1.2	Deputy R.G. Le Hérissier of St. Saviour: .....	39
2.1.3	Deputy P.J. Rondel of St. John: .....	39
2.1.4	Deputy C.F. Labey of Grouville: .....	40
2.1.5	Senator J.L. Perchard: .....	40
2.1.6	Deputy J.A.N. Le Fondré of St. Lawrence: .....	40
2.2	Deputy A.E. Jeune of St. Brelade of the Minister for Health and Social Services regarding the initial contractual terms under which the Director of Social Services was engaged: .....	40
	Deputy J.A. Martin of St. Helier (The Assistant Minister for Health and Social Services - rapporteur): .....	41
2.2.1	Deputy A.E. Jeune: .....	41
2.2.2	Deputy R.G. Le Hérissier: .....	41
2.2.3	Senator S.C. Ferguson: .....	42
2.2.4	Senator S.C. Ferguson: .....	42
2.2.5	Deputy A.E. Jeune: .....	42
2.3	Deputy D.J.A. Wimberley of St. Mary of the Minister for Treasury and Resources regarding a senior Human Resources post at Health and Social Services: .....	42
	The Connétable of St. Peter (Assistant Minister for Treasury and Resources - rapporteur): .....	43
2.3.1	The Deputy of St. Mary: .....	43
2.3.2	Senator S.C. Ferguson: .....	43
2.3.3	Deputy A.E. Jeune: .....	44
2.3.4	Deputy A.E. Jeune: .....	44
2.3.5	Deputy R.G. Le Hérissier: .....	44

2.3.6 Deputy T.M. Pitman of St. Helier:.....	44
2.3.7 The Deputy of St. John:.....	45
2.3.8 The Deputy of St. John:.....	45
2.3.9 The Deputy of St. Mary:.....	45
2.4 Senator A. Breckon of the Minister for Treasury and Resources regarding the report requested during the Housing Development Fund debate on 6th July 2010: .....	46
The Connétable of St. Peter (Assistant Minister for Treasury and Resources - rapporteur): .....	46
2.4.1 Senator A. Breckon:.....	46
2.5 Deputy R.G. Le Hérissier of the Chief Minister, responding on behalf of the Minister for Treasury and Resources, regarding tax arrangements for persons employed by the States on ‘contracts for service’: .....	46
Senator T.A. Le Sueur (The Chief Minister - rapporteur):.....	46
2.5.1 Deputy R.G. Le Hérissier: .....	46
2.5.2 Deputy R.G. Le Hérissier: .....	47
2.5.3 Deputy G.P. Southern of St. Helier:.....	47
2.5.4 Deputy T.M. Pitman:.....	47
2.5.5 Deputy M.R. Higgins of St. Helier: .....	47
2.5.6 M.R. Higgins: .....	48
2.6 Deputy G.P. Southern of the Chief Minister, responding on behalf of the Minister for Treasury and Resources, regarding the achievement of a sustainable balanced economy:.....	48
Senator T.A. Le Sueur (The Chief Minister - rapporteur):.....	48
2.6.1 Deputy G.P. Southern:.....	48
2.6.2 Deputy G.P. Southern:.....	49
2.6.3 Deputy M.R. Higgins: .....	49
2.6.4 Deputy M.R. Higgins: .....	49
2.6.5 Deputy G.P. Southern:.....	49
2.7 Deputy S. Power of St. Brelade of the Minister for Economic Development regarding the job description for the proposed position of Group Chief Executive Officer at the Harbours and Airport:.....	49
Senator A.J.H. Maclean (The Minister for Economic Development):.....	49
2.7.1 Deputy S. Power: .....	50
2.7.2 Deputy S. Power: .....	50
2.7.3 Deputy A.E. Jeune: .....	50
2.7.4 Deputy R.G. Le Hérissier: .....	51
2.7.5 Deputy M.R. Higgins: .....	51
2.7.6 The Deputy of St. John:.....	51
2.7.7 The Deputy of St. John:.....	51
2.7.8 Senator T.J. Le Main: .....	51
2.8 Deputy T.M. Pitman of the Chief Minister regarding the total sum paid out to employees upon early termination of contract since December 2008 .....	52
Senator T.A. Le Sueur (The Chief Minister):.....	52
2.8.1 Deputy T.M. Pitman:.....	52
2.9 Deputy F.J. Hill of St. Martin of the Minister for Health and Social Services regarding the difficulties recruiting and retaining suitably qualified nurses across the Health Service:.....	52
The Deputy of Trinity (The Minister for Health and Social Services): .....	52
2.9.1 The Deputy of St. Martin: .....	52

2.9.2 Deputy G.P. Southern:	53
2.9.3 Deputy G.P. Southern:	53
2.9.4 Deputy A.E. Jeune:	53
2.9.5 Senator S.C. Ferguson:	53
2.9.6 Senator T.J. Le Main:	54
2.9.7 Deputy S. Pitman of St. Helier:	54
2.9.8 Deputy S. Pitman:	54
2.9.9 The Deputy of St. Martin:	55
2.10 The Deputy of St. John of the Minister for Transport and Technical Services regarding an adequate budget to undertake full repairs on pot holes:	55
Connétable M.K. Jackson of St. Brelade (The Minister for Transport and Technical Services):	55
2.10.1 The Deputy of St. John:	55
2.10.2 The Deputy of St. Martin:	55
2.10.3 Deputy M.R. Higgins:	56
2.10.4 The Deputy of St. Mary:	56
2.10.5 Deputy R.G. Le Hérissier:	56
2.10.6 Connétable K.P. Vibert of St. Ouen:	57
2.10.7 Connétable P.F.M. Hanning of St. Saviour:	57
2.10.8 The Deputy of St. John:	57
2.11 The Deputy of St. Mary of the Chief Minister regarding the Terms of Reference of the Napier Review:	58
Senator T.A. Le Sueur (The Chief Minister):	58
2.11.1 The Deputy of St. Martin:	58
2.11.2 The Deputy of St. Martin:	59
2.11.3 The Deputy of St. Mary:	59
2.12 Deputy K.C. Lewis of the Minister for Economic Development regarding the banning of the public sale of high-powered lasers:	59
Senator A.J.H. Maclean (The Minister for Economic Development):	59
2.12.1 Deputy K.C. Lewis:	60
2.12.2 Deputy M. Tadier:	60
2.12.3 Deputy M.R. Higgins:	60
2.12.4 Deputy K.C. Lewis:	60
2.13 Deputy S. Power of the Chief Minister, responding on behalf of the Minister for Treasury and Resources. regarding the loss of tax revenue for the years 2007 to 2010 from non-resident companies:	61
Senator T.A. Le Sueur (The Chief Minister - rapporteur):	61
2.13.1 Deputy S. Power:	61
2.13.2 Deputy M.R. Higgins:	61
2.13.3 Deputy T.M. Pitman:	61
2.13.4 Deputy M. Tadier:	62
2.13.5 Deputy M. Tadier:	62
2.13.6 Deputy G.P. Southern:	62
2.13.7 Deputy G.P. Southern:	62
2.13.8 Deputy M.R. Higgins:	63
2.13.9 Deputy S. Power:	63
2.14 Deputy G.P. Southern of the Chief Minister, responding on behalf of the Minister for Treasury and Resources. Minister for Treasury and Resources regarding the production of the business tax strategy:	63

Senator T.A. Le Sueur (The Chief Minister - rapporteur):.....	63
2.14.1 Deputy G.P. Southern: .....	63
2.14.2 Senator S.C. Ferguson: .....	64
2.14.3 Deputy G.P. Southern: .....	64
2.15 Deputy A.E. Jeune of the Minister for Health and Social Services regarding the engagement of interim/short-term/temporary staff at Health and Social Services from outside of the Island:.....	64
The Deputy of Trinity (The Minister for Health and Social Services): .....	64
2.15.1 Deputy A.E. Jeune: .....	64
2.15.2 Deputy A.E. Jeune: .....	65
2.15.3 Deputy A.E. Jeune: .....	65
2.16 The Deputy of St. John of the Minister for Transport and Technical Services regarding the replacement of temporary barriers at Les Charrières de Bonne Unit: .....	65
The Connétable of St. Brelade (The Minister for Transport and Technical Services): .....	65
2.16.1 The Deputy of St. John: .....	65
2.17 Deputy T.M. Pitman of the Minister for Health and Social Services regarding the new Health Director's remuneration: .....	66
The Deputy of Trinity (The Minister for Health and Social Services): .....	66
2.17.1 Deputy T.M. Pitman: .....	66
2.17.2 Senator S.C. Ferguson: .....	66
2.17.3 Senator S.C. Ferguson: .....	67
2.17.4 Deputy A.E. Jeune: .....	67
2.17.5 Deputy A.T. Dupré of St. Clement:.....	67
2.17.6 Deputy R.G. Le Hérissier:.....	67
2.17.7 Deputy T.M. Pitman: .....	68
2.18 The Deputy of St. Martin of the Minister for Treasury and Resources regarding stimulus funding for a refurbishment of the Jersey Opera House:.....	68
The Connétable of St. Peter (Assistant Minister for Treasury and Resources - rapporteur): .....	68
2.18.1 The Deputy of St. Martin: .....	68
2.18.2 Deputy M.R. Higgins:.....	69
2.18.3 Deputy M.R. Higgins:.....	69
2.18.4 Deputy R.G. Le Hérissier:.....	69
2.18.5 Deputy R.G. Le Hérissier:.....	69
2.18.6 The Deputy of St. Martin: .....	69
2.19 Deputy M. Tadier of the Minister for Education, Sport and Culture regarding Scrutiny access to examination results: .....	70
Deputy J.G. Reed of St. Ouen (The Minister for Education, Sport and Culture):.....	70
2.19.1 Deputy M. Tadier: .....	70
2.19.2 Deputy R.G. Le Hérissier:.....	71
2.19.3 Senator J.L. Perchard:.....	71
2.19.4 Deputy T.M. Pitman: .....	71
2.19.5 Deputy M. Tadier: .....	72
<b>3. Questions to Ministers without notice - The Minister for Transport and Technical Services.....</b>	<b>72</b>
3.1 Senator T.J. Le Main: .....	72

The Connétable of St. Brelade (The Minister for Transport and Technical Services): .....	72
3.2 Connétable J. Gallichan of St. Mary: .....	72
3.2.1 The Connétable of St. Mary: .....	74
3.3 Deputy J.A. Hilton of St. Helier: .....	74
3.4 Senator F. du H. Le Gresley: .....	74
3.5 Senator J.L. Perchard: .....	75
3.5.1 Senator J.L. Perchard: .....	75
3.6 Deputy A.E. Jeune: .....	75
3.7 Deputy M. Tadier: .....	75
3.8 Deputy P.V.F. Le Claire of St. Helier: .....	76
<b>4. Questions to Ministers without notice - The Minister for Home Affairs .....</b>	<b>76</b>
4.1 Deputy T.M. Pitman: .....	76
Senator B.I. Le Marquand (The Minister for Home Affairs): .....	76
4.2 The Deputy of St. Martin: .....	77
4.2.1 The Deputy of St. Martin: .....	77
4.3 Deputy J.M. Maçon of St. Saviour: .....	77
4.4 Deputy M. Tadier: .....	77
4.5 The Deputy of Grouville: .....	78
4.6 Senator J.L. Perchard: .....	78
4.7 Deputy M.R. Higgins: .....	78
4.8 Deputy P.V.F. Le Claire: .....	78
4.9 Deputy R.G. Le Hérissier: .....	79
4.9.1 Deputy R.G. Le Hérissier: .....	79
4.10 Senator T.J. Le Main: .....	79
4.11 Senator F. du H. Le Gresley: .....	80
<b>STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY .....</b>	<b>80</b>
<b>5. The Minister for Education, Sport and Culture will make a statement regarding the appointment of one of his Assistant Ministers.....</b>	<b>80</b>
5.1 The Deputy of St. Ouen (The Minister for Education, Sport and Culture): .....	80
5.1.1 Senator A. Breckon: .....	80
5.1.2 Deputy M. Tadier: .....	81
<b>6. The Minister for Housing will make a statement in relation to matters arising from the debate of Deputy P.V.F. Le Claire of St. Helier's proposition 'Housing issues in Jersey' (P.189/2010).....</b>	<b>81</b>
6.1 Deputy A.K.F. Green of St. Helier (The Minister for Housing): .....	81
6.1.1 Deputy P.V.F. Le Claire: .....	81
6.1.2 Deputy R.G. Le Hérissier: .....	81
<b>PUBLIC BUSINESS.....</b>	<b>82</b>
<b>7. Draft Loi (No. 7) (201-) concernant la charge de Juge d'Instruction (P.148/2010).....</b>	<b>82</b>
7.1 Senator T.A. Le Sueur (The Chief Minister): .....	82
7.1.1 Connétable D.W. Mezbourian of St. Lawrence: .....	82
7.1.2 Senator T.J. Le Main: .....	82
7.1.3 The Deputy of St. Martin: .....	83

7.1.4 Deputy M. Tadier:.....	83
7.1.5 Senator B.I. Le Marquand: .....	84
7.1.6 Deputy R.G. Le Hérissier:.....	85
7.1.7 Deputy P.V.F. Le Claire:.....	85
7.1.8 Senator T.A. Le Sueur:.....	85
7.2 Senator T.A. Le Sueur:.....	86
7.2.1 Deputy J.A.N. Le Fondré: .....	86
7.2.2 Senator T.A. Le Sueur:.....	86
7.3 Senator T.A. Le Sueur:.....	87
7.3.1 Deputy P.V.F. Le Claire:.....	87
7.3.2 Senator B.I. Le Marquand: .....	88
7.3.3 Senator T.A. Le Sueur:.....	88
The Connétable of St. Peter:.....	88
<b>8. Ratification of a Double Taxation Agreement between the States of Jersey and the Government of Estonia (P.7/2011).....</b>	<b>88</b>
8.1 Senator T.A. Le Sueur (The Chief Minister):.....	89
8.1.1 Deputy R.G. Le Hérissier: .....	89
8.1.2 The Deputy of St. Mary:.....	89
8.1.3 Senator T.A. Le Sueur:.....	89
The Deputy of St. Mary:.....	91
<b>LUNCHEON ADJOURNMENT PROPOSED .....</b>	<b>91</b>
<b>LUNCHEON ADJOURNMENT .....</b>	<b>92</b>
<b>9. Electoral Commission: establishment (P.15/2011).....</b>	<b>92</b>
9.1 The Deputy of St. Mary:.....	93
<b>9.2 Electoral Commission: establishment (P.15/2011) – Second Amendment (P.15/2011 Amd.(2)) .....</b>	<b>102</b>
9.2.1 The Deputy of St. Mary:.....	102
<b>9.3 Electoral Commission: establishment (P.15/2011) - Amendment (P.15/2011 Amd.).....</b>	<b>104</b>
9.3.1 Senator B.E. Shenton: .....	104
9.3.2 The Deputy of St. Mary:.....	104
9.3.3 Deputy R.G. Le Hérissier: .....	105
9.3.4 The Deputy of St. John:.....	105
9.3.5 Senator J.L. Perchard: .....	106
9.3.6 Deputy G.P. Southern:.....	106
9.3.7 Senator B.E. Shenton: .....	106
<b>9.4 Electoral Commission: establishment (P.15/2011) - Second Amendment (P.15/2011 Amd.(2)) – Amendment (P.15/2011 Amd.(2)Amd).....</b>	<b>108</b>
9.4.1 Senator B.E. Shenton: .....	108
9.4.2 Deputy J.A.N. Le Fondré: .....	108
9.4.3 Senator B.I. Le Marquand: .....	109
9.4.4 Deputy M. Tadier:.....	109
9.4.5 Deputy P.V.F. Le Claire:.....	110
9.4.6 The Deputy of St. Mary:.....	110

9.4.7 Senator J.L. Perchard: .....	111
Deputy A.E. Jeune: .....	112
Mr. T.J. Le Cocq Q.C., H.M. Attorney General: .....	112
9.4.8 Deputy G.P. Southern:.....	112
9.4.9 Senator B.E. Shenton: .....	112
<b>9.5 Electoral Commission: establishment (P.15/2011) – amendment (Part 2)</b>	
<b>(P.15/2011 Amd.).....</b>	<b>113</b>
9.5.1 Senator B.E. Shenton: .....	113
9.5.2 The Deputy of St. Mary:.....	114
9.5.3 Deputy M. Tadier:.....	114
9.5.4 Senator B.E. Shenton: .....	115
<b>9.6 Electoral Commission: establishment (P.15/2011) - as amended.....</b>	<b>115</b>
9.6.1 Senator B.E. Shenton: .....	116
9.6.2 Senator S.C. Ferguson:.....	116
9.6.3 Deputy J.A. Martin:.....	116
9.6.4 Senator T.A. Le Sueur:.....	116
9.6.5 The Deputy of St. John:.....	117
9.6.6 The Connétable of St. Mary: .....	117
9.6.7 Deputy T.M. Pitman:.....	118
9.6.8 Deputy P.V.F. Le Claire:.....	119
9.6.9 Deputy M. Tadier:.....	121
9.6.10 Deputy R.G. Le Hérissier:.....	123
9.6.11 Deputy G.P. Southern: .....	123
9.6.12 Deputy J.M. Maçon: .....	124
9.6.13 Connétable L. Norman of St. Clement: .....	125
9.6.14 Deputy J.A.N. Le Fondré: .....	126
9.6.15 Deputy M.R. Higgins:.....	127
9.6.16 Senator J.L. Perchard:.....	127
9.6.17 Deputy A.E. Jeune: .....	128
9.6.18 The Deputy of St. Mary: .....	128
<b>ADJOURNMENT .....</b>	<b>131</b>



## **The Roll was called and the Dean led the Assembly in Prayer**

[09:42]

### **QUESTIONS**

#### **1. Written Questions**

##### **1.1 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE LIFEGUARD SERVICE FOR THE ISLAND:**

###### **Question**

Following the decision to ask the Royal National Lifeboat Institution (RNLI) to supply a lifeguard service for the Island, can the Minister explain whether he asked this charity to undertake this service at a lesser figure than it has cost in previous years?

Will he further explain whose idea it was to use the RNLI, which relies upon public donations, and is the Minister concerned that the arrangement takes advantage of the charity?

Has the Minister got the full backing of all of the members of the local branch of the RNLI, and, if not, please give details?

###### **Answer**

The Economic Development Department and the Royal National Lifeboat Institution (RNLI) have signed a Letter of Intent regarding entering into a partnership to introduce a range of changes for the 2011 season that will modernise and improve the Island's beach lifeguarding service and ensure its long term sustainability. Whilst EDD is reducing the cost of the service to the States of Jersey the nature of our partnership means that the RNLI are, in turn, making a substantial investment in resources which means that the total expenditure on the lifeguard service in Jersey in 2011 and beyond will significantly increase.

The States of Jersey has been in discussions with the RNLI's Lifeguard service since 2003 and the decision to enter into partnership was taken after extensive research and consultation. The Department is entering into a standard arrangement with the RNLI lifeguard service which they have with 25 local authorities and a handful of private beach owners across the UK in order to ensure that vital lifesaving services on Britain's (and eventually Ireland's) beaches are protected. As a charity which exists to 'save lives at sea' it was a natural progression for them to extend their services to lifeguarding bringing the high standards that have become expected within their lifeboat service to the beaches and thereby save more lives.

The ongoing negotiations are between Economic Development and the RNLI Lifeguard Service. I understand that all local RNLI members have been kept fully informed of developments and the reaction has been overwhelmingly positive.

## **1.2 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE KYOTO PROTOCOL:**

### **Question**

Given that Jersey has been a signatory since the 7th March 2007 of the Kyoto Protocol which sets binding targets to reducing greenhouse gas (GHG) emissions amounting to an average of five per cent against 1990 levels over the five-year period 2008-2012, what did Jersey report to the UK as its annual emissions of the following six categories of greenhouse gases since 2007?

- Carbon dioxide (CO<sub>2</sub>);
- Methane (CH<sub>4</sub>);
- Nitrous oxide (N<sub>2</sub>O);
- Hydrofluorocarbons (HFCs);
- Perfluorocarbons (PFCs); and
- Sulphur hexafluoride (SF<sub>6</sub>)

### **Answer**

The Island has reported its emissions information to the agency (AEA1) that collates the UK's information where the historical and current data was aggregated into the total UK carbon emissions. Because until 2009, the data Jersey provided was not available separately, the Statistics Unit made provisional carbon estimates based on the carbon emitted from imported energy and published these annually in the Jersey Energy Trends Report.

However, in late 2009 Jersey's emissions data was disaggregated and made available to the Island. The data is very similar to the provisional estimates made by the Statistics Unit but is more comprehensive and categorised in source and sink categories according to the International Panel on Climate Changes Guidelines for National Greenhouse Gas Inventories.

The data set as provided to us by AEA up to and including 2009 is as follows with the Units expressed in Mt CO<sub>2</sub> equivalents:

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<sup>1</sup> <http://www.ipcc-nggip.iges.or.jp/public/2006gl/vol2.html> (Source AEA Technology on behalf of the Department for Energy and Climate Change)

Greenhouse Gas	IPCC Sector	Sector name	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Carbon Dioxide	1A1a	Power Stations	0.2920	0.2797	0.2163	0.2417	0.2350	0.1283	0.0978	0.0833	0.0331	0.0493	0.0313	0.0369
	1A2f	Industrial Combustion	0.0397	0.0452	0.0634	0.0602	0.0439	0.0515	0.0491	0.0496	0.0494	0.0510	0.0483	0.0491
	1A3a	Aviation	0.0393	0.0389	0.0384	0.0410	0.0424	0.0485	0.0493	0.0486	0.0492	0.0483	0.0485	0.0464
	1A3b	Road transport	0.1307	0.1280	0.1240	0.1281	0.1167	0.1268	0.1279	0.1264	0.1251	0.1221	0.1204	0.1220
	1A4a	Commercial	0.0618	0.0690	0.0761	0.0949	0.0614	0.0625	0.1314	0.1139	0.0637	0.0790	0.0575	0.0602
	1A4b	Domestic	0.0993	0.1049	0.1136	0.1343	0.1032	0.1035	0.1066	0.1027	0.0985	0.0994	0.0980	0.0982
	5G	Land use, land use change and forestry	-0.0039	-0.0028	-0.0008	-0.0006	-0.0011	-0.0028	-0.0046	-0.0006	-0.0023	-0.0006	-0.0003	0.0002
<b>Carbon Dioxide Total</b>			<b>0.6587</b>	<b>0.6628</b>	<b>0.6311</b>	<b>0.6997</b>	<b>0.6015</b>	<b>0.5182</b>	<b>0.5574</b>	<b>0.5239</b>	<b>0.4167</b>	<b>0.4486</b>	<b>0.4037</b>	<b>0.4130</b>
Methane	1A1a	Power Stations	0.0007	0.0007	0.0006	0.0007	0.0007	0.0006	0.0005	0.0005	0.0005	0.0005	0.0004	0.0005
	1A2f	Industrial Combustion	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
	1A3a	Aviation	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001
	1A3b	Road transport	0.0010	0.0009	0.0008	0.0008	0.0006	0.0006	0.0005	0.0005	0.0004	0.0004	0.0003	0.0003
	1A4a	Commercial	0.0002	0.0002	0.0002	0.0003	0.0002	0.0002	0.0004	0.0003	0.0002	0.0002	0.0002	0.0002
	1A4b	Domestic	0.0014	0.0014	0.0012	0.0012	0.0010	0.0010	0.0010	0.0008	0.0008	0.0008	0.0007	0.0006
	4A1	Enteric fermentation - cattle	0.0123	0.0123	0.0123	0.0123	0.0123	0.0126	0.0123	0.0107	0.0097	0.0092	0.0089	0.0095
	4A3	Enteric fermentation - sheep	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0001	0.0001
	4A4	Enteric fermentation - goats	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
	4A6	Enteric fermentation - horses	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0002	0.0002	0.0003
	4A8	Enteric fermentation - pigs	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
	4B1	Wastes - cattle	0.0042	0.0042	0.0042	0.0042	0.0042	0.0042	0.0042	0.0042	0.0037	0.0033	0.0032	0.0029
	4B3	Wastes - sheep	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
	4B4	Wastes - goats	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
	4B6	Wastes - horses	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
	4B8	Wastes - pigs	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001
	4B9	Wastes - poultry	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0001	0.0001
6B2	Waste water treatment	0.0011	0.0011	0.0011	0.0012	0.0011	0.0012	0.0012	0.0012	0.0012	0.0012	0.0012	0.0012	
<b>Methane Total</b>			<b>0.0211</b>	<b>0.0211</b>	<b>0.0209</b>	<b>0.0209</b>	<b>0.0204</b>	<b>0.0207</b>	<b>0.0203</b>	<b>0.0179</b>	<b>0.0164</b>	<b>0.0158</b>	<b>0.0152</b>	<b>0.0161</b>
Nitrous Oxide	1A1a	Power Stations	0.0015	0.0015	0.0014	0.0015	0.0015	0.0012	0.0011	0.0011	0.0010	0.0010	0.0009	0.0009
	1A2f	Industrial Combustion	0.0001	0.0001	0.0002	0.0002	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001	0.0001
	1A3a	Aviation	0.0004	0.0004	0.0004	0.0004	0.0004	0.0005	0.0005	0.0005	0.0005	0.0005	0.0005	0.0005
	1A3b	Road transport	0.0022	0.0019	0.0018	0.0018	0.0016	0.0018	0.0016	0.0015	0.0014	0.0013	0.0012	0.0011
	1A4a	Commercial	0.0003	0.0003	0.0003	0.0004	0.0003	0.0003	0.0004	0.0004	0.0002	0.0003	0.0002	0.0002
	1A4b	Domestic	0.0003	0.0003	0.0003	0.0004	0.0003	0.0003	0.0003	0.0003	0.0003	0.0003	0.0003	0.0002
	4B14	Agriculture	0.0047	0.0047	0.0048	0.0047	0.0047	0.0048	0.0048	0.0042	0.0036	0.0035	0.0034	0.0036
	6B2	Waste water treatment	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
<b>Nitrous Oxide Total</b>			<b>0.0095</b>	<b>0.0093</b>	<b>0.0091</b>	<b>0.0093</b>	<b>0.0089</b>	<b>0.0090</b>	<b>0.0088</b>	<b>0.0081</b>	<b>0.0071</b>	<b>0.0069</b>	<b>0.0065</b>	<b>0.0067</b>
<b>HFCs Total</b>			<b>0.0034</b>	<b>0.0051</b>	<b>0.0068</b>	<b>0.0090</b>	<b>0.0102</b>	<b>0.0120</b>	<b>0.0137</b>	<b>0.0157</b>	<b>0.0169</b>	<b>0.0177</b>	<b>0.0184</b>	<b>0.0187</b>
<b>PFCs Total</b>			<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>
<b>SF6 Total</b>			<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0001</b>	<b>0.0001</b>	<b>0.0001</b>	<b>0.0001</b>	<b>0.0001</b>	<b>0.0002</b>	<b>0.0003</b>	<b>0.0005</b>	<b>0.0003</b>
<b>Grand Total</b>			<b>0.6928</b>	<b>0.6983</b>	<b>0.6679</b>	<b>0.7390</b>	<b>0.6411</b>	<b>0.5600</b>	<b>0.6004</b>	<b>0.5658</b>	<b>0.4573</b>	<b>0.4893</b>	<b>0.4443</b>	<b>0.4548</b>

Greenhouse Gas	IPCC Sector	Sector name	2007	2008	2009
Carbon Dioxide	1A1a	Power Stations	0.0797	0.0382	0.0374
	1A2f	Industrial Combustion	0.0459	0.0468	0.0468
	1A3a	Aviation	0.0491	0.0505	0.0423
	1A3b	Road transport	0.1186	0.1214	0.1210
	1A4a	Commercial	0.0976	0.0533	0.0533
	1A4b	Domestic	0.1016	0.0984	0.0984
	5G	Land use, land use change and forestry	0.0002	0.0002	0.0002
<b>Carbon Dioxide Total</b>			<b>0.4928</b>	<b>0.4088</b>	<b>0.3994</b>
Methane	1A1a	Power Stations	0.0005	0.0004	0.0004
	1A2f	Industrial Combustion	0.0000	0.0000	0.0000
	1A3a	Aviation	0.0001	0.0001	0.0000
	1A3b	Road transport	0.0003	0.0003	0.0002
	1A4a	Commercial	0.0003	0.0001	0.0001
	1A4b	Domestic	0.0006	0.0006	0.0006
	4A1	Enteric fermentation - cattle	0.0098	0.0085	0.0084
	4A3	Enteric fermentation - sheep	0.0001	0.0001	0.0001
	4A4	Enteric fermentation - goats	0.0000	0.0000	0.0000
	4A6	Enteric fermentation - horses	0.0002	0.0003	0.0003
	4A8	Enteric fermentation - pigs	0.0000	0.0000	0.0000
	4B1	Wastes - cattle	0.0033	0.0028	0.0028
	4B3	Wastes - sheep	0.0000	0.0000	0.0000
	4B4	Wastes - goats	0.0000	0.0000	0.0000
	4B6	Wastes - horses	0.0000	0.0000	0.0000
	4B8	Wastes - pigs	0.0002	0.0001	0.0001
	4B9	Wastes - poultry	0.0001	0.0001	0.0001
6B2	Waste water treatment	0.0012	0.0012	0.0012	
<b>Methane Total</b>			<b>0.0166</b>	<b>0.0146</b>	<b>0.0144</b>
Nitrous Oxide	1A1a	Power Stations	0.0010	0.0009	0.0009
	1A2f	Industrial Combustion	0.0001	0.0001	0.0001
	1A3a	Aviation	0.0005	0.0005	0.0004
	1A3b	Road transport	0.0010	0.0010	0.0009
	1A4a	Commercial	0.0003	0.0002	0.0002
	1A4b	Domestic	0.0002	0.0002	0.0002
	4B14	Agriculture	0.0038	0.0033	0.0032
	6B2	Waste water treatment	0.0000	0.0000	0.0000
<b>Nitrous Oxide Total</b>			<b>0.0070</b>	<b>0.0062</b>	<b>0.0060</b>
<b>HFCs Total</b>			<b>0.0190</b>	<b>0.0191</b>	<b>0.0187</b>
<b>PFCs Total</b>			<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>
<b>SF6 Total</b>			<b>0.0002</b>	<b>0.0001</b>	<b>0.0001</b>

### **1.3 DEPUTY J.M. MAÇON OF ST. SAVIOUR OF THE MINISTER FOR HOUSING REGARDING MAINTENANCE WORKS:**

#### **Question**

In light of the Minister for Treasury and Resources' statement on 2nd March 2011, that the Housing Department 'has had to reduce the works they are planning to undertake', can the Minister inform the Assembly which projects will be deferred?

#### **Answer**

There are a significant number of projects planned for the future and these are set out in the Annual Business Plan.

The provision of the fiscal stimulus funding set out in the Treasury & Resources Ministers' statement on 2nd March 2011 will ensure that the refurbishment of Pomme D'Or Farm is not delayed and existing funding will provide for the delivery of both the Clos Gosset and Jardin des Carreaux projects this year as planned. Projects for which the Department are currently pursuing alternative funding mechanisms are La Collette Phase 1, Le Squez phases 2c, 3 & 4, De Quetteville Court High Rise, La Collette Phase 2, Hampshire Gardens and Convent and Caesarea Courts. Long term funding solutions for the department are a key work stream of the Housing Transformation Programme which has been established to address this and other issues. I will set out the potential solutions which will likely include proposals to allow borrowing for such projects in a White Paper this summer.

### **1.4 THE DEPUTY OF ST JOHN OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE JERSEY ENERGY TRUST:**

#### **Question**

Can the Minister advise -

- (a) what the structure and membership is of the Jersey Energy Trust, whether there is any remuneration and, if so, how much?
- (b) when, where and how often it meets?
- (c) is the Chief Executive of the JEC on the board and as it is an independent organisation why?
- (d) whether States members can amend the constitution?

Can the Minister give details of any other structures established in relation to renewable energy, and advise –

- (i) what they are and who established them?
- (ii) what their membership is, whether there is any remuneration and, if so, how much?
- (iii) how often they have met and whether the minutes are available?
- (iv) how they are appointed?

(v) what the total expense to date has been on reports and consultants, if any?

## **Answer**

### **The Jersey Energy Trust**

The Jersey Energy Trust (JET) was established by the Minister as a non-political body to provide an oversight function to support the programmes and objectives of an Energy Efficiency Service (EES). In its first phase during 2009 the Energy Efficiency Service delivered an energy efficiency programme to targeted low income groups.

The Terms of Reference were established under MD-PE-2009-0114

Members are appointed for an initial term of 3 years.

Members were appointed to represent the following skills and experience: Chairing public or voluntary bodies (*Sir Nigel Broomfield*); Providing energy services (*Chris Ambler*); Assisting vulnerable groups (*David Lord*); Assessing the impact of grant programmes (all members). There is an expert independent advisor from the UK who has previous experience in this area (*Andrea Cook OBE*). The Departmental Sponsors include the Environment Director and Assistant Director for Environmental policy and on occasion the Chief Executive Officer for the Environment Department.

Ms Cook is paid as a consultant and her audited travel expenses are reimbursed. Since January 2009 she has been paid £10,700 in consultancy fees and £5,416.28 for travel and expenses. She has provided assistance to the programme in addition to attending Board meetings. Such services include reviewing and developing documents including implementation plans, and facilitating meetings in the UK for example between the Energy Efficiency Service staff and officer and the Board of the Energy Saving Trust.

Technical expertise and assistance at the initial stages of the project were provided by the Programme Director who also attends Board Meetings in an advisory capacity. This individual is seconded from Jersey Energy and his costs are being paid by the Jersey Electricity Company through the funding they have provided to the programme. Since the Project began in January 2009 the total cost has been £92,435. As the project matured the monthly costs have dropped significantly and are expected to continue to diminish still further in 2011.

(b) The meetings are generally held at The Environment Department, Howard Davis Farm, Trinity and on occasion members have contributed by teleconference.

Meetings have been held on the following dates:

23/01/09, 12/03/09, 1/5/09, 15/06/09, 4/8/09, 22/09/09, 27/11/09, 26/01/10, 11/3/10, 18/05/10, 19/07/10, 20/09/10, 02/12/10, 13/01/11

(c) The Jersey Energy Trust was constituted to provide oversight of the development and implementation of the energy efficiency programme and to advise the Minister. The CEO of Jersey Electricity plc was initially included on the board due to JE's direct assistance to the programme.

The Chairman, Sir Nigel Broomfield is fully independent and ensures that should *any* member of the Board be conflicted during any discussions or decisions, they are excused from participating.

Sir Nigel has a distinguished and exemplary career in the Foreign Office holding senior and ambassadorial positions in the Soviet Union, GDR East Berlin, Germany and New Delhi. He has held a number of non-executive roles including Chairman of the Leonard Cheshire Foundation UK between 2005 and 2009. He is President of the German/British Chamber of Commerce and Industry in London and chairman of Yatra, an investment company for real estate in India.

(d) The constitution of the Jersey Energy Trust has been set by Ministerial Decision but the Minister is happy to consider suggestions for improvements from States Members.

### **The Tidal Power Group and Commission**

(i) Initially A Tidal Power Steering group was set up under Ministerial Dec to carry out an initial investigation into the feasibility of particularly tidal power (please see MD-PE-2008-0153).

In May 2009 the Minister, having accepted the recommendations of the Tidal Power Steering Group, reconstituted key members of the Group, in consultation as a 'Tidal Power Commission' to produce further recommendations to the Minister in respect of a fully mandated Tidal Power Commission (please see MD-PE-2009-0093). The Minister has recently decided that the commission will be extended to cover other renewable energy technologies and renamed appropriately.

(ii) The membership of the Tidal Power Commission comprises: Constable Dan Murphy (Chairman); Sir Nigel Broomfield (representing expertise in areas of environmental matters and cross-jurisdictional relations); Alick McIntosh (representing expertise in areas of environmental matters, carbon markets and infrastructure projects funding and implementation); Mike Liston (representing expertise in areas of environmental matters and infrastructure projects both in electricity and renewables).

The members do not receive any remuneration.

The executive officer is the Assistant Director for Environmental Policy and the Director for the Environment and Chief Officer for Planning and Environment have also attended meetings on occasion.

(iii) This working group has meet on a number of occasions during the course of their work. Action points are recorded by the executive officer but formal minutes are not kept.

(iv) In order to complete their feasibility study an external consultant was employed to examine the potential for tidal energy including an assessment of the marine conditions. A competitive tender process was carried out in line with Financial Directions. IT Power (an acknowledged expert in the field) was engaged to carry out desktop and field studies which were carried out in late 2009 and early 2010. The cost of this work was £65,819. The money was sourced from the Central Environment Vote which is a capital fund established some years ago to fund energy related projects as well as from the Departmental Environmental Policy consultancy budget.

## **1.5 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING JERSEY POST SERVICES:**

## Question

Further to reports that Jersey Post is to reduce its services to 5 days a week, running from Monday to Friday (a working week) and that this has been passed by the Regulator, can the Minister as representative of the shareholders inform members -

- (a) what measures will be in place when Christmas Day and Boxing Day fall within the full working week - will this mean a 3 day service in that week?
- (b) what measures are in place at Easter with a 4 day gap between deliveries from the Thursday to the Tuesday?
- (c) is there anything in place for people to pay for a premium service, in order to keep a 6 day service, given that many businesses do run 6/7 day weeks?
- (d) whether he has raised issues with the JCRA regarding the provision of a service for the many businesses who work 7 days a week, and, if not, why?
- (e) whether he will undertake to bring forward the issue of the Postal Service for debate by the Assembly and, if so, when?

## Answer

The Minister for Treasury and Resources has received the following information from Jersey Post regarding questions (a), (b) and (c).

- (a) what measures will be in place when Christmas Day and Boxing Day fall within the full working week - will this mean a 3 day service in that week?

Yes, however items posted using guaranteed delivery services offered by Jersey Post will be delivered on the Saturday

- (b) what measures are in place at Easter with a 4 day gap between deliveries from the Thursday to the Tuesday?

Items posted using guaranteed delivery services offered by Jersey Post will be delivered on the Saturday

- (c) is there anything in place for people to pay for a premium service, in order to keep a 6 day service, given that many businesses do run 6/7 day weeks?

Jersey Post currently offer guaranteed delivery services, providing deliveries 6 days a week, and this will continue for items using this service both posted locally and in the UK

In respect of question (d), the Minister for Treasury and Resources is not responsible for setting the postal universal service obligation. The JCRA as regulator is responsible for promoting competition and consumer interests. The JCRA and Economic Development Department undertook a full consultation over this subject and the decision follows both of these consultation exercises. The Minister for Treasury and Resources clearly ruled out providing a taxpayer subsidy to support the present USO and did not make a further specific submission to the consultation.

In respect of question (e), the Minister for Economic Development is responsible for regulation of postal services.



**1.6 SENATOR F. du H. LE GRESLEY OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING OPTIONS FOR RAISING I.S.E. FEES:**

**Question**

Would the Minister advise exactly what work is being done to explore the options for raising International Services Entity (I.S.E.) fees from 2012 for each of the following regulated service providers –

- (a) banks
- (b) trust company business
- (c) fund service business
- (d) fund functionary
- (e) managed managers

In order for the I.S.E. fee increases for 2012 to be factored in at an early stage by the financial services industry would the Minister agree to bring this to the States as a separate proposition before the end of June 2011, rather than at the time of the Budget as he stated on 1st February 2011, and if not, why not?

**Answer**

In my Budget speech I proposed to increase the basic ISE Fee charged to international companies from £100 to £200. This should raise an extra £3 million per year.

During preliminary discussions with businesses I was advised that the structure for other ISE fees, those charged to banks and trust companies, could be improved.

A review is now underway which is focusing on three factors, namely equity, simplifying administration and increasing the overall ISE contribution.

Work is being done with the JFSC, Jersey Finance and the Taxes Office to find ways to achieve these goals, and in particular on identifying factors that distinguish between different types of company which are currently subject to the same level of ISE fee.

A public consultation document will be issued in the spring of 2011, which will set out options for increasing revenues from ISE fees, for making the fee structure more equitable and for simplifying the system. The responses received will be analysed over the summer and will form the basis of a proposal to be lodged with the Budget proposals in September 2011.

Businesses that will potentially be affected by any changes must be adequately consulted. Any proposed changes to ISE Fees need to have been adequately consulted upon. The Minister cannot therefore commit to laying draft legislation before the States in advance of the Budget.

**1.7 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE CONTRACT OF THE HOSPITAL MANAGER:**

**Question**

Can members be advised if there are any additional costs associated with the Hospital Managing Director's 2 year contract and, if so provide a breakdown of the following –

- (a) accommodation costs- would the Minister advise whether an application has been made for a 'j' category housing consent, outline hotel accommodation costs if applicable and indicate whether there is an allowance for food and beverages weekly;
- (b) Transport costs on Island - would the Minister advise whether a car is supplied and, if so, give details and if the individual commutes by taxi or bus what the weekly cost of this is to the taxpayer;
- (c) Transport costs off Island - would the Minister advise whether flights or ferry crossings to the United Kingdom are funded, what is their frequency and who meets this cost?

**Answer**

In accordance with the information previously distributed to States members, I can again confirm that there are no additional costs associated with the Hospital Managing Director's 2-year contract. Specifically, no accommodation costs, no subsistence costs and no transport costs. Furthermore, as this is a contract for services, there are no pension costs, no sick pay and no holiday pay.

HSSD applied for J Cat housing consent for the post in September 2010. Whilst this consent was granted it is not required by the current Managing Director.

**1.8 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING PROGRAMMES TO PREPARE STUDENTS TO ENTER THE WORKPLACE:**

**Question**

What training, if any, is in place within the school daily work programme to prepare students to enter the work place at 16 and will the Minister provide a full breakdown of the types of courses available?

Will he advise Members –

- (a) what timekeeping training, if any, is given?
- (b) what communication skills are taught i.e. employee to employer/employee to customer/client etc.
- (c) what feedback, if any, is received from the business community on the requirements of skills from the young people leaving schools.

**Answer**

In recent years, labour markets across Western Europe have seen a major shift away from employing 16 year olds, preferring instead a starting age of between 18 and 23 and individuals who have much higher levels of skill and maturity.

In Jersey, as with other highly developed economies, very few employers seek to recruit 16 year olds so relatively few now enter the workplace at this age. In September 2010 the staying on rate

post-16 was over 90%. This year the number of 16 year olds seeking full time employment was just 67 from a cohort of over 1000.

Jersey has developed a curriculum that is both broad and balanced. At all phases of education, schools aim to provide both skills and knowledge for all pupils. From the beginning, one aim is to prepare them for the workplace. The curriculum has to give opportunities for individuals to choose their preferred route to employment – whether through an academic career culminating in higher education qualifications or more directly to a wide range of professions..

Training for employment can be said to start in the nursery stage where young children follow a practical curriculum and learn the basic skills they need to become good communicators and make decisions about their lives. This ability is formally assessed in the Foundation Stage Profile. In addition young children learn to work with others and be sociable. This includes learning to take responsibility for their own actions such as being punctual and managing and organising their school resources. Parents are an important part of the links between home, school and future work and are involved at an early stage.

In the primary stage of education, at both key stage 1 and key stage 2, this foundation is built on. Pupils develop skills and gain the knowledge required to take them further in life by following the Jersey Curriculum. Teachers are very skilled in applying this learning to the real world through trips out, visits to business, studying weather for example and applying mathematics and developing communication skills through writing. Many primary schools have excellent links with industry, business and the arts. Visitors are encouraged to talk to pupils in schools to give them a real understanding of the police force, fire brigade; lifeboats and business. Schools have excellent links with Durrell and gain a world view. In this way communication skills are taught and pupils learn about the world of work.

There are hundreds of these learning experiences taking place each term across our schools and schools document them and are proud of these links with the community.

By the time pupils attend secondary schools they have had a wide experience of using and applying their writing skills and practising their maths skills in investigative tasks or problem solving. The overwhelming majority of pupils work at or exceed UK national standards. Some are more successful than others and know they want to pursue certain subjects in more depth such as science and maths and then go onto A-levels and university. Others who may not have developed their skills as quickly start to look for more practical uses and vocational courses. Schools in Jersey aim to meet the needs of all pupils.

Schools, therefore provide an extremely wide range of these courses and a full breakdown would involve months of data collection. In key stages three and four there are good examples of expanding programmes of vocational education for 14-16 year olds including business studies, communication qualifications directly geared to employees' needs. There is an increasing linkage between our schools and Highlands College which offers students the opportunity to develop hands-on practical skills valued by employers as well as City & Guilds qualifications in catering, construction, engineering, hairdressing and beauty therapy. These courses are provided while ensuring that essential learning in maths and English is maintained.

(a) All students are expected to be good timekeepers, not just for vocational and job-keeping purposes but for educational reasons also. As described above, this learning begins as soon as they start school. Pupils must arrive on time and be in the right place at the right time throughout the day. The curriculum gradually becomes broader and richer as children progress. Alongside this, more formal links occur with parents to discuss attendance and punctuality and schools have

rigorous procedures to ensure that pupils learn good habits of time keeping and attendance. This continues through the secondary phase.

This message is constantly reinforced in a variety of ways, not just through vocational education. The attendance procedures are rigorously managed and schools continue to set targets and work towards continual improvement. Parents have an important role in helping young people achieve good timekeeping. Where persistent problems do occur the attendance team at ESC can prosecute parents.

In a small number of cases where the students have problems with behaviour and timekeeping a range of special education establishments exist which include pupils with learning problems in school based units or complex learning needs in special schools. Jersey also has two excellent provisions, D'Hautrée House and the Alternative Curriculum, where specialist teaching enables pupils who would be lost to both education and work to learn vocational skills and self management.

(b) Communication skills are taught within the school curriculum and they also feature in all the vocational programmes. Although it is expected that the large majority of 16 year olds will opt to remain in full time education, there are well developed and extensive programmes of careers and vocational learning in place in our schools.

All key stage 4 students in States school receive regular and frequent planned careers lessons which include visits from local employers, visits to employer's premises, and opportunities to attend careers and jobs fairs. They learn about the variety of jobs, and the skills and attributes required as well as how to complete application forms, CV, and behave at interview. In addition, all local students undertake at least two weeks of practical work experience in local companies through the Trident programme.

There are also dedicated work-related programmes in each of the four 11 to 16 school which involve vocational awards and work experience. Three of the 4 11-16 schools also offer work-related programmes leading to accredited vocational qualifications and an expanding programme of 14-16 vocational education is also being developed between our schools and Highlands College

These vocational courses are evaluated and checked by the schools and exam results are measured. School governors are an important link between work and schools and they are very active in schools.

(c) There is constant and ongoing dialogue with a range of employers through the Skills Board and the Trident database, which contains contacts for 1,000 companies. Feedback from employers is fed back directly to schools who have students out on work placements and it is channelled through the Skills Board, which summarises employers' views and requirements in its annual report. The Skills Board – an employer-led advisory body to the Skills Executive – meets every month and members include officers from the three participating States Departments (Economic Development, Social Security and ESC) as well as Careers Jersey. This means the communication about workplace skills is much better than it used to be.

In 2008 the Skills Board commissioned a report by the Learning Skills Council (LSN) to ascertain the most important qualities sought by employers of applicants aged 16, 18, 21 and more mature candidates. The findings of the report were then 'validated' by local employer groups and the

information was used to inform and ensure the accuracy of advice given to young people in schools.

The Skills Board has also sponsored the development of strategies to meet the skill requirements of specific industrial sectors and these strategies include ensuring that information on employment within these sectors is available to students.

More recently, the creation of the Advance to Work programme, set up directly as a result of rising unemployment among 16-20 year olds, has generated timely feedback from employers about specific requirements and generated even closer relationships. This has enabled the ATW team to identify specific training needs and create courses for specific sectors so that jobseekers can be more closely matched with companies where they are likely to improve their skills further or even obtain paid full-time employment.

If the Deputy would like further information, he is welcome to attend the department at any time.

## **1.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING COMPANY AND PERSONAL TAX REVENUES:**

### **Question**

Further to the Minister's written answer to question 6080 on 1st March 2011, would he confirm that the data circulated by me at that same meeting was correct and, if so, how does the loss of income from company tax from 52 % in 2000 to 12% in 2011 (Estimated in the Draft Budget Statement 2011 Summary Table B page 74) and the rise in personal tax from 42 % in 2000 to an estimated 84% in 2011 (same source) meet his budget objective of "raising money in a fair way".

If the Minister does not consider the figures circulated to be correct, would he undertake to provide this data to Members and, if so, when?

### **Answer**

The type of comparison the Deputy is trying to make is potentially misleading. It is concerning that the Deputy is continuing to create the illusion that we can unilaterally determine how much corporate tax revenue we generate. Members are fully aware that as an international finance centre our corporate tax structure must be determined by what keeps us competitive as a finance centre and that if we ignore this principle we will lose much more corporate and personal tax revenue as we lose business and jobs to our competitors, and there are knock-on effects throughout the economy.

The Deputy's interpretation of the figures quoted is misleading for the following reasons:

1. The figures do not include social security contributions, stamp taxes or rates, all of which are paid by companies and individuals. Including these amounts would change the proportions significantly.
2. It is incorrect to state that all GST is paid by individuals. ISE fees accounted for some £5.6 million of revenue in 2010 and are estimated to be £8.7 million in 2011. Companies also pay GST directly if they are not registered for GST (a company whose taxable turnover is less than £300,000 per annum is not required to register for GST) or if they make exempt supplies such as supplies of insurance, postage or medical supplies. It is difficult to

quantify the total GST incurred by non registered businesses as they are not required to submit returns.

3. A proportion of impôts and GST is paid by tourists and other visitors to Jersey.
4. A proportion of GST charged by Customs on imports is paid by the non GST registered businesses.

The shift in the balance between corporate and personal taxes seen has been caused in part by the decision to introduce 0/10 to protect Jersey's economy and by the package of other tax measures introduced to compensate in part for the loss of corporate tax revenues, namely 20 Means 20, ITIS and GST.

The shift from a heavy reliance on corporate taxes to personal taxes has already been the subject of public consultation and States debate over a number of years, since the original 0/10 Design Proposal was published in 2004. The global trend over the past decades has been a shift away from corporate taxation in favour of personal taxation, and in that, Jersey is not alone. The reduction in tax revenues from companies has also been affected by the effects of the economic downturn and low interest rates, which have reduced the profits of the highest company income taxpayers. Although company profits have fallen, and with them company tax payments, Jersey has been fortunate that personal income tax receipts have not fallen, as absolute levels of wages and salaries have not been reduced by the effect of the downturn to date.

Fair taxation takes account of people's ability to pay. The tax changes agreed by the States as part of the 2011 Budget debate took account of this, alongside the need for competitiveness and efficiency. The proposed increases in Social Security contributions for those earning above the ceiling will affect businesses and higher earners, not lower earners. 20 means 20 has affected higher earners more than middle earners and has had no impact on low earners. The introduction of ITIS has resulted in more individuals paying the income tax they owe. It must surely be fair for people to pay what they owe. With the introduction of GST, low earners have been protected by increased tax thresholds, uprating of income support and the GST bonus scheme.

#### **1.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING COMPANY TAXATION:**

##### **Question**

Can the Minister supply estimates for the gaps in the following table (taken from the States Financial Report & Accounts) for the years 2008 and 2009 and an estimate for the sums to be raised in 2011 from finance and non-finance companies in the absence of any further measures?

Year	Company Income Tax £,m	Non Finance	Finance
2000	208	51	157
2001	227	70	165

2002	215	65	150
2003	216	65	151
2004	212	71	141
2005	202	71	131
2006	217	78	139
2007	238	82	156
2008	233	-	-
2009	218	-	-
2010	79	19	50.4
2011	65	-	-

Will he further confirm that the figure of £50.4 million tax raised from the finance sector in 2010 represents an effective tax rate of 6.3% on 2009 profits of £809 million?

Can the Minister explain why this tax rate is less than the published rate of 10% and whether he has any plans to increase revenue from this sector by targeting any avoidance measures that this lower rate may represent and, if so, what these measures might be?

**Answer**

*Part 1*

As previously notified to the Deputy, the States has adopted Generally Accepted Accounting Principles (UK GAAP) under which the Treasury accounts for tax at the point of assessment. This means that the basis used to report taxation income up until 2007 changed. There is a fundamental difference between tax charged for a specific year of assessment and tax accounted for in a financial year. In order to provide meaningful information, the Deputy's table has been restated below. In addition, unfortunately, the Deputy's table contained a number of inaccuracies and incorrect assumptions:

Changes have been made for the following reasons:

- The figures quoted in the Deputy's table do not show income tax assessed on companies, but rather tax assessed on all sole traders, partnerships and companies carrying on a trade.
- The figures shown under the heading of "finance" in the Deputy's table relate to all businesses carrying on a trade classed as "financial intermediation" by the Taxes Office. This includes businesses, such as insurance providers, that are subject to tax at the rate of 0% under 0/10.

- As a result of a change to the way the States Accounts were presented in 2008, the Deputy's figures show tax assessed for the years of assessment 2000 to 2006, but revenue collected in the calendar years 2008 onwards.
- The figures shown in the Deputy's table for 2003 to 2007 should instead be shown as tax assessed in respect of the previous year of assessment (e.g. the figures shown for 2003 are instead the 2002 figures).
- The figures shown in the Deputy's table for 2001 and 2010 did not sum.

The table below contains data which the Minister for Treasury and Resources considers to have been produced on a more sound basis.

Year of assessment	Income tax assessed on all trades £,m	Income tax assessed on all trades other than financial intermediation	Income tax assessed on financial intermediation businesses	Assessments for the year of assessment 2010 were issued at the end of February 2011 and are subject to appeal for a period of 40 days. At this time it is therefore not possible to give a firm figure for the tax assessed by industry for the year of assessment 2010. The 2011 assessment will be based on companies' profits in the financial period ending in 2011. Assessments will be issued in 2012, so no firm information is
2001	227	61	166	
2002	215	64	151	
2003	212	71	141	
2004	202	71	131	
2005	217	78	139	
2006	238	82	156	
2007	248	93	155	
2008	269	99	170	
2009*	128	54	74	

available at present.

[\* The figures for tax assessed for the year of assessment 2009 and collected in 2010 are provisional and subject to audit. Final figures for tax revenues recognised will be provided in the States Accounts for 2010 which will be issued shortly.]

### *Parts 2 and 3*

The figure quoted for profits earned by the finance sector includes all companies in Jersey's financial services industry, not all of which are subject to tax at the 10% rate under 0/10. It is



meaningless to compare the profits of the broader “finance sector” with the tax paid by the much more narrow class of “financial services companies” subject to tax at 10%, as defined in the Income Tax (Jersey) Law. This therefore results in an effective tax rate of lower than 10%. This is not considered to be caused by tax avoidance activity. The Taxes Office review all tax returns submitted and would challenge such activity if identified.

### 1.11 SENATOR S.C. FERGUSON OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING MIDDLE GRADE DOCTORS:

#### Question

How many posts for Middle Grade doctors exist in each hospital department (for example Casualty, ENT, General Surgery, Renal Medicine etc), in which departments are the 7 vacant posts, and what is the highest number of hours a doctor may at present be required to work per week in each department?

#### Answer

Department	Number of middle grade posts	Current vacancies*	Status of vacancies	Weekly hours
Emergency Dept	6	2.5	2 vacancies under offer (1 July start and one verbal acceptance)	56 max during busiest week on rota.
			0.5 vacancy unable to recruit.	
Anaesthetics	11	2	One to start in June start and other out to advert.	54 max during busiest week on rota.
Dental	1	0	n/a	38.5 normal working week plus on-call duties 1 week in 2 weeks.
Ear, nose, throat	2	0	n/a	38.5 normal working week plus on-call duties 1 week in 4 weeks.
General Surgery	4	0	n/a	40 normal working week plus on-call duties 1 week in 4 weeks.
Medicine	10	2	One to start in April  One to be interviewed on 18 March.	Currently resident on call 1 week in 7 weeks. During the week on call, doctors are responsible for dealing with urgent care requirements that arise during the night. Total hours during on call week this would equate to more that 90 hours but:

- depending on activity during

the night doctors may not actually be working

- if doctors should work hours which are beyond those set out in Jersey law, they are given time off in order to ensure they accord with the law.

HSSD currently seeking to make additional appointments so resident on-call will become 1 week in 9 weeks.

Obstetrics and gynaecology	6	1	Candidate visiting March.	14	40 normal working week plus on-call duties on a 1 in 5 rota
Ophthalmology	1	0	n/a		38.5 per week
Orthopaedics	5	0	n/a		40 normal working week plus on-call duties on a 1 in 5 rota
Paediatrics	5	0.5	Unable to recruit.		40 normal working week plus on-call duties on a 1 in 5 rota
Psychiatry	6	1	Vacancy to be re-advertised		Maximum number of hours: 40 normal working week plus on-call duties on a 1 in 5 rota

[\* Please note, the number of vacancies is subject to variation dependent on the position with regard to current/on-going recruitment processes.]

## **1.12 THE DEPUTY OF ST. MARTIN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING MIDDLE GRADE POSTS:**

### **Question**

Will the Minister advise what steps have been taken to arrange for a cost of living package and devising terms and conditions which would encourage middle grade doctors to work in Jersey?

### **Answer**

As previously reported to the States on 15th February 2011, HSSD is currently in the process of negotiating a new contract for middle grade doctors, known as the Associate Specialist contract.

This contract will deliver improved terms and conditions of employment for middle grade doctors. The aim is to bring Jersey more into line with the NHS, which is our major competitor as an employer of middle grade doctors.

HSSD officers have met with the local negotiation committee and discussed a range of issues including salary, on-call and prospective cover arrangements. It is hoped that an offer will be made by summer 2011. In the meantime, as an interim measure HSSD has made an annual £5,000 award to all middle grades doctors.

All new contractual benefits for middle grade doctors, including the interim award, are being funded through CSR growth awarded by the States.

### **1.13 THE DEPUTY OF ST. MARTIN OF THE CHIEF MINISTER REGARDING THE NAPIER TERMS OF REFERENCE:**

#### **Question**

As it has been stated that due to an error parts (d) and (e) of the Napier Terms of Reference were omitted when the details were forwarded to the Greffe for printing and the subsequent publication of R.39/2010 on 14th April 2010, will the Minister inform Members why a corrigendum has not been published and advise whether the omission will be corrected?

Given that as a result of the abovementioned error parts (d) and (e) were not published in R.39/2010, will the Chief Minister inform Members why part (d) does not appear in the Terms of Reference published in the Napier Report presented to the States in R.132/2010 presented to the States on 15th November 2010 but part (d) is replaced by the original part (e)?

#### **Answer**

In answer to the first part of the question, a corrigendum has not been issued to date as I have explained to Members in previous answers how the error occurred, however, to avoid any further uncertainty, I will issue a corrigendum to R39/2010 which will have the full set of Terms of Reference as originally supplied to Mr Napier.

In answer to the second part of the question, part (d) does not appear in the final Napier report presented to the States in R132/2010 because Mr Napier had full access to Mr Power as part of his review. This was agreed with Mr Napier at the outset following confirmation from Mr. Power of his intention to participate, therefore, there was no longer a requirement to rely only on the content of the Affidavit as being Mr Power's version of events. The fact that part (e) of the original Terms of Reference is included in the final report indicates that Mr. Napier was issued with the full set of the Terms of Reference when he commenced his review.

### **1.14 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING STAFF RESOURCES:**

#### **Question**

Will the Minister confirm that in her departmental review of progress on CSR, the Project Management Office shows a "red light" because of a lack of resources from the end of February 2011 due to a staff member leaving and temporary resource staff returning to the UK requiring additional resources to be identified and funded?

What progress, if any, has been made on appointing qualified staff and funding these post(s) given that the 2012/13 CSR is described as 'stalled' and resources were described as needed by 1st March 2011?

Will the Minister produce a costed list of what elements, including redundancy/job losses, of her 2011 CSR have been delivered and which have not, along with the reasons why not?

**Answer**

The CSR Programme Management Office (PMO) was rated as RED at the end of February due to a lack of capacity to continue to coordinate 78 projects that make up the CSR programme. The PMO has four officers, only one of which is a permanent staff member who has commitments in other areas. Two temporary members of staff have completed their contracts. One was provided free of charge by an external agency and has returned to the UK after a 4 week secondment. This leaves the PMO with one full time programme manager and a deputy manager. This is insufficient staff to run a PMO with as complex and diverse portfolio as HSSD.

The 2012/ 13 projects are largely service redesign initiatives. These require detailed work up and analysis and subsequent careful implementation. The capacity, and in some cases skill sets to undertake this work, are not currently available within HSSD and therefore a bid for additional resource from the restructuring fund has been made to the central CSR team. This bid is to go to the Council of Ministers on 24 March.

Performance of the 2011 projects to the end of February is currently being analysed. Performance to the end of January is summarised overleaf:

\* (Some staff opting for Voluntary Redundancy (VR) had not left the organisation as of end of January 2011, hence some delay on realising the savings.)

\*\* (Savings achieved by alternative prescribing scheme)

Ref	Project Description	January 2011					PROJECT STATUS
		Month Target	Savings Made	Variance	Annual Target (000)		
S1	Restructure Env. Health/Health Protection	4,300	4,300	0	51	ACHIEVED 2 VRs	
S2A	Reprofile business management	5,800	2,600	-3,200	70	PARTIALLY ACHIEVED * 1VR	
S2B	Reduce selected non pay costs	800	800	0	10	ACHIEVED	
S3	Reprofile Sports Injury Clinic	500	0	-500	6	UNDER REVIEW	
S4A	Reconfiguration of blood analysers	800	0	-800	10	ACHIEVED	
S4B	Division of pathology management duties	700	700	0	8	ACHIEVED	
S5A/B	Reconfiguration within Pharmacy	6,200	6,200	0	74	ACHIEVED 2 VRs	
S6	Conversion of theatre porter to HCA	1,700	1,700	0	20	ACHIEVED	
S7A	Reduce minor operations sessions to 2/wk	1,100	900	-200	13	ACHIEVED	

S7B/C	Amendment to minor consumables	400	400	0	5	ACHIEVED
S7D	Discontinue Day Surgery Unit Out Of Hours Service	700	700	0	8	ACHIEVED
S8A/B/C	Reconfigure Physiotherapy Services	12,700	12,500	-200	153	ACHIEVED 3VRs
S9	Remove alcohol and drugs post	4,600	4,600	0	55	ACHIEVED
S10	Redesign services at Valerie Band House	3,800	0	-3,800	45	PARTIALLY ACHIEVED
S11	Remove CAMHS team leader post	4,600	4,600	0	55	ACHIEVED
S12	Follow NICE guidance for the prescribing of drugs	1,700	1,700	0	20	ACHIEVED**
S13	Review SLA with 3rd sector providers	1,300	1,300	0	15	ACHIEVED
S14A	Reduce electronics charges	2,500	2,500	0	30	ACHIEVED
S14B/C	Improve annual leave management	2,000	2,000	0	23	ACHIEVED
S14D	Cease involvement with ed. schemes	300	300	0	3	ACHIEVED
S14E	Ambulance systems administration	200	200	0	2	ACHIEVED
S15A/B	Review Consultant prescribing	15,700	15,700	0	188	ACHIEVED
S16	Nurse bank/ workforce IT systems	2,800	0	-2,800	34	NOT ACHIEVED UNDER REVIEW
S17	Standardisation of infusion pumps	4,200	0	-4,200	50	DELAYED BUT UNDERWAY.
S18A	Job cost project management	8,300	0	-8,300	100	NOT ACHIEVED UNDER REVIEW
S18B	Centralise Estates management	800	800	0	10	ACHIEVED
S18C/D/E	Reduction of posts and overtime in Estates	20,200	20,000	-200	242	ACHIEVED 2 VRs
S19A	Close the sewing room	8,300	2,100	-6,200	100	ACHIEVED 2 VRs*
S19B	Amalgamate 2 kitchens at St Saviour's	6,300	0	-6,300	75	PARTIALLY ACHIEVED
S20	Procurement P2P Project	62,500	0	-62,500	750	ON TARGET TO DELIVER
S21	Management restructure	33,300	25,900	-7,400	400	ACHIEVED 4 VRs
S22	Recurrent reduction in 3rd party SLAs	11,700	12,100	400	140	ACHIEVED
S23A/B	Reconfigure Cremation Services	1,200	1,200	0	15	ACHIEVED

## **1.15 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE ADVANCE TO WORK SCHEME:**

### **Question**

Following his response to question 6081, will the Minister inform members how many additional employers of the 3,726 eligible have joined the Advance to Work scheme as a result of his latest publicity drive and how many places have been added to the 270 available?

Will he further state how many of the 142 jobs found so far have been permanent rather than temporary or contract posts?

### **Answer**

Since 1st February 2011 when a real drive to get more business engaging with Advance to Work began, 41 businesses have expressed an interest in having a trainee on placement with them.

Mentors are currently liaising with these firms to discuss their requirements in terms of type of trainee, ascertain job descriptions and check details, such as insurance after which point CV's of trainees are put forward.

It must also be noted that the publicity drive has not finished. I made an appeal to more than 800 business leaders at the recent Enterprise Awards evening. More businesses continue to be contacted and come forward to join the scheme.

Last week saw the 2nd Annual Presentation Evening for Advance to Work trainees and I was advised, because unfortunately I was out of the Island, that it was a magnificent event to recognise the success of trainees so far, not only in terms of those who have moved into employment, but in terms of progress made since they joined the scheme.

Many have excelled in areas they didn't realise were possible, many have found their untapped talents and come on tremendously by attending the vast range of training provided through ATW as well as work placements where there is not a job at the end of it.

The presentation evening was attended by over 300 people who left inspired about the work that ATW are doing, with a clear message that their success is down to the partnership with local businesses. The push for more employers to get involved continues, but the presentation evening certainly shows just how successful it is already.

Since 1st February, employment opportunities have been found in: tourism, design, construction, retail, IT, motor vehicle, hairdressing, animal care, Parish work, finance, media, landscaping, home care, legal and photography to name but a few.

Of the jobs 148 so far 109 were permanent jobs. Other trainees remain in jobs they got following their placements but are on rolling contracts of durations such as 3 or 6 months.

ATW are firmly of the opinion that for many of their clients, getting a "foot in the door" of paid employment is a very positive thing, and they would never deter trainees from accepting an offer of seasonal or contract work. For many trainees the transition from relying on Income Support for money to earning their own weekly or monthly wage for the first time is a huge step forward and gives them that motivation to keep up the good work to ensure their contracts get renewed.

Finally, I urge all Fellow States Members to continually spread the word on the Advance to Work programme and the benefits it brings to both young people and the Island as a whole.

**1.16 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE DEVELOPMENT OF AN ECONOMIC GROWTH POLICY:**

**Question**

Will the Minister state what progress, if any, the Economic Development Department is making in the development of an economic growth policy which is central to the Minister for Treasury and Resources strategy to cope with the recession and when he will be presenting the policy?

Will the Minister inform members what sectors of the economy this policy will focus on and where he expects to see growth?

Can the Minister point to any signs of growth already visible in the economy (jobs, retail, construction, house prices)?

**Answer**

The Economic Development Department is on course to meet the commitment made in Budget 2011 to publish a green paper on a new Economic Growth Strategy in the first half of this year. The Strategy will focus on a framework for growth across all sectors of the economy.

The Fiscal Policy Panel in their last published assessment of the economic outlook in Jersey in November last year stressed that their central expectation for growth was 0-2% this year. Since that report there have been further signs that the economy is on course to meet that forecast:

- Interest rates are now expected to rise earlier than expected which will ease some of the pressure on our banking sector.
- The December 2010 Business Tendency Survey shows that business activity and new business in the finance industry increased at a sharper rate than in the previous survey and optimism in the sector has continued to improve.
- The global economy is expected to grow again in 2011 and 2012 in excess of 4% p.a.
- The latest retail sales figures show that the volume of retail sales in the Island increased by 5% in 2010 Q4 on a year ago, for the second consecutive quarter and following seven consecutive quarters of no annual growth in sales volumes.
- While conditions in the labour market are weak and tend to lag behind economic activity the latest figures for employment are that in mid-2010 total employment was at the same level as a year earlier and has been flat since mid-2008.

**1.17 THE DEPUTY OF ST. MARY OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE USE OF CONSULTANTS:**

## **Question**

Further to the Chief Minister's answer on 1st February 2011 to written question 6005 regarding the current rules relating to the use of consultants by States Departments, specifically the rules governing bias in overall approach, selection of evidence and arguments, and the writing of reports, can the Minister confirm that the avoidance of bias is an integral part of the Financial Direction (FD 5.1) applying to the use of consultants and, if so, can the Minister tell States members exactly how this requirement is stated in the Direction and, if not, can he explain to members why this requirement is not stated in the Direction?

## **Answer**

I can only echo much of the Chief Minister's answer to written question 6005, which the Deputy refers to in this question, and which I have not reproduced in detail.

All consultancy engagements require an engagement brief – for contracts over £25,000 a number of detailed contents are mandatory. Below £25,000 it is recommended that the principles of those mandatory requirements are followed.

The brief should then become the basis for the consultant's terms of reference.

I do not believe it is possible to specify further, in a financial direction, how the avoidance of bias should be achieved. Each accounting officer spending taxpayers' money has a duty to achieve value for money from all expenditure. Achieving value for money implies a balance between on the one hand giving consultants as much freedom as possible to identify and evaluate relevant evidence, and on the other hand controlling the costs of the work carried out.

If the Deputy has concerns over a specific consultancy engagement I would suggest he contacts the accounting officer concerned for further information.

## **1.18 THE DEPUTY OF ST. MARY OF THE CHIEF MINISTER REGARDING THE MIGRATION POLICY:**

### **Question**

In the light of the forthcoming debate on migration policy, can the Chief Minister provide members with the following key population data from 2005 up to the end 2010 for each year (the information to be provided in chart form as well as raw data, together with a brief outline of the methodology used to estimate 1, 3, and 4) –

1. an estimate of the total population;
2. an estimate of the excess of births over deaths (or deaths over births);
3. an estimate of the increase in population due to the excess of people arriving to live in the Island over the number of people leaving the Island to live elsewhere (net inward migration);



4. an estimate of the increase in households due to the excess of households arriving to live in the Island over the number of households leaving the Island to live elsewhere (net inward migration)?

### **Answer**

The information that the Deputy requests for the period 2002-2009, as well as the underlying methodology, is, and has been, publicly available.

1. See page 1 of the Statistics Unit's annual report "Jersey's Resident Population 2009" and associated spreadsheets at:

<http://www.gov.je/Government/JerseyWorld/StatisticsUnit/Population/Pages/Population.aspx>

The methodology for producing this annual update is outlined on page 5 of the above report and is presented in more detail in the dedicated report at the same link.

2. See page 2 of "Jersey's Resident Population 2009" and associated spreadsheets at the above link. The figures are also contained within the annual report submitted to the States of Jersey Assembly by the Superintendent Registrar: "Births, Marriages and Deaths".
3. See page 3 of "Jersey's Resident Population 2009" and associated spreadsheets at the above link.
4. The Statistics Unit's last estimate of the number of resident households living in the Island (38,300 at year-end 2008 ) was published in the report "Jersey's Resident Population 2008". The figure recorded by the 2001 Jersey Census was 35,552 resident private households. It should be noted that a change in the number of resident households is due, in principle, not only to net migration but also the aggregation or disaggregation of indigenous households, as well as private households entering or leaving communal establishments.

As the above papers show, the methodology for producing annual updates of the resident population is based on three mini-censuses; such data are typically available around the middle of each calendar year. The estimate for year-end 2010 will be determined after the principal results of the March 2011 Census are published by the Statistics Unit.

On a final note, it is important to be clear that the forthcoming debate will be around legislation to manage immigration, support population statistics, and control access to work and housing *in the future* and in support of *whatsoever* strategic targets the States set.

### **1.19 THE DEPUTY OF ST. MARY OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING PROTOCOLS GOVERNING INVESTIGATIONS INTO POLLUTION INCIDENTS:**

#### **Question**

Given the need for openness and transparency across government currently being highlighted by the successful requests for information about exam results, can the Minister provide members with the guidelines or protocols governing investigations by officers of his department into pollution incidents under the Water Pollution (Jersey) Law 2000 or under other anti-pollution legislation, together with a brief outline of how these guidelines or protocols were developed?

## **Answer**

The Water Pollution (Jersey) Law 2000 is regulated by officers of Environmental Protection at the Department of the Environment.

There are three specific documents which form guidelines for Environmental Protection to follow during the investigation of offences under the Law and these are;

1. Enforcement & Prosecution Policy
2. Guidance for the Implementation of the Enforcement & Prosecution Policy
3. Code on the Decision to Prosecute

These guidelines were originally drafted in 2001. The Enforcement & Prosecution Policy and Guidance were both based on equivalent guidelines produced by the United Kingdom Environment Agency. The Code was based on the "Code on the decision to prosecute" issued to Centeniers by the Attorney General. All documents were subsequently approved by the Attorney General.

In 2004 these documents were updated to reflect changes in departmental structure. Further updates were made in April and May 2010 to incorporate the other environmental legislation which Environmental Protection regulates, for example the Waste Management (Jersey) Law 2005. These documents are currently with the Attorney General for approval and following this approval, will be sent to the Deputy.

## **1.20 THE DEPUTY OF ST. MARY OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE AVAILABILITY OF AGENDAS AND MINUTES:**

### **Question**

Given the need for openness and transparency across government currently being highlighted by the successful requests for information about exam results, can the Minister confirm that the following are available to States members and to the public –

- (a) the Agendas and Minutes and supporting papers of the Fisheries and Marine Resources Panel?
- (b) the Agendas and Minutes and supporting papers of the Ramsar Management Authority?

and if they are available, state where they can be found, and if they are not available, could he explain why not?

### **Answer**

The Minister is fully committed to openness and transparency within his Department. Both the Fisheries and Marine Resources Panel and the Ramsar Management Authority function by wide Government and stakeholder engagement. States Members, Departments, Parishes and a wide range of stakeholder groups are represented on these bodies. Details of membership can be found on the States website. Ramsar Management Authority meetings are also open to the general public.

The minutes of the Fisheries and Marine Resources Panel are available on the States website and agendas and minutes of the Ramsar Management Authority are also available on the States website.

The Fisheries and Marine Resources Panel documents can be found at the following page

<http://www.gov.je/Government/Departments/PlanningEnvironment/AdvisoryGroups/Pages/FisheriesManagement.aspx>

The Ramsar information can be found at the following page

<http://www.gov.je/Environment/ProtectingEnvironment/SeaCoast/Pages/Ramsar.aspx>

## **1.21 THE DEPUTY OF ST. MARY OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING NURSING POSTS:**

### **Question**

Following the Verita Progress Review (VPR) of January 2011 can the Minister provide members with the following information on a comparable basis explaining any distorting factors –

2005 2006 2007 2008 2009 2010

### **Number of nursing posts in the hospital**

Time of year 1 – say March 31st

Time of year 2 – say September 30th

### **Number of these posts that were filled**

Time of year 1 – say March 31st

Time of year 2 – say September 30th<sup>t</sup>

Can the Minister explain why the number of nursing posts should be increased by 50 posts (VPR paragraph 2.30 page 9)

What were the reasons for the understaffing at the Hospital?

How has the Hospital coped with this situation?

Can the Minister advise what research, if any, has been undertaken by her Department to establish the causes of the difficulties in recruiting staff so that the situation can be strategically addressed?

### **Answer**

	2005	2006	2007	2008	2009	2010
<b>Number of budgeted FTE nursing posts in HSSD</b>	654		654	660	660	682
Time of year 1 – say March 31st						
Time of year 2 – say September 30 <sup>th</sup>						
<b>Number budgeted FTE posts that were filled</b>						
Time of year 1 – say March 31st					614	618
Time of year 2 – say September 30 <sup>th</sup>				637	624	620*

Figures not available

[\*Difference represents approximately 10% of unfilled posts in total (unfilled posts include vacant posts and posts which are recruited to but the staff member has yet to start work).]

Nurse staffing presents a twofold challenge for the Island. There is a recognised, urgent need to increase the number of nurses working across HSSD, coupled with particular challenges to recruitment and retention.

### **Increase in nursing posts**

In 2006 - 2008 HSSD undertook an extensive, independently validated Nurse Staffing Review<sup>2</sup> which identified that existing levels were not sufficient for changing patient need. It recommended 50 additional nursing posts were created in the Hospital plus 12 – 15 additional nurses for elderly mental health.<sup>3</sup> The Verita Review clearly upheld the recommendation made in relation to the hospital.

Changes in demand for nurse staffing is driven by a number of factors including:

- a growing body of evidence that directly links nurse staffing levels to clinical outcomes and the delivery of safe and effective care<sup>4</sup>
- changes in patterns of hospital care, with reduced length of patient stay and faster patient turnover requiring more concentrated episodes of care, more intensive management of hospital acquired infections and higher levels of nursing intervention

<sup>2</sup> HSSD Nurse Staffing Review was externally validated by a renowned nursing workforce expert from the Leeds Institute

<sup>3</sup> Nurse Staffing Review did not include issues relating to increased need for nurses in the community.

<sup>4</sup> Evidence includes: 2009 Health Select Committee report identified inadequate nurse staffing levels as a major factor in putting patients at risk; Healthcare Commission report into the outbreaks of C Difficile concludes low nurse staffing levels are major cause; Care Quality Commission identification of staffing levels as one of six factors essential to quality and safety.

Robert Francis Inquiry into failings Mid-Staffordshire NHS identified too few staff as key problem.

- demographic changes and an increased number of older people requiring more nursing care, especially in relation to dementia care. It is estimated that Jersey's population of over 65 year olds will increase by 68% over the next 30 years, in addition to a growth in the number of under 5 year olds as percentage of the population
- advances in medical care resulting in more people living longer with chronic conditions requiring treatment and management by nurses.

### **Managing nurse staffing shortages**

The shortage of nurses has been actively managed in a number of ways including:

- Reorganisation of emergency medical care: In 2010 HSSD opened an Emergency Assessment Unit focusing on determination of treatment, discharge or transfer of emergency patients within 48 hours. 21 full time nurses have been recruited to this specialist high level activity unit thereby reducing pressure on nursing teams in in-patient wards. These 21 new nurses, some of whom are yet to take up post, are in addition to the 50 identified in the Nurse Staffing Review.
- Establishment of additional nursing posts: in response to findings of Nurse Staffing Review additional nursing posts were created including 18 nursing posts in intensive care, special care baby unit, children's ward, emergency department and general wards. 11 new posts have also been created in endoscopy, renal and the acute medical ward in response to particular need in those areas. (note: whilst some staff have been appointed some posts remain vacant).
- Recruitment and retention: HSSD, with support from the States, has made a significant investment in the recruitment and retention of nurses including: introduction of a Cadet scheme run in partnership Highlands college; a bursary student nurse scheme run in partnership with Education, Sports and Culture; a pre-registration nurse training programme run in partnership with the Open University; a new relocation allowance for nurses and a *hard to recruit* scheme allowing HSSD flexibility in terms of the increment pay point on which nurses are recruited.

### **Challenges to recruitment and retention**

Despite considerable effort the recruitment and retention of nurses remains an on-going problem in Jersey as independently noted and verified by Verita, Tribal and Income Data Services. Issues include:

- Nurses in Jersey are comparatively worse off than UK employed nurses. Including housing costs, junior and senior sister level nurses in Jersey are up to 17% worse off than UK counterparts. Excluding housing costs the difference is approximately up to 7% driven predominantly by Jersey's childcare and transport costs.
- The demographic profile of nurses has changed. The average age of a nurse at qualification is 34, as opposed to mid 20's as was previously the case. Family commitments and relationships make relocation harder for a number of reasons including: loss of extended family support for childcare purposes; inability of partners/spouses to find suitable employment in Jersey (90% of nursing workforce is female); HSSD nursing accommodation being predominantly designed for single people; economic downturn making it harder for nurses to sell or rent

properties owned in the UK in order to relocate to Jersey; loss of UK benefits, for example Jersey annual leave entitlement is 5 days less than UK.

- Recruitment in highly specialist areas such as oncology is further compounded through national shortages plus, as these roles tend to be 9am-5pm roles the inability of nurses to increase salaries through unsocial hours pay.
- In addition to these factors, the overall nursing workforce aging. In Jersey this means that 83 nurses will eligible for retirement in the next 5 years.

Recruitment and retention of nurses represents a real and tangible problem which requires managing on a shift by shift basis in order to deal with peaks in demand, staff sickness and additional nursing workload pressures such as escort duty, theatre runs, in-flight transfers and training requirements. HSSD currently functions and remains safe because of the commitment and good will of nurses who regularly work over contracted hours and move around wards to support colleagues and patients. This situation, which is factored into KPMG's Strategic Roadmap work, is not sustainable in the long term due to the very real impact it has on both nurses and their families.

## **2. Oral Questions**

### **The Deputy Bailiff:**

The oral question, as set out in principle on paper, has been redirected from the Minister for Education, Sport and Culture to the Minister for Treasury and Resources and will be asked by Deputy Lewis. Is there an Assistant Minister able to answer for the Minister for Treasury and Resources? Will you be answering questions on behalf of the Minister for Treasury and Resources?

### **Connétable J.M. Refault of St. Peter**

Most of them, yes. The Chief Minister will take some of the more technical questions.

### **The Deputy Bailiff:**

Very well. Deputy Lewis.

### **2.1 Deputy K.C. Lewis of St. Saviour of the Minister for Treasury and Resources regarding the future of the old Fort Regent swimming pool:**

Following yet more break-ins and vandalism at the old Fort Regent swimming pool, will the Minister give the order to demolish the building, as it is now beyond repair and could be a danger to the public, and if not, why not?

### **The Connétable of St. Peter (Assistant Minister for Treasury and Resources - rapporteur):**

The short answer is no, we will not be giving the order to demolish it, but certainly what we are currently doing, we are awaiting the outcome of the Fort Regent Political Steering Group report, which I understand will be presented around about July this year. Members will recall that the steering group was set up as a result of the States adopting P.118 in 2009, and the group have been mindful of the state of the pool throughout its deliberations. The report will influence any decision that will be taken on Fort Regent swimming pool, which is effectively beyond repair. An estimate has been received last year of between £800,000 and £1 million; it was obtained for the demolition. These are funds which the Treasury and Resources Department currently does not have. It has been

identified that the costs are mostly associated with asbestos within the roof structure within the inside of the building. To prevent further vandalism and protect the public, Jersey Property Holdings will be letting a contract at the end of this month to board up the building once we have received a method of works, because what we do not want to do is see scaffolding outside for a number of weeks, which the vandals could then use to climb up and get into the building via other accesses. The department considers that any plans to demolish the swimming pool should be deferred until such time as the Fort Regent Steering Group has delivered its regeneration plans for the whole of the Fort, and development value of the swimming pool site is protected by an appropriate planning concept.

### **2.1.1 Deputy K.C. Lewis:**

Even though in years past I was very much against the closure of the Fort Regent pool, as the Assistant Minister states, it is well beyond repair, and as the Assistant Minister will see by the photograph I sent over, the access is easily obtainable through broken fencing, *et cetera*. Will the Assistant Minister ensure that the building is sealed and obscene graffiti removed with immediate effect?

[09:45]

### **The Connétable of St. Peter:**

Yes, certainly I can give assurance to the House and to Deputy Lewis that work is in hand to protect the building by boarding it up on the outside to ensure that nobody can get in. There are materials inside which we do not want the public having access to, and part of the works will also remove the graffiti, which was quite graphically shown in the photographs handed to me this morning by Deputy Lewis.

### **2.1.2 Deputy R.G. Le Hérissier of St. Saviour:**

Notwithstanding what might be an excellent report from the steering group, would the Assistant Minister outline how much is budgeted in order to proceed with the regeneration of the Fort?

### **The Connétable of St. Peter:**

Currently I am not aware of any funds that have been allocated for the regeneration of the Fort. Certainly Property Holdings have looked at a number of schemes whereby some of the land assets around the Fort could generate an income to do the regeneration required. But I think it would irresponsible at the moment to identify how that is going to be spent until such time as the Fort Regent's Steering Group has delivered its report, so we can make a proper, valued judgment based on input from the steering group.

### **The Deputy Bailiff:**

I give guidance to Members: the question was about the Fort Regent swimming pool, so questions in relation to the Fort generally will not be allowed, as they do not follow on from the nature of the question.

### **2.1.3 Deputy P.J. Rondel of St. John:**

Could we be given the cost of the work to be carried out, the remedial work to board this property up, and in doing so, will these figures be added into the cost of the actual removing the asbestos when the time comes?

### **The Connétable of St. Peter:**

I should have answered that to Deputy Le Hérissier's question. The funds at the moment put aside to do the boarding up is £30,000 and it is that money that will be coming out of Property Holding's maintenance fund and will not be added to the cost of demolition at the end of the job, because that is a different budget line.

#### **2.1.4 Deputy C.F. Labey of Grouville:**

How many tenders did Property Services receive for the demolition of the swimming pool at Fort Regent, because to my mind the figures quoted, between £800,000 and £1 million, seem extremely excessive.

#### **The Connétable of St. Peter:**

I entirely agree with the Deputy of Grouville. They are excessive numbers. Basically, Property Holdings have gone out to a number of contractors to get an indication of the probable costs and they have ranged from as low as £750,000 to £1.24 million, so it is that ballpark figures that we are very much focused upon, and certainly that identifies that at the moment. There is no point in spending more money in developing any demolition type project until we have got a better idea what funding is available and how we can release the capital asset from around Fort Regent on the back of the steering group's report.

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

Could I urge the Minister to take seriously the possibility of demolishing the Fort Regent swimming pool, particularly as it has been standing for a long time, and Senator Cohen and his historic building officers are likely to list it?

#### **The Connétable of St. Peter:**

I think that is a question probably for the Minister for Planning and Environment, thank you, or should I say the Minister for Environment now. It is of concern, obviously it is a major public concern. It is right in our sight line in whichever direction we come to town from, the east or the west, and the fact it is an asset there which is doing absolutely nothing and becoming an embarrassment to the public. I know Education, Sport and Culture are very mindful of the need to do that work and to regenerate the whole area within the Fort. It is finding something which is going to complement the offering of the Fort itself to attract more people up there. It is the skill that we are looking for, to find that anchor tenant, if you wish, that is going to draw far greater use of the Fort overall.

#### **The Deputy Bailiff:**

Deputy Lewis, a final question? No. Then as you pass on your final question, Deputy Le Fondré can have the final question.

#### **2.1.6 Deputy J.A.N. Le Fondré of St. Lawrence:**

Just erased the question from my mind. Very quickly, would the Assistant Minister perhaps confirm hopefully that one of the reasons that the cost does appear quite excessive is due to the nature, for example, of asbestos, *et cetera*, in the building, which will require very specialist handling? There is a part (b) to that, it would seem to make sense to make sure we have a co-ordinated approach, rather than if we do knock the swimming pool down and nothing sits there, it is very unlikely we will ever get a building back there under present planning guidelines.

#### **The Connétable of St. Peter:**

I can confirm that Deputy Le Fondré has very well put the case for me, and thank you, and I agree with every point he made.

#### **2.2 Deputy A.E. Jeune of St. Brelade of the Minister for Health and Social Services regarding the initial contractual terms under which the Director of Social Services was engaged:**



Would the Minister please outline the initial contractual terms under which the Director of Social Services was engaged and the terms under which this has been extended, including the annual total cost and contract period, if any?

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

I shall ask my Assistant Minister to answer this question.

**Deputy J.A. Martin of St. Helier (The Assistant Minister for Health and Social Services - rapporteur):**

Thank you, Deputy. Yes, the actual answer to the cost of the 6-month contract from August 2010 to February 2011 was total salary of £60,000. Just for a bit of information, we brought in Mr. Williamson to implement his own plan in late December 2009, and by July, it was obvious that we needed a substantive post, but we knew we could not get one in straight away, so it was with talks with Mr. Williamson and the Chair of the J.C.P.C. (Jersey Child Protection Committee) we decided to have a very short contract until we could fulfil this substantial post. The contract has not been, under the words of the Deputy, extended. We have been out to interview: 11 people applied, 4 were fit for interview and on interview day - I think it was in November last year - 3 turned up, and now the person who was doing the contractual job on a temporary basis was offered the job permanently as the substantive post holder.

**2.2.1 Deputy A.E. Jeune:**

The Deputy has not answered for how long this new ... is it a permanent contract or is there a period on it, and also, does it now include responsibility for mental health care, both inpatient and community?

**Deputy J.A. Martin:**

As I said, it will not be temporary. It went out ... it went through the Appointments Commission. It went out internally ... sorry, it was advertised on-Island and off-Island. Yes, it is a new post, it is substantive. It was recognised by Mr. Williamson and all the things he needed to put in place. We needed a Director of Social Services, and that covers all the things under the umbrella, which is community and care of mental health.

**Deputy A.E. Jeune:**

If the Assistant Minister could confirm it includes the inpatient care of mental health?

**Deputy J.A. Martin:**

Yes, of course. Yes, it does. It comes under the umbrella, what is under mental health. As I said, there are lots and lots of things that the new Director of Social Services is doing and pulling together, and there is a lot of exciting work that will come out later this year, but inpatient, outpatients, if they are under the umbrella of the Director of Social Services, he is the one where the buck stops.

**2.2.2 Deputy R.G. Le Hérissier:**

Could the Assistant Minister outline what is the annual cost under the contract, under the permanent contract, and is the contract in any way tied to performance?

**Deputy J.A. Martin:**

The post was advertised as a grade A, and there are still some discussions going on and as people may not know - or may know - grade A at the moment, there is no upper level, but it will not be ... at the moment, as I say, it is a contract of employment, which most people would have. It is a substantive post that we need and it will fall under all the laws of the States of Jersey Employment Board and all States employees have to adhere to.

**Deputy R.G. Le Hérissier:**

I am sorry, Sir, that was not an answer. What is the cost per annum of this post?

**Deputy J.A. Martin:**

I am sorry, that was an answer. I said it is still under discussion.

**2.2.3 Senator S.C. Ferguson:**

Given that short-term contracts pay higher than permanent contracts, can we expect a lower cost to the States than the £120,000 a year?

**Deputy J.A. Martin:**

As I say, it is still under negotiation and all these jobs have to be benchmarked. I would point out that it went out as a grade A, and 11 people applied. Only 4 were fit to even interview and only 3 turned up, and out of those 3, there was only one person that the job could be offered to.

**2.2.4 Senator S.C. Ferguson:**

What salary level did the advertisement contain?

**Deputy J.A. Martin:**

It was advertised as a grade A, and I have already said, Sir, there is no upper limit on a grade A.

**Senator S.C. Ferguson:**

Yes, but there must have been a lower limit, because an advert would say: "Salary from" to be negotiated.

**Deputy J.A. Martin:**

Sorry, if the Senator would like to check, there were no figures. It was advertised: "States of Jersey, Grade A."

**2.2.5 Deputy A.E. Jeune:**

Given that mental health is now included in the Social Services Division, would the Assistant Minister give an assurance that she will look at the staff costs in the Mental Health Division, as I understand it is running like a loose horse at the moment, with a lot of planned overtime.

**Deputy J.A. Martin:**

Of course I would like to assure the Deputy. I will look into this, and I will look into this. It is a matter of, as I say, we are at the beginning. We are at the beginning of the road. If mental health is running with planned overtime, it will be nursing, and this comes up again and again. It is retention and getting the right package to get people into Jersey. I will certainly look into this particular ... and if the Deputy has got any more information, she could just email me specifics and I will get back to her personally.

**The Deputy Bailiff:**

The next question Deputy Tadier is to ask of the Minister for Education, Sport and Culture. As he is not here, we will pass on to question 4, which the Deputy of St. Mary will ask of the Minister for Treasury and Resources.

**2.3 Deputy D.J.A. Wimberley of St. Mary of the Minister for Treasury and Resources regarding a senior Human Resources post at Health and Social Services:**

I think Deputy Tadier has been caught out by the dropping of the 2 questions. Would the Minister advise whether there is or will be a new senior post for H.R. (Human Resources) at Health and Social Services, and if so, will he explain how the current policy of providing a centralised H.R. function is affected by having departmental H.R. capacity as well?

### **The Connétable of St. Peter (Assistant Minister for Treasury and Resources - rapporteur):**

The short answer again is no, but I am sure the Deputy wants a bit more than that from me, so basically it is intended that the new senior member of the States of Jersey human resource team will lead H.R. for Health and Social Services. The post will report directly to the States Director of Human Resources. This is entirely in keeping with our single model for H.R. and reflects the approach which most large organisations now take. In summary, this model is made up of 3 key elements: firstly, business partners based in departments providing strategic advice to management teams on a range of people issues; secondly, centres of expertise, for example, teams specialising in organisational development, reward and employee relations, which provides specialist support to business partners; thirdly, H.R. services. This team provides employee guidance, administers training and helps recruit staff. Over the coming months, we will be building the skills and capabilities of the entire H.R. team to support significant organisational changes which are needed to deliver the £65 million savings agreed by Members.

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

Could the Assistant Minister clarify perhaps - I hope he has done his work in preparing for this question - the sort of numbers we are talking about? We do seem to have a 2-tier system. We have a centre for H.R. and then we have H.R. capacity in the departments. That seemed to be what the Minister was saying. Could he give us some idea of the numbers involved in the centre and the numbers involved in the different departments?

#### **The Connétable of St. Peter:**

I think I was answering the Deputy of St. Mary's question basically on senior posts within departments, and those senior posts remain within the core team within Cyril Le Marquand House were funded by Treasury and Resources, but just to give him a flavour of the sort of ratio that we need, the current requirement for H.R. to staff is one to 100 members of staff, so one H.R. personnel to 100 members of staff, and that meets the internationally recommended ratio of H.R. staff to employees. Basically, I have not got figures to drill down to give the number of H.R. staff per department at this stage. If that is what he wishes to have, then I can get those developed up and delivered to him at some later time.

[10:00]

#### **2.3.2 Senator S.C. Ferguson:**

I have got a 2-parter. Does the Assistant Minister not think that 600 H.R. personnel for the States is a little excessive, and how will central H.R. ensure that complete information is given to the central department from H. and S.S. (Health and Social Services) and hence the S.E.B. (States Employment Board)?

#### **The Connétable of St. Peter:**

Yes, I agree with Senator Ferguson, 600 H.R. staff does seem to me rather excessive. I have to say I am advised that the ratio should be 1 to 100 staff, that meets the internationally recommended H.R. staff to employee ratios. It will be interesting, and I will also undertake to the Senator to come back with the actual figures of H.R. staff across the States network. I would be rather surprised if we are at 600, but that needs to be proved and I will come back to her on that point. Can I just ask the Senator to repeat the second part of her question? Sorry, I have forgotten it already.

#### **Senator S.C. Ferguson:**

How will the central H.R. Department ensure that complete information is given to them by ancillary H.R. departments, such as H. and S.S. and hence to the S.E.B.?

#### **The Connétable of St. Peter:**

By basically placing people within the departments which are linked directly to Cyril Le Marquand House and the main core of H.R. within the States. They are going to be responsible for delivering the information back to the centre, where it is then correlated and then obviously that will identify where pinch points are in staffing, sickness and other matters which need to be addressed. So it is via that link. Unfortunately, we did have the human resource information system, which was supposed to have delivered as part of the J.D. Edwards package, but that has not worked out in the manner that we would have wished to have done, where that would have been done automatically from departments back to Cyril Le Marquand House. At the moment, we are working on a new system to put that in place to ensure that we get the right information to be able to manage our staff appropriately.

**Senator S.C. Ferguson:**

A supplementary, Sir.

**The Deputy Bailiff:**

No, I am sorry, Senator. You have had 2 questions.

**2.3.3 Deputy A.E. Jeune:**

Could the Assistant Minister explain how H.R. or the S.E.B. for that matter has allowed for a contractual employment to be offered without having agreed the remuneration?

**The Connétable of St. Peter:**

I am sorry, I do not believe that is a question that I can answer at the moment. That is really a question for Health and Social Services, because the contract was awarded by them, I believe. I stand to be corrected.

**2.3.4 Deputy A.E. Jeune:**

I understand that S.E.B. are always involved in these senior appointments?

**The Connétable of St. Peter:**

This is not a staff appointment. This is a contract for services, [**Members: Oh!**] though I think it would be fair to point out that a contract for services are not dealt with by the S.E.B. Staff are... and this member I think that the Deputy is referring to is not a member of staff.

**The Deputy Bailiff:**

Deputy, as I understood the answer from the Assistant Minister, the permanent contract is under consideration at the moment and no doubt therefore all will become clear in due course.

**2.3.5 Deputy R.G. Le Hérisier:**

Would the Assistant Minister not acknowledge that the model which he outlined has in fact been the model for the last several years? Why has it not been working and how is the new model going to be substantially different?

**The Connétable of St. Peter:**

I cannot fully answer the Deputy's question unfortunately. We all live in hope. Certainly there was a significant promise from the H.R.I.S. (Human Resources Information Services) system and we have 2 interim managers within H.R. at Cyril Le Marquand House at the moment working on developing up a new system of works, and also supported by the information services to deliver a product which is going to meet my expectation, and I will certainly be demanding that expectation to be realised, that it does deliver the information so we can properly manage our staff.

**2.3.6 Deputy T.M. Pitman of St. Helier:**

Maybe I can shed some light for Deputy Jeune, because perhaps the Assistant Minister could tell us how closely these things are monitored at H.R., when a former H.R. official, now departed, told me only 3 years ago how she was basically allowed to write her own job description.

**The Deputy Bailiff:**

How are these things monitored was the question, Assistant Minister.

**The Connétable of St. Peter:**

I am not aware that that is the situation that H.R. managers can write their own job description. Certainly they write them for the rest of the staff, but I would probably need more information to be able to drill down into the detail of that. Sorry, Deputy, I cannot help you with that at the moment, but if you can give me the information a little more to identify that, I can get back to you with a full answer.

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

Is the Assistant Minister happy that in a department like Health, for instance, some 35 H.R. officers would be employed, and in a department like Education, there be some 20-odd officers when we have got a shortage of nurses and a shortage of skilled teachers across the various zones? Can it be right that we have got so many people covering each other's backs?

**The Connétable of St. Peter:**

No, I am not happy on the principle, as the Deputy has put forward, but clearly there is a requirement for a number of H.R. staff, and we are not necessarily talking about H.R. managers. We are talking about basic clerical staff as well included in all of those numbers, but we are not at that sort of level within the departments anyway. My advice is the ratio that I gave to the Assembly earlier of one in 100 is correct, and I certainly will go back and double-check that one, because it does seem somewhat excessive.

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

A supplementary, Sir. Would the Assistant Minister therefore agree that the original information he gave us was somewhat misleading?

**The Connétable of St. Peter:**

No, I will not. The information was given to me in good faith, I have accepted it in good faith and delivered it to this Chamber in good faith. There is no attempt to mislead this Chamber by the officers, myself or anyone else involved in preparing this answer.

**2.3.9 The Deputy of St. Mary:**

Yes, it will be most useful for Members to have the actual numbers involved in all the departments and the centre. Now, just a 2-parter, a quick one is what happens with smaller departments when you have a ratio of one in 100, and there may be departments or outposts that are well under 100; so how do they report to the centre? How are they brought into the system? A specific question on training: is all training done from the centre?

**The Deputy Bailiff:**

I do not think the training... perhaps it is. Carry on, Assistant Minister.

**The Connétable of St. Peter:**

Regarding the small departments, clearly within the small departments like the Health ... sorry, not the Health team, everything but: the Housing team and Property Holdings as well, the team that I am particularly involved with, do not have an H.R. person within it. They are consolidated and they are put together and covered by H.R. teams in other areas, which are commensurate with them. With regard to training, I will just answer that very quickly, if I can. General training within

general roles is done from the centre, but where they are job specific or role specific training required, those are done by the departments.

**Deputy M. Tadier of St. Helier:**

On a point of order, could I just apologise to the House and the Minister for missing my question. I was working from the old Order Paper, so I thought I was on question 5. My apologies.

**The Deputy Bailiff:**

Members, I am sure, will accept your apology, Deputy.

**2.4 Senator A. Breckon of the Minister for Treasury and Resources regarding the report requested during the Housing Development Fund debate on 6th July 2010:**

Can the Assistant Minister advise the Assembly when he will provide the report as he was requested to do during the Housing Development Fund debate - P.61 of 2010 - on 6th July 2010?

**The Connétable of St. Peter (Assistant Minister for Treasury and Resources - rapporteur):**

Clearly, time has moved on since the Senator brought forward his question. We are aware today that the Minister for Treasury and Resources recently signed just last week the Ministerial Decision to present the report to this Assembly, and we were advised by the staff earlier on this morning that it is the matter of process and should be with us hopefully later on today.

**2.4.1 Senator A. Breckon:**

I wonder if I may ask the Assistant Minister if he would like comment on the fact that the Minister for Treasury and Resources himself had an amendment to this, setting a target date of 6 months from the debate, which was 6th January, therefore this month this report is 2 months late. Would he like to comment on the production of an inferior report, 33 per cent over time?

**The Connétable of St. Peter:**

Yes, the Minister for Treasury and Resources is very much aware that it has run over the time set by this Chamber for delivery of it, and he has completed the report as quickly as possible. The report itself was finalised recently, specifically to include the provision out-turn for 2010. Data for the 2010 account has only recently been completed to be made available for audit. Had the Minister delayed until the completion of the audit, this would have added a further at least 2 months to the publication and therefore he felt it was necessary to publish it in the shorter term to ensure that Members had the fullest information available to them.

**2.5 Deputy R.G. Le Hérissier of the Chief Minister, responding on behalf of the Minister for Treasury and Resources, regarding tax arrangements for persons employed by the States on ‘contracts for service’:**

What local tax arrangements, if any, apply to persons employed by the States on ‘contracts of service’?

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

A person employed by the States under contract of service is an employee for the purposes of the Income Tax (Jersey) Law. Such a person would therefore be subject to I.T.I.S. (Income Tax Instalment Scheme), be taxed at normal rates, as any other person, and be entitled to all the normal tax allowances and reliefs available to any employee.

**2.5.1 Deputy R.G. Le Hérissier:**

Given the total similarity of conditions, would the Minister therefore outline why contracts of service are offered, rather than contract or permanent actual position?

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

That is a question about taxation. I am not sure that that question really relates to taxation matters.

**The Deputy Bailiff:**

No, I think that is a fair objection.

**2.5.2 Deputy R.G. Le Hérissier:**

Would the Minister, as a humble domestic chartered accountant, outline what are the advantages of a person in placing themselves upon a contract of service and apparently constituting themselves as a company to which they then direct their salary or their payment?

**The Deputy Bailiff:**

Deputy, if you ask what are the tax advantages, it does relate to the question.

**Deputy R.G. Le Hérissier:**

Yes, Sir. What are the tax advantages?

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

The tax advantages are ... basically if the person is employed through a service company, the I.T.I.S. would not be applicable, because I.T.I.S. applies to individuals, and if the person was a Jersey resident member of that company, then as an employee of that company they might be liable. There are unlikely to be significant income tax advantages, other than the fact that the company itself is not an employee.

**2.5.3 Deputy G.P. Southern of St. Helier:**

Is it the fact that if the service provided was of a non-financial nature and was not concerned with the financial services industry that that company would be zero-rated, and as a company would pay no tax in Jersey?

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

Companies operating in Jersey are subject to normal laws of taxation, and if it is not a financial services company or a utility company then it would indeed be liable to zero tax, but the employees will remain liable for taxation as employees.

**2.5.4 Deputy T.M. Pitman:**

Following on from the question that Deputy Le Hérissier eventually asked, talking of advantages from these contracted services, what are the advantages, if any, to the coffers of the Treasury by giving these contracts of service?

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

There are no advantages or disadvantages of operating a contract of service rather than simply employing the person directly as an employee, so I am not sure of the purpose and nature of the question. The taxation implications are identical.

**2.5.5 Deputy M.R. Higgins of St. Helier:**

Listening to the answers, I am wondering why were they employed on a contract of service if there is no advantage to the employee or the employer. Could you please state quite clearly why it is being done and what advantages there are and to whom?

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

That is a question which you would have to look at the minds of the employer and the employee concerned. I was answering a question about local tax arrangements. In terms of a contract of service, it may well be that for matters like insurance purposes or other personal ancillary matters, there may be advantages in working through a contract of service. Those would be separate from any tax advantages or tax arrangements which might apply.

#### **2.5.6 M.R. Higgins:**

Can I just ask a further one? Do these people apply to the full-time employee headcount in the States?

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

To the best of my knowledge they do, but I cannot be specific.

### **2.6 Deputy G.P. Southern of the Chief Minister, responding on behalf of the Minister for Treasury and Resources, regarding the achievement of a sustainable balanced economy:**

Does the Minister consider that following the full implementation of the Zero/Ten tax regime, the Island has achieved a sustainable, balanced economy?

#### **The Deputy Bailiff:**

Are you going to gazump the Assistant Minister here? Chief Minister.

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

Most Members are fully aware that the move to Zero/Ten was a critical step in ensuring that all Islanders could continue to enjoy the high level of prosperity that the Island's success as a financial centre over many years has brought them.

[10:15]

I do not intend to go over the arguments of the move to Zero/Ten, as they have been approved by the States Assembly, and most Members know that they are compelling. The worst global recession since the 1930s has had inevitable consequences for the Island, but I believe we remain in a very strong position, not least because of the sound positions of this Assembly and its predecessors. The latest economic forecast suggested the global economy will continue to see growth this year and the next, and I firmly believe that we are in a strong position to take full advantage of these trends. In addition, the Minister for Economic Development is already working on a new economic growth strategy to ensure that we have the right policies in place to see opportunities for future growth and ensure that this is sustainable, while being as balanced as can reasonably be expected in line with Island constraints.

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

I notice that the Chief Minister made no attempt to define "sustainable" or "balanced"; in fact, made no attempt to address that part of the question, which was central. Nonetheless, does the Minister believe that only taking in £128 million tax from all trades, which is balanced with £54 million from non-financial companies, and only £74 million from financial intermediation businesses, does he believe that that is a fair and proper balance for this economy?

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

I said in my original answer that this is as balanced as could be reasonably expected in line with Island constraints. Now, if I want to elaborate, the fact is that the tax revenue generated from businesses in the financial services area is far higher per capital than in most other businesses. Therefore, if we are talking about Island constraints, it is inevitable that there is going to be an imbalance in order to achieve that objective.



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

Can the Minister account for the sudden increase from £73 million of income tax collected from business in the 2011 budget estimates to £128 million in the latest figure given in the answer to question 6121, asked yesterday of the Minister for Treasury and Resources?

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

Without detailed information about the background calculations to those 2 figures, I could not do so. I think that may be a better question for a written question to the Minister for Treasury and Resources.

### **2.6.3 Deputy M.R. Higgins:**

Does the Chief Minister accept that the move from Zero/Ten means that there is an irrevocable shift in taxation from companies to individuals and that this will make the lot of ordinary workers a lot worse off?

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

I cannot say it is an irrevocable shift, but certainly it is the planned shift from corporate taxation to individuals, which was discussed at some length over recent years. It is a policy which is necessary in order for us to maintain our prosperity over the forthcoming future.

### **2.6.4 Deputy M.R. Higgins:**

A supplementary, Sir. Does the Chief Minister not accept that this shift in taxation or the balance of taxation to ordinary workers, together with restricted pay growth and job losses, is likely to make the recovery in the Island much harder?

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

No, I do not. I believe that a stable and sound and understood taxation system, coupled with business confidence and proper legislation and reputation and regulation will ensure that we have a successful and sustainable future.

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

Is the Chief Minister proud of his achievement in transferring so much of the tax burden from business to individual households in Jersey?

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

I am proud of proposing a policy for maintaining the Island's prosperity in difficult economic times when the alternatives would have been significantly worse.

## **2.7 Deputy S. Power of St. Brelade of the Minister for Economic Development regarding the job description for the proposed position of Group Chief Executive Officer at the Harbours and Airport:**

Would the Minister please describe the advice he sought before approving the job description for the proposed position of Group Chief Executive Officer at the Harbours and Airport Department?

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

Following the resignation of the Airport Director, Economic Development reviewed the senior management arrangements of both the harbours and airport. This will lead to a more streamlined and cost-effective management structure in the future. Given the significant strategic challenges that face both organisations, I approved the creation of the post of the Group Chief Executive to be responsible for delivering a sustainable commercial future for both ports. The job description was

finalised by the Chief Officer of Economic Development after consultation with the shadow board, the Appointments Commission, States H.R. and Treasury officials.

**2.7.1 Deputy S. Power:**

Could the Minister clarify as to how much effort was given to try and recruit a locally-qualified person with the local relevant experience, as defined in the job description, and would he not agree with me that the wording of the information pack, that this information is loaded very much in favour of somebody not living in Jersey?

**Senator A.J.H. Maclean:**

I would not agree with the Deputy. I think that the advertisement was fair and balanced. It was designed to deliver the type of individual required for this challenging post, and it was advertised and the post is still open for applications from both local people and people outside of the Island. I can tell the Deputy there have been a number of local applications.

**The Deputy Bailiff:**

A supplementary, Deputy Power?

**2.7.2 Deputy S. Power:**

Yes, Sir. In the wording of the information pack, reference is made to: "Within Jersey marinas to the loss-making heritage harbours." In the job description, could the Minister clarify whether this reference to "heritage harbours" is referring to the commercial buildings, English and French harbours, and why would it be referred to as loss-making, and is this not misleading information?

**Senator A.J.H. Maclean:**

It is not directly relevant to the question, Sir, but nevertheless, I will answer it.

**The Deputy Bailiff:**

It sort of fits in, just, Minister.

**Senator A.J.H. Maclean:**

Well, yes, fair enough, Sir. Your ruling of course is supreme.

**The Deputy Bailiff:**

Thank you.

**Senator A.J.H. Maclean:**

In terms of answering the question, the loss-making heritage aspects of the harbour that are referred to talk about all the outlying harbours and all those that are not frankly commercially viable, where revenues generated do not cover the cost of maintaining such items.

**2.7.3 Deputy A.E. Jeune:**

Just picking up on the Minister's answer there, would the Minister just confirm that now that they have got this new appointment, that the position of Airport Director has been removed from the managerial structure?

**Senator A.J.H. Maclean:**

Just to clarify, the post in question, the Group Chief Executive of the ports, the airport and the harbour, is currently still out and being advertised. We have not yet undertaken interviews or appointed anybody. When the post is approved and a candidate is successfully appointed, then it is intended in the initial stage that that particular candidate will assume the responsibilities of both the Airport Director and the Chief Executive role at the harbour. In the longer term it is intended working with Ministers and the Shadow Board that both the legal responsibilities of those 2 posts

will be assumed by those that are currently operating. It is an operational role within both the ports; the airport and the harbours in other words.

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

Could the Minister inform us if the post was advertised with a salary or will this be determined at a future point? Secondly, what other management savings does he envisage as a result of this appointment?

#### **Senator A.J.H. Maclean:**

Yes, the post was advertised with a salary. It was properly evaluated under the Hay job evaluation process and the salary was advertised. As far as savings were concerned, we believe that the streamlining of the management structures for both the airport and the harbour will ultimately lead to savings in excess of £500,000. I might add, that includes the cost of the Shadow Board, which Members will be aware is round about £125,000, so ultimately it is an important post. The roles, just to clarify, if I may, I think Deputy Jeune was confused by my earlier answer, the role of Airport Director will be described as Chief Operating Officer, indeed the same post will occur at the harbour effectively.

#### **2.7.5 Deputy M.R. Higgins:**

Could the Minister tell us the salary? He said it was advertised, he might as well just tell us what the salary was then please.

#### **Senator A.J.H. Maclean:**

Yes, I was not asked what it was, I was asked if it was advertised. It was £127,000.

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

The Minister in his reply mentioned the C.E.O. (Chief Executive Officer) would take over harbours also. Does this mean that the Harbourmaster will either be going or be demoted or staying on the same wages with less responsibility?

#### **Senator A.J.H. Maclean:**

The role of Harbourmaster will remain. That will be the operational role clearly, and the current Harbourmaster will be staying in post.

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

Supplementary; I did ask the question; on the same wages and at the same grade, or will be demoted?

#### **Senator A.J.H. Maclean:**

No, it is not a demotion. His salary range will remain exactly as it is at the moment.

#### **2.7.8 Senator T.J. Le Main:**

One hears of comments and dissatisfaction over recent outside Island appointments to the Harbours and Airport Departments. How does the Minister monitor work and performances of individuals that have been appointed on either (j) cat licences or otherwise once they are into their job? I mean, the question I would like the Minister to answer, it concerns me that there are many appointments that do not end up as satisfactory employees yet we seem to keep them on for the end of their contracts. How does the Minister monitor this? I am getting concerned of the amount of comments I am getting over one or 2 appointments within his department.

#### **The Deputy Bailiff:**

Senator, no doubt a very good question but it does not seem to me close or relates to the question which Deputy Power has asked, so that is for another day.

**2.8 Deputy T.M. Pitman of the Chief Minister regarding the total sum paid out to employees upon early termination of contract since December 2008**

Will the Chief Minister state the total sum, if anything, paid out to employees upon early termination of contract since December 2008 outside of those monies entitled under contract; further still, how many individuals, if any, have received such payments?

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

I have to apologise to the Deputy, but in order to accurately answer this question a considerable amount of research work will be needed to be undertaken across all States departments, and it is not possible to provide an answer in such a short timescale. I have asked officers to commence the necessary work to answer the question and aim to provide a detailed answer to States Members at the next States sitting. May I take the opportunity to remind Members that in instances where a considerable amount of research work may be required to answer a States question it should be submitted in good time to produce the answer or alternatively submitted as a written question.

**2.8.1 Deputy T.M. Pitman:**

Supplementary, Sir.

**The Deputy Bailiff:**

You will have to use your imagination, Deputy.

**Deputy T.M. Pitman:**

I will. I think it is wonderful the way the Minister shifted the blame on to me. Could the Minister just ensure when he gets his staff to put that answer together that contracts of employment and those on contract of service are all considered in the answer?

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

I shall endeavour to make the answer as full as possible.

**2.9 Deputy F.J. Hill of St. Martin of the Minister for Health and Social Services regarding the difficulties recruiting and retaining suitably qualified nurses across the Health Service:**

Will the Minister inform Members of the main finding of the Income Data Services Report commissioned jointly by the States Employment Board and the Department of Health and Social Services into the difficulty in recruiting and retaining suitably qualified nurses across the Health Service and will the Minister inform Members of what actions, if any, she proposes to take in regard to this matter?

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

The Income Data Services Review concluded there were 8 key findings, one of the main ones being that the nurses and midwives are financially worse off in Jersey than those employed in the U.K. (United Kingdom). The biggest contributing factor is the cost of living, housing, transport and childcare costs. I am currently working with the States Employment Board and my department to address these issues. In the meantime, the department will continue to deliver the initiatives outlined in the answer to written question 6133 which was asked today.

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

I am surprised that the Minister had to go outside the Island to tell us that the staff in Jersey are getting paid a different rate than those in the U.K. Can the Minister explain why allied health

professionals are paid at a Civil Service rate whereas the nurses are paid at a nursing rate, which is considerably lower than the allied health professionals are?

**The Deputy of Trinity:**

The I.D.S. (Income Data Services) Report was commissioned jointly between the States Employment Board and the Department of Health and it was after we went to the States Employment Board back in October 2009. As regarding the question of the allied health professionals and the different pay rates, I am afraid I cannot answer that question.

[10:30]

**2.9.2 Deputy G.P. Southern:**

Will the Minister consider releasing the full report to the appropriate Scrutiny Panel - i.e. mine - in the near future under confidence if required? Will she accept that the overall thrust of the report was that nurses working in Jersey are some 15 per cent worse off than they are on the mainland and that the offer we are talking about being made to nurses is a 5 per cent offer for Grades, I think, 5, 6 and 7 which is a minimal offer and costs the department very little because it does not apply to Grade 4 where the numbers are?

**The Deputy of Trinity:**

As regarding releasing the report to the Scrutiny Panel, I have no problem with it. It was a joint endeavour between S.E.B. and the Department of Health so I would just check with the States Employment Board too but, from my point of view, I do not see that I have any problems. You are quite right. The problems are found in Grade 5 which is Senior Sister post but the absolute numbers where the most acute problem is is Grade 4 and we are looking, as I said, with the States Employment Board at ways of addressing that pay issue in that area. But it is not just one issue, as I highlighted before. It is housing, it is transport, it is childcare costs and also I think 93 per cent nurses are female, and so if they move from the U.K. to Jersey, they are usually the main breadwinner. So they have got to take into account that the husband leaves his job and what is going to happen to that. So it is a multitude of different problems.

**2.9.3 Deputy G.P. Southern:**

Can the Minister simply confirm that the pay gap is around 15 per cent between the U.K. and Jersey?

**The Deputy of Trinity:**

I would just need to check that but if the Deputy has that figure then I would have expected it to be right.

**2.9.4 Deputy A.E. Jeune:**

Would the Minister agree that the shortage of nurses is an international problem and money is not necessarily the main motivator for nurses? It is more a case of wanting to work somewhere because the environment is right and the culture is right.

**The Deputy of Trinity:**

As 2 good nurses, both committed to nursing and the care to health, I would agree but we have also got to think that it is a changing world and, as I have just mentioned about if nurses do come over here - relocate over here - they are the main breadwinner. In my day, most student nurses went in at the age of 21 or 18 straight from school. But the average age of a nurse coming into the profession now is 34 years old so the whole profession has changed. Regarding at the other end, 83 per cent of our nurses are due to retire in the next 5 years.

**2.9.5 Senator S.C. Ferguson:**

Has the Minister considered the amount that is being paid out in effectively agency and locum nurses? Efficiencies there might well go a long way to being able to boost permanent nurses' pay.

**The Deputy of Trinity:**

I understand where the Senator is coming from but it is a bit of a roundabout circle. We need to have a full complement of staff on the wards, and not only on the wards but in the specialist units as well. If we can, our first port of call obviously is the bank staff but if you cannot get those, then we have to go out to agency nurses and the cost of that is greater than employing our own because they are agency nurses, but some places unfortunately will be filled by agency nurses. But the area is diverse and you have got to take into account staff sickness, maternity leave, *et cetera*, as well as the kind of attitude here is that nurses might perform like in-flight transfers.

**2.9.6 Senator T.J. Le Main:**

When I was Minister for Housing, I was very keen to see the Housing Department work with Health on providing affordable housing for nurses being recruited. Will the Minister confirm that most of the nurses that are being recruited now are married with children and require affordable accommodation? Could the Minister inform the Assembly if, in fact, the new Minister for Housing and the department are still working towards the aim of providing within their stock some family accommodation so that nurses can have affordable accommodation and recruit the right kind of nurses, particularly from Ireland at the moment where there is a huge surplus of nurses looking for work?

**The Deputy of Trinity:**

If I just answer the last question about nurses in Ireland, and there was active recruitment out to Ireland and, in fact, only one person applied for that job because most nurses there who owned property could not afford to sell the property to be able to move to Jersey. There are very complex issues regarding housing and staffing accommodation, yes I know. My Assistant Minister and I are working to look at having good staff accommodation because it does make a tremendous amount of difference.

**The Deputy Bailiff:**

Just 2 more questions. Deputy Shona Pitman?

**2.9.7 Deputy S. Pitman of St. Helier:**

Does the Minister believe that the below inflation pay rise for this year is a contributing factor towards the lack of staff and also will she be supporting a below inflation pay rise for 2012 if this is agreed by the Council of Ministers?

**The Deputy of Trinity:**

As I said, it is not one issue. Childcare costs and housing costs are important in the whole mix and so it is these ... the difficulty with recruitment and retention is a specific pay grade of pay Grades 4 and 5 which is Junior and Senior Sister posts. That is where the main gap in vacancies occurs.

**2.9.8 Deputy S. Pitman:**

The Minister has not answered my questions. Firstly, does she believe the below inflation pay rise for this year has contributed to the lack of staff in this particular area and also will she be supporting a below inflation pay rise for 2012 if this is agreed by the Council of Ministers?

**The Deputy of Trinity:**

There are 2 different issues there. We have to find within the States the £65 million shortfall. We have to find that saving and the nurses will get a pay rise, but I am actively looking at all the nurses' pay and especially, as I said, Grade 4 and Grade 5 and we will continue to work with the States Employment Board to address these issues.

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

If I could just ask the Minister first that she said she did not know the answer to why health professionals are paid a Civil Service rate and were therefore at a higher rate than nurses, but she did not know the answer. Could I ask the Minister to provide that answer if she could please and, as my supplementary, the Minister did mention about the agency nurses. Will the Minister inform Members whether in fact agency nurses get paid at a higher rate than normal nurses, so therefore there are possibly nurses who would rather go into it as agency nurses rather than working in the public health service because they will get a higher rate of pay?

#### **The Deputy of Trinity:**

As regarding the first part, yes, I will because I think that is a very interesting question. Because they are agency nurses, they will get a higher rate of pay because you can get them at short notice and they come in to do a specific job and then go again. That has been there for many years.

### **2.10 The Deputy of St. John of the Minister for Transport and Technical Services regarding an adequate budget to undertake full repairs on pot holes:**

Does the Minister consider £300,000 to be an adequate budget on which to take the full repair of potholes given the poor states of some Island roads and what action is being taken to get extra funding?

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

Budgetary constraints inevitably limit the expenditure one would like to apply to obtain a Rolls Royce solution, but I would say that all defects in the highway that represented a hazard to road users were repaired by T.T.S. (Transport and Technical Services) highway maintenance in 2010 at a cost of approximately £360,000. No hazardous defect was left unrepaired owing to budgetary constraints. In some circumstances, defects were plugged before being patched for reasons of public safety or to reduce traffic disruption. In recent years, there has been an acceleration in the deterioration of roads from historic under-funding of highway maintenance, increased number of trenches and the increasing number of heavy vehicles and plus, of course, the 2 very cold winters. However comprehensive, the full repair of defects will never improve the overall condition or the longevity of the highway. The appearance of potholes is normally an indication that routine or planned maintenance is required such as resurfacing or surface treatments.

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

Given the very poor state of our roads... and I can think of some immediately, St. Saviour's Road has potholes coming down into the new Rue Le Masurier on the junction there, Queens Road and other places. Given that as far back as 2003, 2004, 2005, the Public Services Committee of the day were working on a programme whereby any contractor, developer or utility who dug up an area of road would have to resurface the entire area they had dug up, not just the hole that they had dug, what progress, if any, has his department made on putting that into place and when can we see that being put in place?

#### **The Connétable of St. Brelade:**

I fully empathise with the Deputy's remarks regarding these situations and, in order to address that, the department is working on a new Street Works Law which I am hoping will come before this Assembly early in 2012.

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

The Minister mentioned about potholes being a hazard to road users. Is the Minister aware of any increase in the potholes, particularly where accidents have been caused on pavements whereby

people are falling into potholes, particularly an increase maybe from the pedestrians living in St. Martin?

**The Connétable of St. Brelade:**

Yes, I am certainly aware of a case in St. Martin the Deputy referred to me and once again the pavements are an area which receive attention from the department, and I am assured that the pavements on La Grande Route de St. Martin have been checked to this end. Inevitably whenever there is an accident it is regrettable and the department will pay attention to the circumstances surrounding particular cases, which invariably are different and require a different approach.

**2.10.3 Deputy M.R. Higgins:**

The Minister mentioned that one of the reasons for the potholes was the higher number of large vehicles that are using the roads. Is the Minister considering higher taxes on those vehicles so that they are contributing to the repair of the damage that they cause?

**The Connétable of St. Brelade:**

No, we have not considered higher taxation but we are looking into how the offending vehicles, if I can call them that, can be better controlled, to which end we may be looking towards some sort of examination system for commercial vehicles. Essentially interestingly enough, the larger P30 registered vehicles are not the culprits. It is the ones just below that which are sometimes overloaded and these are the great offenders, so that is the area which the department will need to pay more attention to.

**2.10.4 The Deputy of St. Mary:**

I do have to take issue with the Minister's use of the words "Rolls Royce solution" because we are not asking for a Rolls Royce solution. We are asking for a safe solution. The Minister said that all the potholes were repaired in 2010. Well, like other speakers, I can think immediately of dangerous large potholes that I see on my way into town. So can the Minister first of all explain to Members what the mechanisms are for monitoring potholes and putting them on lists and then attending to them? Does he agree the potholes are a serious risk to road users and what is the position with liability?

[10:45]

**The Connétable of St. Brelade:**

In terms of the state of the roads in 2010, there is a regular inspection of the roads by our limited resources I have to say. As in all departments, we have had cutbacks so these are areas which do struggle and we rely on reports from the public and I am surprised that the Deputy has not taken the trouble to report the holes he refers to to me or to my department. I am not aware of them. **[Aside]** Many States Members do this and my department is happy to respond. People may have noticed holes with yellow or white marks around them and those are the ones that have been spotted and are being attended to. Having said that, the weather conditions as such very often lead to rapid deterioration and clearly we try and catch up with these as quickly as possible. With regard to (and I think I am picking up every point) the Rolls Royce solution, clearly one aims to achieve the perfect state of roads but within, once again, budgetary restraints, we are never going to achieve that but it is nice to have something in mind and our department does really try and get the best value for the money it has. In terms of liability, there is no Highways Law as there is in the U.K. so our liability arises - and I am not a lawyer - but my perception is it arises in cases where we do not attend to potholes, which have been advised to the department. So I hope that answers the Deputy's questions.

**2.10.5 Deputy R.G. Le Hérissier:**



To be fair to the Deputy, he was wholly engaged in other business. **[Aside]** I wonder if the Minister could support his official who publicly said the other day that the pace of road repairs was constrained by the lack of a sufficient number of companies to carry out those repairs?

**The Connétable of St. Brelade:**

Yes, I did note that comment. In practice, the contractor or contractual arrangements in the Island have changed somewhat over the last few years. At one point, the department in its previous form used to hand over several millions of pounds to Ronez and they just pretty well got on with it. Since then of course competition has crept in and there are 2 main contractors dealing with the major road resurfacing programmes and some 3 or 4 smaller contractors dealing with patching. It is quite a competitive situation. The supply of asphalt is limited to one company and that is really where the constraints arise.

**2.10.6 Connétable K.P. Vibert of St. Ouen:**

Would the Minister agree with me that despite several attempts over a number of years to get a better finish after trenching that the effect of trenching in roads is still one of the major problems which his department faces?

**The Connétable of St. Brelade:**

Yes, absolutely. In fact, referring to the answer I gave to an earlier question, the Street Works Law, which should come into place in 2012, will give better control over that. Presently, any utility can come in to dig up a road really without any controls whatsoever. Having said that, we are in much better communication with the utilities than was the case previously but there is perhaps a lack of resource being applied to the following-up of trenching operations to ensure the reinstatements are satisfactory.

**2.10.7 Connétable P.F.M. Hanning of St. Saviour:**

The Minister has referred to the new Street Works Law and hopefully the higher standards in that will make a tremendous difference to the life of the repairs that are done. When he gets his officers to do their annual inspection or regular inspection, could he make sure that they check the levels of their manholes because quite a number of the manhole covers have dropped and these are extremely dangerous, especially if we are trying to encourage cycling.

**The Connétable of St. Brelade:**

Interestingly enough, that was once again a consequence of the harsh conditions of late last year but one of the interesting points, of course, is that generally the manholes do not move but the road around it does and this is principally the issue. The manholes tend to be set on brick structures over the sewers which are fairly solid but the surrounding road does move rather as a result of heavy traffic surrounding those areas.

**The Connétable of St. Saviour:**

Sorry, Sir, could I come back very briefly on that one? We do have a number of manhole covers where the cover has dropped within the manhole itself.

**The Deputy Bailiff:**

The Minister will no doubt note that comment. The Deputy of St. John.

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

The Minister mentioned the Street Works Law. Can he tell us when it was debated in the House or is it to be debated and, secondly, how much he is applying for in this year's budget for resurfacing across the Island, given as far back as 15 or 20 years ago, some years £15 million to £20 million would not have been uncommon to be spent at today's value on road resurfacing?

**The Connétable of St. Saviour:**

I think there needs to be a difference between road resurfacing and pothole repairs. In terms of pothole repairs, clearly the level of funding is achieved within the department by a bidding prioritisation process, and decisions regarding extra funding will be taken at that time according to the budget available from central sources. There are competing demands and it is very much a risk assessment process, and the decision is based on that. In terms of the funding of resurfacing, that once again is very constrained and while the existing programme suggests that with the present budget each road will be surfaced once every 64 years, which is rather unsatisfactory, the optimum would be once every 20 years, so we have some considerable shortage in funding to achieve the optimum.

**The Deputy of St. John:**

The Minister did not answer the question in relation to the Street Works Law. When was it passed in the States?

**The Deputy Bailiff:**

That is in the public domain, Deputy.

**The Deputy of St. Mary:**

Yes, I am just puzzling over your remark about the Street Works Law because my understanding is it has not come to the House.

**The Deputy Bailiff:**

Well, that also is in the public domain. **[Aside]** Can we come on to the next question 12, which the Deputy of St. Mary will ask of the Chief Minister? I advise Members we had nearly 15 minutes on the last question. It is far too long considering the number of questions we have. The Deputy of St. Mary.

**2.11 The Deputy of St. Mary of the Chief Minister regarding the Terms of Reference of the Napier Review:**

Would the Chief Minister explain to Members exactly what happened within his department which meant that items (d) and (e) of the terms of reference for the Napier Review did not reach the States Greffe and were therefore not printed as part of R.39/2010 and advise how they were transmitted to Mr. Napier?

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

I refer the Deputy of St. Mary to the answers I provided to the Deputy of St. Martin on 18th January and 15th February, answers (e) and (b) respectively. The error occurred when the terms of reference were sent from my department to the Greffe. Unfortunately the second page of the terms of reference, which contained parts (d) and (e) and all of section 3 did not get transmitted. Hence the reason why R.39 of 2010 only contained part 1 and part 2(a) to (c). I stress that was a fault of my department and not a fault of the Greffe. The full terms of reference, which included parts (d) and (e) were sent to Mr. Napier attached to the letter confirming his appointment to undertake this review and those were sent on 25th March 2010.

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

I would hope that the Chief Minister would come clean with the answer. Will the Chief Minister accept that part (d) was removed on 9th April so therefore part (d) should never have gone on R.39? In actual fact, part (d) was not shown in the full Napier Report. Will the Minister confirm that is a fact? It was no error, it was a fact that part (d) was removed on 9th April so therefore should have never ever gone forward to the Council of Ministers or to the Greffier for printing.

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

I have responded to this question before and part (d) was not removed. I signed a Ministerial Decision which contained part (d). That decision should have been submitted to the Greffe on 13th April. Unfortunately, as I have just said, the second page of the document was not transmitted and that was where the error occurred but part (d) was contained in the Ministerial Decision.

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

Could the Chief Minister inform Members, if part (d) was intended to be in the terms of reference, why is part (d) not included in the final report by Mr. Napier?

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

Because Mr. Napier chose to not deal with that aspect since he already had access to the affidavit from Mr. Power, which was referred to in part (d), and therefore felt it was superfluous, but that is a matter for Mr. Napier's choice and not mine.

#### **The Deputy Bailiff:**

The Chief Minister has answered the question but it does not relate to the main question, which is what happened within his department in relation to the terms of reference. Now are there any other questions? Deputy, final supplementary?

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

I am still baffled because we now have the Chief Minister telling us that a Q.C. was sent terms of reference (a), (b), (c), (d) and (e) on 25th March attached to the letter sent to him. In his final report, he leaves out one of the terms of reference. Can the Chief Minister tell us if it is customary for bodies or individuals appointed by this House or appointed by the Council of Ministers - I am not sure which - is it customary for such bodies or individuals to leave out a term of reference from their final report?

#### **The Deputy Bailiff:**

Deputy, the question concerns what happened in the department in relation to items (d) and (e), why they did not reach the States Greffe and how they were transmitted to Mr. Napier. Your question relates to Mr. Napier's findings so is therefore not related to this question.

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

May I rephrase the question? My original question asks the Chief Minister to advise how the terms of reference were transmitted to Mr. Napier and he has said that they were attached to the letter, all of them, (a), (b), (c), (d) and (e) on 25th March which went to Mr. Napier. So I am asking, if they all went to Mr. Napier, then it seems to be impossible because I am casting doubt, I suppose, on that statement. I am asking the Chief Minister to confirm that they were sent to Mr. Napier in the light of the fact that they did not appear in his final report.

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

Yes, I can perhaps understand the Deputy's confusion but I can confirm, because I have the copies in front of me that terms (a), (b), (c), (d) and (e), were all sent to Mr. Napier on 25th March.

### **2.12 Deputy K.C. Lewis of the Minister for Economic Development regarding the banning of the public sale of high-powered lasers:**

Further to recent incidents of people firing high-powered lasers at incoming aircraft will the Minister, in conjunction with Ministerial colleagues if necessary, take steps to enable the sale of these items to be banned and if not, why not?

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

The general retail sale of high-powered lasers to consumers is already prohibited in Jersey under the 2006 Consumer Safety Law. This law is intended as a safeguard for consumers because of the risk of accidental eye injury, but it is not a mechanism for dealing with misuse. Difficulties can arise when a person has obtained a laser pointer through other means, for example, via the internet, and then subsequently misuses it. That, of course, would be a matter for the police. Indeed, the States of Jersey Police have stated that they will take action against anyone using lasers to point at aircraft and anyone doing so with the intention of harming or disrupting aircrew will face prosecution.

**2.12.1 Deputy K.C. Lewis:**

It was partially the internet I was referring to. Also small lasers are still being sold in the Island. If one is out driving late at night and is blinded by oncoming headlights, one has the option of shielding one's eyes and braking. A pilot landing a commercial aircraft does not have that facility. Lasers in the right hands are a wonderful aid to medicine and technology but in the wrong hands can be absolutely lethal. Does the Minister not agree?

**Senator A.J.H. Maclean:**

Yes, I do agree with the Deputy and I should say that my department has had discussions with Home Affairs and the police on this matter. I would contend that lasers pointed at drivers of vehicles are almost as dangerous as pointing at aircraft. The matter is taken seriously. The police will prosecute. There have been discussions concerning licensing, but of course that is not always as easy. Enforcement is a problem but I should emphasise that the police do fully intend to prosecute anyone who is caught misusing such devices.

**2.12.2 Deputy M. Tadier:**

Does the Minister agree that rather than pursuing a heavy-handed approach to ban such items, which may have a legitimate use such as for pointing out at presentations or for shooting, does he not think that it would be better to deal with the misuse of such items rather than a blanket ban?

[11:00]

**Senator A.J.H. Maclean:**

Yes, I do not think I mentioned a blanket ban. I mentioned the way in which we would deal with the difference between high-powered lasers where the issue lies as opposed to lasers, for example, used for pointers at blackboards or in presentations. There is a big difference. It is the high-powered lasers where there is a potential issue and I think, in many respects, many of the public need to be made aware of the dangers associated with importing such items.

**2.12.3 Deputy M.R. Higgins:**

While appreciating the danger posed by these lasers, could the Minister put it into context and give us an indication of how many instances there have been over the last 3 years please?

**Senator A.J.H. Maclean:**

There has been one well-publicised instance relating to an aircraft. As far as I am aware, that is the only incident in recent times but if the Deputy wants more detailed information I am more than happy to see if there has been anything else recorded. I am not aware at this stage that there has been.

**The Deputy Bailiff:**

A final supplementary, Deputy Lewis.

**2.12.4 Deputy K.C. Lewis:**

It was the high-powered green lasers I was referring to. Having said that, the smaller red lasers, the light amplified stimulated emission of radiation, as any schoolchild would know, can destroy the

human eye in 17 seconds permanently. It was for the high-powered green lasers that I hoped for legislation.

**The Deputy Bailiff:**

Are you proposing to introduce legislation, Minister?

**Senator A.J.H. Maclean:**

No, Sir. We have had discussions with Home Affairs and the police. We will continue the dialogue in relation to the possibility of licensing but it is not as easy as it appears having had initial discussions.

**2.13 Deputy S. Power of the Chief Minister, responding on behalf of the Minister for Treasury and Resources, regarding the loss of tax revenue for the years 2007 to 2010 from non-resident companies:**

Could the Minister give an indication or assessment of the loss of tax revenue for the years 2007 to 2010 as a result of the take-over and sale of established Jersey trading companies to non-resident companies?

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

The Comptroller of Income Tax assesses each Jersey resident company and if a Jersey resident is a shareholder of a company, in accordance with the appropriate provisions of the Income Tax (Jersey) Law. However, he does not keep a register of changes in the beneficial ownership of companies so it is not possible to answer this question with any degree of accuracy.

**2.13.1 Deputy S. Power:**

I wonder if the Chief Minister could give an indication as to whether there is any concern within Treasury and Resources as to the loss of tax revenue from Jersey trading companies which are being sold to non-resident companies?

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

This is an inevitable fact, a fact of nature, that beneficial ownership of companies does change, but I point out to the questioner that what the sale of that company is doing is transferring an asset generating income from one form to another and instead of dividends from that company the person concerned would now get income from the investment of that cash arising. So it is not necessarily the case that there will be loss of revenue.

**2.13.2 Deputy M.R. Higgins:**

Surely the department keeps a record of how many companies are paying tax and they must have noticed a considerable falloff in the number of companies paying tax for these companies being taken over by outside firms. Is that not correct?

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

A reduction in tax revenues is caused by a number of different factors. We have just seen a significant economic downturn and how much of the change in tax revenue is down to the economic downturn, how much due to other forces and how much due to sales of companies is something beyond any Tax Department to analyse.

**2.13.3 Deputy T.M. Pitman:**

I wanted to ask the Chief Minister what conclusions he draws from his answer in line with the shift from the taxation of businesses on to individuals as highlighted by Deputy Southern, but I do not suppose I can really ask that as he has not given us an answer. Has he got any indication of the figures involved and what does it mean?

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

As I said in my answer, I have got no indication of the figures involved but I do confirm to the Deputy, as I said in my original answer, that in many cases it is a shift from the company taxation to taxation of the individuals concerned and that may be part of the reason for the increase in personal taxation revenue and a decrease in corporate tax revenue.

**2.13.4 Deputy M. Tadier:**

Does the Chief Minister accept that he, along with the current Minister for Treasury and Resources, through the introduction of a tax system which militates towards non-domiciled companies, that he and the Council of Ministers have facilitated this kind of behaviour whereby companies will be more likely to become “non-doms” and therefore not pay tax?

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

There are a variety of reasons which cause a shareholder in a company to dispose of his shares either to another Jersey resident or to a non-resident of the Island. The tax regime is designed in order to generate the most tax revenue for the Island in a fair and efficient way in order to provide the services the Island needs.

**2.13.5 Deputy M. Tadier:**

Sir, a supplementary if I may. Given that last question, we have created in my opinion a system which encourages this kind of behaviour, is it really the case that the Minister cannot even provide us with some kind of “guesstimate” as to what the actual impact of his policy might be?

**The Deputy Bailiff:**

Would you like to answer that, Chief Minister?

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

No, Sir, because firstly any guesstimate would be subject to huge ranges of inaccuracy and, secondly, any changes in behaviour are due to a variety of different personal feelings. I cannot necessarily say why any particular shareholder sells his shares in a Jersey trading company at any particular time but having said that, the shift from corporate taxation to personal taxation is one which was expected and so Members should not be surprised by that.

**2.13.6 Deputy G.P. Southern:**

Is it not the case that a local who sells his shares is making a capital gain and subject to zero taxes anyway, so there is a net loss in revenue from selling companies into foreign ownership?

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

I can confirm that we do not have a capital gains tax regime. I tried to make it clear in my original answer that the sale of shares of a Jersey company by a Jersey resident shareholder to whoever that will be will simply transfer the tax burden on that shareholder from a dividend in his company to a taxation on the income arising as a result of the sale of that company. The only tax loss which the Deputy seems to be concerned about is the loss of capital gains tax or a loss of revenue on any potential capital gain which was never there in the first place.

**2.13.7 Deputy G.P. Southern:**

A supplementary if I may, Sir. The Minister has steadfastly refused to give any estimate. Does he accept that the estimate originally made under Zero/Ten was of £30 million from the non-finance sector and that the current loss of income 2009 to 2008 is some £45 million so £30 million from Zero/Ten and perhaps £15 million from the downturn?

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

The Deputy quotes figures at me without particularly identifying precisely which source of the revenue he is talking about. If we are talking about the loss of revenue as a result of companies which previously paid taxation at 20 per cent rate which are now assessed at the zero rate and are owned by a non-resident, I could not give a current figure for that revenue. If the Deputy chooses to put that down as a written question, I am sure that the department will endeavour to provide a satisfactory answer to him.

**2.13.8 Deputy M.R. Higgins:**

From what the Chief Minister has said, the shift to personal tax is inevitable because neither the Chief Minister nor the Minister for Treasury and Resources has a clue how they are going to recoup the company tax. Does he not agree?

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

As I said, the shift of tax revenue burden from corporate to personal tax was a planned arrangement over several years fully discussed by Members of this House, fully analysed and fully assessed against all the other options. It is the best solution for the Island. It has proved to be the solution for the Island and other alternatives, such as were suggested by various Members of the States, were rejected as being totally inferior and generating significantly lower revenues.

**The Deputy Bailiff:**

One supplementary, Deputy Power.

**2.13.9 Deputy S. Power:**

Does the Chief Minister have any indication from Treasury and Resources as to how low he thinks the net revenue figure could be in company tax? The estimate for 2010 was £79 million and for 2011, £65 million. How low does he expect it to go? Does he expect it to go to zero?

**The Deputy Bailiff:**

I do not think that question relates to the primary question which is the loss of tax revenue as a result of the take-over and sale of established Jersey trading companies.

**2.14 Deputy G.P. Southern of the Chief Minister, responding on behalf of the Minister for Treasury and Resources. Minister for Treasury and Resources regarding the production of the business tax strategy:**

On very much a similar theme, will the Minister state when he expects to produce his business tax strategy so that Members can fully consider its implications before addressing the Annual Business Plan in 2012 and maybe the budget in 2012?

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

Yes, I presume that the Deputy is referring to the strategy arising out of the result of the Business Tax Review. I am advised that these are expected to be issued before the summer recess and in time to consider them before debating the Annual Business Plan and indeed the Budget.

**2.14.1 Deputy G.P. Southern:**

Will the Chief Minister put pressure on the Minister for Treasury and Resources to bring his suggested solutions to our company tax situation to the House at the earliest possible interval, because this will be a major change in our tax policy and require some most careful consideration and must not be rushed by being presented in any detail whatsoever in July with August recess for debate in September, which is what usually happens? With this important measure, there must be surely more time given to proper full consideration.

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

I will certainly advise the Minister for Treasury and Resources of the concerns of the Deputy. The Deputy seems to imply that this will be a major change in policy. Since we have not yet seen it, I cannot guarantee you or be certain it is a major change. In any case, I accept that it should be given ample time to be properly considered and debated, and that I am sure will be done within the normal constraints of the debating process. As I say, it is intended to produce this before the summer recess, which should give the Deputy and Members adequate time.

**2.14.2 Senator S.C. Ferguson:**

Does the Chief Minister not agree with our recent scrutiny report in that a full review of business and personal tax, taking into account the balance between indirect and direct taxes, business and personal, and looking at simplification of the tax is not the way forward that we should be taking?

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

I take very seriously the views of the Corporate Services Scrutiny Panel, as I am sure does the Minister for Treasury and Resources.

**The Deputy Bailiff:**

A final supplementary.

**2.14.3 Deputy G.P. Southern:**

I will try and test the water if the Chief Minister would accept that a date such as the end of June, giving July to consider the implications and the presence of Ministers to question, would be better than July when everybody is about to go on holiday. The end of June. Can he commit to that?

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

No, I cannot. I am advised that the strategy is expected to be used before the summer recess. That is all the information I have. I accept that the longer we have to consider it, the better for Members. Equally, the longer we have to prepare it the more reasoned and thought and complete it is likely to be. That balance has to be struck and that is why I maintain that it will be presented before the summer recess and well in advance of the debate on the Annual Business Plan.

**2.15 Deputy A.E. Jeune of the Minister for Health and Social Services regarding the engagement of interim/short-term/temporary staff at Health and Social Services from outside of the Island:**

Would the Minister advise whether persons have been engaged within Health and Social Services from outside the Island other than the 2 directors and the Chief Executive on an interim, short-term, temporary basis since 1st May 2010? If so, would she undertake to provide full written details to Members regarding the positions concerned, contractual terms and total costs?

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

Health and Social Services is a diverse organisation, delivering complex services 24 hours a day, 365 days a year. To operate effectively we need people with highly specialised skills and experience. This can be on both a full-time or temporary basis. This is standard practice for health and social services organisations across all other jurisdictions. I am happy to provide written details of the roles and responsibilities of non-clinical staff but I will not, of course, provide sensitive or personal information.

[11:15]

**2.15.1 Deputy A.E. Jeune:**

Would this information include whether there is a position within the A. and E. (Accident and Emergency) Department and whether in fact this is an interim manager, and also whether there is



somebody in Health doing procurement and, similarly, I.T. (information technology) and whether these people have been recruited in recent past?

**The Deputy of Trinity:**

As I said, I am happy to provide the non-clinical staff but, if I remember rightly, the Deputy was saying about a manager in the A. and E. Department. That is clinical staff and if she wants me to provide that, then that is a huge piece of work because the request is back to May 2010 and it will include locums, agency nurses, *et cetera*. I can provide job titles of non-clinical staff plus information relating to whether it is a fixed-term, temporary contract of employment or contract of services and the total cost across all these posts. It is a big piece of work but I will do it.

**2.15.2 Deputy A.E. Jeune:**

If I may, is the Minister therefore saying that the management beneath the Hospital Director for A. and E. is either a nurse or a doctor?

**The Deputy of Trinity:**

I do not quite understand by what she means by “underneath the Hospital Director for A. and E.” If the Deputy is looking at nurse managers, there are quite a few nurses who are managers because they manage the ward or they manage an area. But that is clinical staff.

**2.15.3 Deputy A.E. Jeune:**

Therefore, there is no administrative manager for A. and E? Is that that the Deputy is saying? Similarly, when she does provide us with the written answer could she also please address question 5 at the meeting of Deputy Higgins’ written question, question 1240, in respect of the £600 savings that have been made at Health, which have not been identified in that written question?

**The Deputy of Trinity:**

For clarity, if the Deputy would email me with her specific question I will answer it and I will include it to all States Members.

**2.16 The Deputy of St. John of the Minister for Transport and Technical Services regarding the replacement of temporary barriers at Les Charrières de Bonne Unit:**

Not for the first time will I have asked this question. Despite having been given numerous assurances dating back before 2004 and 2005 that the work was imminent, the temporary barrier on Les Charrières de Bonne Nuit has still not been replaced. Will the Minister advise when this work will finally be undertaken, given that I was given an email some months ago that this work would be done before the end of 2010? Will the Minister please tell us? The residents and friends of Bonne Nuit have been on to me now for 7 years on this.

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

Delays have occurred due to very complicated land ownership issues at the location where the permanent barrier is to be placed. The department will be undertaking site investigations in the coming weeks and presenting its preferred design for a safety barrier to the Connétable by the end of March. Works are due to commence on site in April and all permanent works will be complete by early summer; hopefully, subject to final approval, utilising a wooden-faced steel barrier, which will be somewhat more aesthetically pleasing from the present temporary arrangements.

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

On this occasion can this Chamber take what has been given to the Deputy of St. John by the Minister for Transport and Technical Services as gospel? Will he please confirm this is gospel on this occasion?

**The Connétable of St. Brelade:**

I am confident, as a result of meetings held last week, that this matter will be progressed according to the timescales I have suggested.

**The Deputy of St. John:**

On a point of order if I may, Sir. You said earlier reference to a Street Works Law was in the public domain. Given that it is not in the public domain because it is being worked on by the department at the moment, would that be a correct point of order, Sir, to say that?

**The Deputy Bailiff:**

It is in the public domain as to whether or not the law had been passed. That was the issue that you raised.

**The Deputy of St. John:**

I raised whether it had been passed and whether it had been laid as a working document.

**The Deputy Bailiff:**

You raised whether it had been passed and that is a matter in the public domain. It either has or it has not and it is in the public domain.

**2.17 Deputy T.M. Pitman of the Minister for Health and Social Services regarding the new Health Director's remuneration:**

Following her statement during the meeting of 1st March 2011 that she cannot remember if the issue of the new Health Director's previous salary had been discussed or considered prior to the award of his Jersey remuneration, will the Minister now clarify whether or not this was done and, if not, why not.

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

I can confirm that the Hospital Managing Director's previous salary and terms and conditions of employment were one of several factors taken into consideration when determining his 2-year contract for services. I would just like to remind Members that the appointment of a Hospital Managing Director was Verita's first urgent recommendation. This is a vital position designed to secure better value and, more importantly, a safer hospital.

**2.17.1 Deputy T.M. Pitman:**

I thank the Minister for her answer. It is a shame we could not get it last time. While there often will be good reasons such as the high cost of living, *et cetera*, for awarded salaries or contract of services being higher in Jersey, does the Minister agree that analysis of such standard and basic information is crucial in order to ensure that we are comparing like with like in recruiting people to posts and in ensuring value for money for the taxpayers?

**The Deputy of Trinity:**

Yes, I am happy to confirm that. It also has got to be taken into account, as I said, that this is Verita's first recommendation and it was a very important one and how diverse our hospital services are. So a Hospital Managing Director is and will be a vital post.

**2.17.2 Senator S.C. Ferguson:**

Will the Minister advise us what specific factors are in the job description for the job of Managing Director of the Hospital, which require a salary so much in variance with the normal salary for such a post?

**The Deputy of Trinity:**

As I said 2 weeks ago, it is not a salary. It is a contract of services. There has been a lot of media attention to that and I reiterate that; it is a contract of services. The job description was looked at. It was looked at with the Appointments Commission as well as my Chief Officer and the Interim Hospital Director. I go back to it was the first recommendation of Verita and it is an important role to ensure that we have a safe and sustainable hospital and also one that runs into budget.

**2.17.3 Senator S.C. Ferguson:**

A supplementary, please. What are the specific factors in the job description which require a contract of service so different from the normal level for such a post? The previous post held was at the Radcliffe in Oxford, which I would consider is probably rather more complicated than the Jersey Hospital.

**The Deputy of Trinity:**

Yes, we did look at the job description and we benchmarked it against U.K. salaries and the experience and the skills that he would bring to that post. It amazes me that people think like for like. We are of a size and population that would be like a small district hospital but, let me reassure you, the services we offer are not the same as a district hospital because we are so diverse. We provide oncology services, renal services, acute surgery, maternity and intensive care and in some of the district hospitals they would not provide that. We are very diverse.

**2.17.4 Deputy A.E. Jeune:**

The Minister mentions benchmarking. Would the Minister be kind enough to furnish Members with information as to where we will find evidence of comparable packages elsewhere?

**The Deputy of Trinity:**

As I stated in my answers to written questions 2 weeks ago, we did do benchmarking against district hospitals and trusts.

**2.17.5 Deputy A.T. Dupré of St. Clement:**

This morning on BBC television there was a gentleman there who was a professor on pay awards in England and he was saying that you need to pay to get the best. Can I ask the Minister is this her opinion too?

**The Deputy of Trinity:**

Yes. I keep going back to it, but people perhaps do not realise how diverse we are. Health and Social Services includes areas like special needs, mental health and the community as well as children's services; acute services are the same and oncology and renal. These are specific services which we do need to provide on-Island because patients, quite rightly, would not want to go to the U.K. But the small district hospitals would not provide them because they would go to bigger centres, either foundation trusts or other district general hospitals. So we are very diverse. We have got the right man in the right place at the right time.

**2.17.6 Deputy R.G. Le Hérissier:**

Would the Minister not admit that a fatal error or a major error was committed by not reforming the management and by her making a statement that the management in H. and S.S. would remain intact?

**The Deputy of Trinity:**

I do not know if I said that. If the Deputy says I said that, I must have done. I would like to know in what context. I think that would be important. I still go back to that the Hospital Director was one of the first and most important recommendations made by Verita and when they came back for the follow-up visit they made particular reference to the Hospital Director and the good work that

he has done and putting into place different policies, which are important to give a safe and sustainable hospital.

**2.17.7 Deputy T.M. Pitman:**

Thank you, Sir; though if Senator Ferguson has already tried I do not know if it is worth it. When the Minister is talking about benchmarking, could she please try and clarify how we arrived at this central figure of an £80,000-plus increase in salary for the Jersey post as to where the gentleman was employed before? It does not seem to add up.

**The Deputy of Trinity:**

£80,000, to what figure is he referring? That is important. They were benchmarked, as I said, against other district hospitals and foundation trusts, as I mentioned in 2 or 3 written questions 2 weeks ago.

**2.18 The Deputy of St. Martin of the Minister for Treasury and Resources regarding stimulus funding for a refurbishment of the Jersey Opera House:**

Following an announcement that the Jersey Opera House has been given stimulus funding, will the Minister inform Members how many local staff will be employed in the refurbishment, why was the application for funding made by Property Holdings and not by the Minister for Education, Sport and Culture and, given that Property Holdings comes within the remit of his Ministerial responsibilities, who made the decision to allocate the funding?

**The Connétable of St. Peter (Assistant Minister for Treasury and Resources - rapporteur):**

Unfortunately I cannot give the Deputy of St. Martin the actual numbers of people employed on the contracts. However, as a construction project, the contractor will bring people on and off site, depending on the works required. So the number of staff will vary at any moment in time. Nevertheless, the contractor has declared that in excess of 90 per cent of the total labour content will be local staff. The original fiscal stimulus application was made by the Education, Sport and Culture Department, not Jersey Property Holdings as suggested, and it is they who are sponsoring the project and chair the project group. The Jersey Opera House is owned by the States. Therefore, the allocation of funds is to Jersey Property Holdings who manage the States' property portfolio. The Fiscal Stimulus Steering Committee has verified that the project meets the fiscal stimulus criteria - the 3 Ts - and has recommended that funding is allocated for this project. Furthermore, it is anticipated that progression of this project may afford other opportunities, including possible rationalisation in relation to performance and other office space currently used by other cultural organisations in Jersey, hoping to achieve better value for money in the wider sense for the States and, in particular, E.S.C. (Education, Sport and Culture) supported cultural activities with sufficient office space to accommodate other additional cultural offices.

[11:30]

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

I am concerned about how the allocation of money is funded, bearing in mind this is Property Holdings or under the remit of the Treasury. What independent assessment is carried out before the funding is allocated, independent of the Treasury itself?

**The Connétable of St. Peter:**

The assessment was undertaken by E.S.C. on this project on how they needed the money spent and what works were needing to be done. They then made an application through the Treasurer in his role overlooking Jersey Property Holdings to see whether funds could be made available out of the fiscal stimulus and a bid was therefore made. The Fiscal Stimulus Panel then agreed that this was an appropriate project to fund and that is how the funding was allocated.

### **2.18.2 Deputy M.R. Higgins:**

While I support the arts, how can the Minister justify the expenditure of almost £1 million on new facilities at the opera house, judging by the reports on Channel Television and on the radio, when we have such a backlog in housing and people are living in unacceptable accommodation? What priorities does your department or the States have?

#### **The Connétable of St. Peter:**

Quite simply, it is down to the Fiscal Stimulus Panel. The 3 Ts were employed in this, which is timely, targeted and temporary. The housing issues, which the Deputy referred to, are ongoing issues and do not fall within the actual remit of the 3 Ts. There are 2 different streams of funding required; so to use that as an analogy is an inappropriate analogy. You would need to use one which was also accommodated under the 3 Ts Fiscal Stimulus Policy.

### **2.18.3 Deputy M.R. Higgins:**

I do not know how the Assistant Minister can say that when, at the last sitting, the Minister for Treasury and Resources gave a statement to this House how he had found money for the Pomme d'Or Farm development out of the fiscal stimulus strategy. It can be done and it should have been done. Do you not agree?

#### **The Connétable of St. Peter:**

A slightly separate funding arrangement has been looked at with regard to Pomme d'Or. The Minister for Treasury and Resources did give a commitment to this Chamber that those works will go ahead and at that time the fiscal stimulus was looked at as a way of funding that. That may well be the case but that is also under review and that will be delivered back to the Chamber in due course.

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

Although the Assistant Minister is not part of fiscal stimulus, would he not say, apropos the kind of comment made by the previous questioner, that the justification for further conference space merited further examination? Does he believe that Jersey needs further conference space and that this is a good way of getting it?

#### **The Connétable of St. Peter:**

Unfortunately, it is not just about conference space. It is about works which were not carried out at the time the major refurbishment was done within the Opera House and it has been outstanding for some considerable period of time. In referring to conference space, it is just one of the opportunities that has been identified if we get these works completed and the Opera House and all areas within it up to occupational standard. Conferencing is one option. Putting in other Arts Trust offices into there is another option. If we do achieve that - E.S.C. have made a commitment to look at that - it may well release other offices back into the pot, so we can use that to look at the overall office strategy to gain even more benefit for the public.

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

Just as a follow-up: does this mean, in terms of the arts estate, that his department is intending to close down the St. James Centre? Would he make ...

#### **The Connétable of St. Peter:**

I wish I could but unfortunately that is not within my remit at the moment. Clearly every piece of Jersey Property Holdings asset portfolio is under scrutiny and St. James is under scrutiny as part of that ongoing review of all Property Holdings property assets.

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

I would just like to ask if the Assistant Minister could arrange for the figures of local staff that will be employed? He mentioned he was not able to give the answers. It would be nice for Members to have a breakdown maybe of how many local staff and how many outside staff will be employed. Also, if I could just follow on from the question about additional facilities being introduced to the Opera House and maybe this would lead to the closure of other establishments like St. James. Being it is a Property Holdings function, or responsibility, will the Assistant Minister be looking in whether the money being spent to refurbish or reinstall new facilities at the Opera House may well lead or could lead to the closure of other premises like St. James, for instance?

**The Connétable of St. Peter:**

The Deputy of St. Martin is very visionary because he is already looking at our onward-looking work. That is exactly what we are looking to do; rationalising the under-utilised office space in many other areas, other than the Opera House. The net result of that is so we can release properties, which are no longer required to be held by the public back into the public domain for redevelopment or whatever is required. If I can just come back initially to the first point raised by the Deputy of St. Martin, the contractor has committed - and the local contractor is Camerons, which is a local contractor, and they do employ direct staff in the majority of their contract work - to us that in excess of 90 per cent of the total labour force onsite at any one time will be local staff.

**Deputy M. Tadier:**

Would I be permitted to ask question 3 first, Sir, or shall I ask question 20 or, more to the point, will I have time to ask both?

**The Bailiff:**

We are getting very short of time, Deputy. I think it is your choice.

**Deputy M. Tadier:**

I would like to ask question 3, Sir, if that is okay.

**The Bailiff:**

Very well, question 3 asked of the Minister for Education, Sport and Culture.

**2.19 Deputy M. Tadier of the Minister for Education, Sport and Culture regarding Scrutiny access to examination results:**

Will the Minister explain why the Scrutiny Panel was refused access to examination results which were subsequently released to a member of the public under the Code of Practice on Public Access to Official Information?

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

At no time have I refused to provide any information required by the panel to conduct a review. Furthermore, until recently the Scrutiny Panel, of which the Deputy is a member, has never made a formal request to access the information released to a member of the public in January this year. However, on 2nd March I did receive an email from the Scrutiny Panel chairman asking for the data to be made available to the panel. The following day my department acceded to the request and 2 of my officers attended the panel's lunchtime meeting held on 3rd March to answer any preliminary questions they might have.

**2.19.1 Deputy M. Tadier:**

I think the key word there is "formal" because on several occasions in the past, before the information was released, the committee did ask orally to the Minister and to the department for access to this information. We were told that we could not have it and, indeed, we were given that information only after it had become publicly available. But, initially, does the Minister not

acknowledge that he was sceptical? He even said to me that he wanted to know why the Scrutiny Panel wanted the information first of all before they would give it. So does the Minister not think that this kind of practice undermines Scrutiny and will he endeavour to make information which is available to the public also available to Scrutiny in the future?

**The Bailiff:**

I do not think the Minister is responsible for undermining Scrutiny, so it is not technically in order.

**The Deputy of St. Ouen:**

I would just like to make a couple of comments. I am sure, as the Deputy knows, the Scrutiny Panels are required to follow procedures as laid out in the Code of Practice which requires the panel to identify a particular area they choose to review, produce the terms of reference and then request information from the department to support that review. Until that happens we cannot, what I would call, enter into a guessing game, and that is why the process is laid down and it is expected that both my department and the Scrutiny Panel should follow that process.

**2.19.2 Deputy R.G. Le Hérissier:**

Would the Minister not accept that there was an initial resistance when I approached him and we had an exchange, both verbally and of notes? There was a resistance, but eventually the department did, following a formally phrased application, release the information. Would he not accept that this was the process and would he not accept that he is now going to become much more transparent in his approach and the misguided policy he has previously implemented will be put to rest?

**The Deputy of St. Ouen:**

No, I have always maintained that transparency, and accountability is paramount in whatever work I have been engaged in throughout the 8½ years I have been in the States, including the responsibility that I now undertake as Minister for Education, Sport and Culture. I think that the Deputy's memory is somewhat vague in his recollection of events because, yes, there was a short conversation that was undertaken through the notes process. When the Deputy asked for the information to be released to his panel the question that I sent back was: "Are you considering undertaking a review on the matter? If so, please let me know all of the information you require." We have aimed at all times to be very supportive of Scrutiny and encourage the panel to engage with my department at every opportunity, and I propose that that is continued as long as I am Minister of the department.

**2.19.3 Senator J.L. Perchard:**

The Minister just informed the Assembly that he has always maintained transparency and accountability is important. At the last sitting of the States I asked the Minister to publish the 4 reports that were recently conducted into the fee-paying schools' value for money and performance. He said he would not. Can I ask him, again: will he publish these reports that have been paid for by the public or shall I ask a member of the public to ask him for them?

**The Deputy of St. Ouen:**

As I think I explained last time, these reports are in shared ownership between the individual schools concerned and the department and, as such, there are confidentiality agreements in place. If the Senator chooses to discuss the matter with me further I am more than keen to try and address his concerns but I am not, at present, aiming to publish those reports as I am unable to make that decision.

**2.19.4 Deputy T.M. Pitman:**

Much on the line of Senator Perchard's question; does the Minister not concede that the approach taken by his department has undermined Scrutiny and made us look very stupid, given that a

member of the public could obtain these far easier than the Scrutiny Panel charged with monitoring the Ministry? Does it make any sense to him and does he think it is appropriate?

**The Deputy of St. Ouen:**

Not in the very least. I have always made my view clear on whether league tables should be published. An individual member of the public - one individual, I hasten to add - chose to request a large amount of raw data from my department that related to G.C.S.E. (General Certificate of Secondary Education) results in both O level and A level. That was provided to him. It is indeed unfortunate and has confirmed my concerns that the publishing of some form of league table has had a detrimental effect and a divisive effect by identifying certain schools that are faced with some unique challenges because of the selective nature of our education system. I think that it just reinforces my view, and that of the States, that these league tables are not and should not be produced in the future.

**2.19.5 Deputy M. Tadier:**

It is ironic that for a Minister who encourages informal dealings with the Scrutiny Panel, which we agree sometimes can work, we are being caught out here because he is saying that we have not put a formal request in. Certainly as a Scrutiny Panel we have learned our lesson not to deal ever again on an informal basis with the Minister's department. Will the Minister tell us what lessons he has learned from recent weeks?

**The Deputy of St. Ouen:**

What I have learned is, in view of the questioner and the questions being asked, that unfortunately there is an attitude by some members of Scrutiny that is not helpful when dealing with and addressing some of the main issues that this Island faces. I have endeavoured over the last couple of years to encourage the Scrutiny Panel not only to properly understand what issues we are required to deal with at the department but to engage in constructive dialogue in many different ways. The panel has chosen to be selective in its approach and it saddens me to hear one member believe that their effort and that of mine are not compatible.

[11:45]

**3. Questions to Ministers without notice - The Minister for Transport and Technical Services**

**The Bailiff:**

The bell now goes on questions with notice. We now come to questions without notice. The first question period is the Minister for Transport and Technical Services and I call on Senator Le Main.

**3.1 Senator T.J. Le Main:**

Can the Minister please inform Members if he is concerned at the continued lack of annual testing of large commercial lorries, *et cetera*, which are often old adapted commercial vehicles imported into Jersey because of width restrictions in Jersey? Is the Minister concerned with the amount of prosecutions, now a regular occurrence? When will he bring in an annual test on large commercials and bring in a commercial operator's licence scheme so that these large vehicles can be controlled?

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

I did in fact partly answer that question earlier on and alluded to the fact that the department are working on developing a testing process for commercial vehicles, and we will continue to do that. I cannot give the Senator a timescale at the moment but I shall do and just agree with him that I am keen to get this process in place.

**3.2 Connétable J. Gallichan of St. Mary:**



Further to concerns I have raised several times in this Chamber, has the Minister made any progress so far in providing safe refuges at bus stops on busy roads where there is no pavement?

**The Bailiff:**

Connétable, I am sorry, we appear not to be quorate. Can I invite Members to return to the Assembly.

**The Connétable of St. Mary:**

Sir, it has become a question with notice.

**The Bailiff:**

Very well; Greffier, will you call the roll, please? Sorry, it is not a question of calling the roll any longer. It is now a question of opening the voting. I ask the Greffier to open the voting so Members can record their presence. I will ask the Greffier to close the voting. We are still not quorate.

**Senator T.J. Le Main:**

I did not hear the call.

**The Deputy of St. Martin:**

Neither did I, Sir, and I have been here all the time.

**Senator T.J. Le Main:**

I have been here all the time and I was expecting the roll call. I was sitting here.

**The Bailiff:**

The Standing Order has been changed, Senator, and the position now is that the Greffier opens the voting buttons to ...

**Senator T.J. Le Main:**

I never heard him.

**The Deputy of St. Martin:**

I concur. I feel rather aggrieved about it. I have not left the Chamber all morning and I never heard anyone say: "Press a button". It may well have been said but I did not hear it.

**The Bailiff:**

Standing Order 56 says that if the Presiding Officer, having allowed such time as he considers reasonable for elected Members to return to the Chamber, believes the States remain inquorate he shall ask the Greffier to take the roll using the electronic voting system unless it is unavailable. That is what I did. The roll has been taken and the States, at the time of taking that roll, were inquorate: 24 persons having indicated they were present. The Presiding Officer is then, under Standing Order 56(3), required to suspend the meeting to a specified time later on the same day, suspend the meeting to a continuation day specified by the Presiding Officer or close the meeting. I, therefore, rule that I will suspend the meeting for 10 seconds as I see that enough Members have now returned to the Chamber.

**The Deputy of St. Martin:**

Sir, can I just make a point ...

**The Bailiff:**

The meeting is suspended, Deputy.

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

Sir, could I suggest, because there certainly were 2 Members who were present at the time who I could observe - one was the Deputy of St. Martin and the other one was Senator Le Main - that it somehow be noted that, although they did not press the buzzer at the time, they were present and had been. It seems to me only fair to them, if I may say so.

**The Bailiff:**

Well, there you are. The matter is now on the record from Senator Le Marquand and no doubt the presence of the Deputy of St. Martin and Senator Le Main has been noted in Hansard. At all events, we are now quorate and we now can continue.

**The Deputy of St. Martin:**

Sir, before we move on, I did not hear the Deputy Greffier and I would ask, even yourself, if the voices could be raised. There was murmuring around the Chamber. I did not hear being asked to press a button and it is just a request maybe for the future. Thank you, Sir.

**The Connétable of St. Mary:**

Thank you, Sir. I will start again if you do not mind. Further to concerns that I have raised several times in the Chamber already, has the Minister made any progress in providing safe refuges at bus stops on busy roads where there is no pavement? If not, what is impeding him?

**The Connétable of St. Brelade:**

The department is working to get a roll-out programme of bus shelters in place throughout the Island and some 6 have appeared in the last few months to achieve that. I know the Constable has a concern over a bus stop in St. Peter's Valley, and I can assure her that my department are looking into how they can overcome this situation. But it has to be borne in mind: very often there are land ownership issues which have a bearing on these situations and it is a question of, very often, negotiating with adjacent landowners to achieve a result.

**3.2.1 The Connétable of St. Mary:**

Could I just have a supplementary on that? Does the Minister understand that I am not talking about bus shelters? I am talking about the more basic provision of a safe place to stand.

**The Connétable of St. Brelade:**

Yes, I understand that. In fact, there is a similar situation in St. Clement that was brought to my attention by the Connétable of St. Clement.

**3.3 Deputy J.A. Hilton of St. Helier:**

It is my understanding that a commitment was given by the Minister and the department to cover the sewer pits in Bellozanne Valley. Is the Minister able to tell the House what, if any, work has been carried out in this regard?

**The Connétable of St. Brelade:**

I thank the Deputy for her question. Indeed, the department is working hard on the liquid waste strategy to achieve the commitments we have made as a result of monies being allocated in the last Business Plan led by Deputy Fox. I think 2 of the settlement tanks have been covered; others will be. One of the main areas that the department is striving to overcome is the moving of the digesters into the site at Bellozanne Valley and this will achieve the reduction in odours which I know not only the residents but their supporting Deputies would like to see in place.

**3.4 Senator F. du H. Le Gresley:**

Could the Minister advise when he expects to be in a position to lodge an amendment to the Road Traffic (Disabled Persons - Badges for Motor Vehicles) (Jersey) Order in order to bring into effect the changes approved in P.112 debated by the States on 28th September 2010?

### **The Connétable of St. Brelade:**

That work is in progress with the department. I cannot give the Deputy a timescale at the moment but I shall consult and pass the information on.

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

Will the Minister inform the Parish Connétables that his department wishes each Parish to offer their parishioners a kerbside collection scheme, at least for tins and cans, and will he consider introducing a waste disposal charge to those Parishes who make no attempt to separate tins and cans from their waste?

### **The Connétable of St. Brelade:**

Many of the Parishes, already offering a kerbside collection, do in fact have an offering for the separation of metal packaging. There are other Parishes yet to come into the kerbside recycling scheme and my Parish of St. Brelade is one of those. A lot of these areas are subject to contractual arrangements in place and, I have to say, certainly at St. Brelade those discussions with regard to the development of kerbside recycling collections is taking place at present, and clearly I am keen for that to be in position. With regard to the other Parishes, I have no doubt that they are equally enthusiastic to develop schemes and doubtless by the end of the year I think we will probably see most Parishes doing a similar sort of thing.

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

Can I ask a supplementary of the Minister? While it was a very interesting “state of the nation” response, will the Minister be proactive in making this happen?

### **The Connétable of St. Brelade:**

Yes. As I alluded to earlier on, I can only do it within the contractual arrangements that the Parishes have with their various contractors, which do vary. But I take the Senator’s point that it is essential that we try and pull the tin cans out of the rubbish stream before they get to the incinerator and that is something the department is extremely keen to do.

### **3.6 Deputy A.E. Jeune:**

There has been work being carried out on the Esplanade between the Grand Hotel and Gloucester Street and I noted last evening that they were beavering away when I came past at 8.30 p.m. and was delighted to see them sweeping up at 7.00 a.m., clearly ahead of the heavy traffic coming into town. Can the Minister please advise as to whether this was done within the timeframe that was set for this work to be done? If it was done earlier, would he please compliment those who did it?

### **The Connétable of St. Brelade:**

The works taking place on the Esplanade/Gloucester Street are part of the Jersey Electricity Company’s link from the substation at the airport through to the substation at South Hill. Works are, I think, being progressed efficiently. My department has been in constant liaison with the J.E.C. (Jersey Electricity Company) to ensure that that takes place with the minimum of disruption to the public. Having said that, working in an area where there are thousands of vehicles passing daily, there will inevitably be consequences, as there will be to those residents in adjacent properties. My department and the J.E.C. regret the inconvenience but hopefully, as the Deputy has pointed out, it is being satisfactorily undertaken.

### **3.7 Deputy M. Tadier:**

I had the pleasure of using one of the new Connex buses with its extra leg room, which is most welcome. But going up St. Aubin’s Hill when 2 buses met, one of the buses was obliged to mount the pavement for the other bus to get through because both of them were over the white line. When the paving ends up crumbling and needs to be replaced, who will be responsible for paying for that?

**The Connétable of St. Brelade:**

Inevitably, if there are any pavement works to be done on main roads, it will be down to my department to cover that. If I can just pick up the point the Deputy makes. There is a compromise to be had between running smaller vehicles compliant with the 7 foot 6 inch road restrictions in place or allowing exemptions for these slightly wider buses and the added comfort. I would not like to see us progress to the situation which arises in Guernsey where there is constant driving on the pavements but there are occasional pinch-points, and I suspect I know the area to which the Deputy alludes. These are areas where drivers will, wherever possible, not mount the pavement, but circumstances sometimes dictate otherwise.

**Deputy M. Tadier:**

Supplementary. If a car driver has to mount ...

**The Bailiff:**

No. Thank you, Deputy Tadier. We are moving on.

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

Could I ask the Minister when the new incinerator will be functioning and when the old one will cease functioning?

**The Connétable of St. Brelade:**

I have not got a finite time but, in broad terms, towards the end of the summer. As soon as the official handover and testing period has been completed and my department is satisfied with the performance of the new plant we will officially accept it. So I would rather not specify a date until I have got that information to hand and we are fully content with the processes. Once that has taken place we will proceed with the removal of the existing plant. Whether we just take down the chimney or whether we take down the whole plant is yet to be agreed, but it will be decommissioned very soon thereafter.

[12:00]

**4. Questions to Ministers without notice - The Minister for Home Affairs**

**The Bailiff:**

Very well, that brings the first question period to an end and we now come to the second question period, the Minister for Home Affairs.

**4.1 Deputy T.M. Pitman:**

I thought I had become so slim you could not see me behind the mace, Sir, but thank you. With regard to the Wiltshire Report, I have no real problem in another version of Wiltshire being put out so long as we get official Home Affairs release of Mr. Power's 62,000 word response given equal prominence. My question is does the Minister agree that this should be the case, given that Wiltshire is nothing more than an abandoned, and thus failed, prosecution case, while Mr. Power's response is the other side of the coin: the defence? Does the Minister agree?

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

Not entirely. The position is that the Wiltshire Reports - there are 3 of them, not one - are the opinion of a senior police officer in relation to matters which are of very great public interest as to what occurred during certain investigations. They have a value and a standing in their own right, in my opinion, independently of any disciplinary matters. Now, those who will have read in any detail the fuller reports will see that the Chief Constable of Wiltshire refers to comments - views - expressed in his evidence by the former Chief Officer of Police; he gives them full weight,

sometimes agrees with them and sometimes does not agree with them. The issue as to whether or not the former Chief Officer of Police now wishes to have his statements or some of his statements put out into the public domain is an issue which I am perfectly happy to pursue with him. He has not asked me to do that in the past, but I am now very happy to pursue that to see if he really wants to do that.

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

Could I just ask the Minister for Home Affairs, in a written answer given on 22nd June the Minister said that the Wiltshire Inquiry had come out of the historical abuse funding; yet in an answer given last week by the Treasury in relation to the costings of the Wiltshire Report, it said it did not come out of the historical abuse inquiry. Which answer is correct? Did in fact the money come out from the historical abuse inquiry or not?

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

The answer to that query is quite complicated and I am afraid I do not carry the details in my brain. I have previously, I believe, provided written answers in relation to this to establish precisely where different elements were paid from, but I am afraid I cannot remember the precise details.

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

Could I just ask, would it be fair to say it may well be there is an error by the Treasury and not by Home Affairs?

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

Unfortunately there was an error at one stage by Home Affairs because I remember producing an answer to a question I subsequently found was not totally correct and then having to correct that answer. But I am satisfied that the last written answer, which I provided to provide detail, will have been correct.

#### **4.3 Deputy J.M. Maçon of St. Saviour:**

Given the Minister's role on the corporate parent, what is the corporate parent doing to hold parents accountable for the behaviour of their antisocial charges and when will the corporate parent be bringing forth proposals to further address this issue, given the commitment that was given under Deputy Pitman's proposition previously?

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

The corporate parent has been working very hard producing a high-level strategy document in this whole area which has gone out to consultation. Subsequently there will be pieces of work done in different areas as and when that is required. But the issue of holding parents accountable for the actions of their child is a complex one. There already are powers under which criminal courts have to do so in appropriate cases. Now, whether additional powers are required or not is a matter of different people's viewpoints. I am not currently proposing any changes, but there will be extra work done in this area.

#### **4.4 Deputy M. Tadier:**

Does the Minister agree that discrimination against women in the workplace remains an issue and with which department does he see ultimate responsibility for fighting this and other forms of discrimination lying with? Sorry, I got the syntax wrong but I think the Senator understood the sentence.

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

Yes. That is quite a complicated question because there are different aspects of discrimination. Discrimination in the workplace, as it were, in terms of employment matters, would fall within the remit of the Minister for Social Security. Discrimination generally still seems to somehow remain

the remit of the Minister for Home Affairs, although he has not specialist sources of information or civil servants or backup, and the Minister for Home Affairs has expressed the view in the past that this is perhaps an area that should return to the remit of the Chief Minister as being part of the social aspects. The difficulty is that, in my view, Home Affairs has been slightly pulled out of shape by virtue of the particular interest which a previous Minister for Home Affairs had in this area. But I have very real difficulties, which I think are well-known to the Deputy, in dealing with this area. I am now trying to engage with the chairman of the Community Relations Trust in order to seek help and advice in trying to take matters as far forward as I can within the term of the current States.

#### **4.5 The Deputy of Grouville:**

Could the Minister give an indication of the wasted costs involved in the Probation Service having to rewrite reports that were compiled by a police-employed U.K. expert?

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

I have no responsibility for matters in relation to the Probation Department.

#### **The Bailiff:**

That is correct.

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

Does the Minister share my view that the Wiltshire Police investigation clearly indicates that in May and June of 2008 senior police officers of the States of Jersey knowingly provided the Minister for Home Affairs at the time, and other politicians and subsequently this House, with false information, in particular about the 23rd February find of partial remains?

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

It is clear that the Wiltshire Report does criticise senior officers of the States of Jersey Police in this regard.

#### **4.7 Deputy M.R. Higgins:**

Will the Minister explain whether the States Police have the authority to stop cars with foreign number plates in the Island when the drivers concerned have committed no road traffic offences? Secondly, does the Minister agree that stopping such cars on more than one occasion during a motorist's visit to the Island (11 in one case) gives the wrong impression of the Island and that aggressive behaviour or questioning is also not appropriate or conducive to welcoming visitors to the Island?

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

Aggressive questioning is never appropriate in any circumstances. I understand it is police practice that sometimes they will stop cars with foreign number plates and this is for 2 separate reasons. The first is because of the possibility of people having bought cars in and not registered them and the second is because of the possibility of their being stolen cars. I understand those are the 2 issues. But if, as the Deputy says, there has been an occasion on which the same car has been stopped on numerous occasions in a short period, that is only to be regretted and I have already discussed the matter with Deputy Higgins and will seek to take up this matter with the senior police officers.

#### **4.8 Deputy P.V.F. Le Claire:**

Could I convey my personal admiration and thanks to the emergency services for the very difficult jobs they have been undertaking recently in relation to road traffic accidents and ask the Minister if he has managed to ascertain whether or not the rear seat belt law, which has been introduced to

Jersey, is now something that is being policed and whether the conveying of children and passengers in vehicles is something that is being done correctly and being monitored in any way?

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

The answer to both those questions is “yes”. Certainly in relation to seat belt matters, in the days when I was still the Island’s Magistrate I came across a number of prosecutions in relation to children not being in the appropriate seats. The standard defence tended to be that the child had undone themselves without the parent knowing it, of course. But certainly the police are actively pursuing these matters.

**4.9 Deputy R.G. Le Hérissier:**

Given that the whole issue of the suspension of the police chief and the reports that followed has had an immense impact on the Island and often polarised opinion, would the Minister for Home Affairs tell the House what he has learned from this episode and how he would behave differently with, admittedly, the benefit of hindsight?

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

I think there are lessons to be learned in relation to the process of the suspension of the former Chief Officer of Police, particularly in relation to the level of preliminary investigation in relation to that. There are lessons also to be learned in terms of the documentation, and I can inform Members that a revised disciplinary code has been produced and looked at by the senior officers. They are content with it and they now have to make sure that is put into practice. In relation to the wider issues raised by the Wiltshire Report, specifically the handling of a particular investigation, of course the proposals that I have put forward to this Assembly, which have been overwhelmingly accepted in relation to the setting up of an independent police authority and, in particular, safeguards that we are going to seek to put into the law as to what are the legitimate areas for inquiry even while an investigation is going on, hopefully in the future those will go a long way towards preventing similar problems.

**4.9.1 Deputy R.G. Le Hérissier:**

Would the Minister not acknowledge that the disciplinary process went badly off the rails and has caused distress to all kinds of people as a result?

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

As far as I can see, the main issue in relation to the disciplinary process was the amount of information available initially to the Minister to seek to make his decision. There is a secondary issue as to the procedure that was initially carried out and, in my view, there are issues in relation to both those things. But it did not help that the basic system, the disciplinary code, was so defective; so defective that new opinions as to what it meant have continued to come up. Mr. Napier came up with a brand new interpretation in relation to that. But I think that there is an issue to be learned, not just for this case but for other cases, in relation to the level of initial inquiry which takes place; the level of information which is available before suspension decisions are made. That is a principle of much wider application.

**4.10 Senator T.J. Le Main:**

Is the Minister satisfied that prisoners and those on probation are being used enough on community work and projects, particularly one notices that the countryside now is becoming more littered with garbage than ever?

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

Again, although it is a very nice question and one I would like to answer, it is in the area of Probation matters, I think, as to the actual tasks that people are put on for community service. That is not, again, within my area.

#### **4.11 Senator F. du H. Le Gresley:**

Does the Minister consider the penalties for speeding offences are adequate or should we be following the Guernsey model, where I understand offenders can be banned from driving even for a first offence?

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

I can properly answer part of the first question. I do not consider that the maximum penalties available are adequate. I worked, when I was Magistrate, together with the Crown Officers to seek to have a comprehensive review of maximum sentences for a whole number of criminal charges. Unfortunately that work never led to anything useful, but in particular the maximum fine of £500 for speeding offences is insufficient and tends to constrain the courts in terms of the level of fines that it can impose. The secondary issue in relation to the question of sentencing policy is not a matter for me. Sentencing policy is a matter for the courts. If I had been asked the question while I was still Magistrate of course, I could have answered.

### **STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

#### **The Bailiff:**

That brings the second 15 minute question period to an end. We now come on to J, there are no personal statements. Under K, The Minister for Education, Sport and Culture will make a statement regarding the appointment of an Assistant Minister.

#### **5. The Minister for Education, Sport and Culture will make a statement regarding the appointment of one of his Assistant Ministers**

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

Following the election of Deputy Andrew Green to the position of Minister for Housing, and after interviewing Members who had expressed an interest in the vacancy for Assistant Minister for Education, Sport and Culture, I have pleasure in announcing that Deputy Tracey Vallois has been appointed to the post with the approval of the Chief Minister.

[12:15]

As one of the youngest States Members, Deputy Vallois has shown herself to be a hardworking, trustworthy, conscientious and compassionate States Member who is more than able to stand up for her beliefs. All candidates interviewed had a wide variety of experience so my decision was a difficult one and I would like to thank those States Members who came forward. Finally, I would like to take the opportunity to personally thank Deputy Green for his support over the last couple of years. He has proved to be a hardworking and caring individual who I am sure will make an excellent Minister for Housing, and I look forward to working with him on the Council of Ministers.

##### **5.1.1 Senator A. Breckon:**

I wonder if the Minister can confirm that he has not got a clue on how to solve the traffic situation in St. Saviour and he is happy to delegate that to his new Assistant Minister? **[Laughter]**

#### **The Bailiff:**

I think that is a rhetorical question.

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

I think the Assistant Minister is up for the challenge.

#### **The Bailiff:**



No other questions? The Minister for Housing wishes to make a statement.

**Deputy M. Tadier:**

Sorry, I think there were.

**The Bailiff:**

I am sorry, I did not see you there.

**5.1.2 Deputy M. Tadier:**

Behind the mace, I think. Of course we extend our congratulations to Deputy Vallois. Can I ask in total how many candidates put themselves forward for the position?

**The Bailiff:**

Minister?

**The Deputy of St. Ouen:**

Five.

**The Bailiff:**

Very well, Deputy, you are the Minister for Housing.

## **6. The Minister for Housing will make a statement in relation to matters arising from the debate of Deputy P.V.F. Le Claire of St. Helier's proposition 'Housing issues in Jersey' (P.189/2010)**

### **6.1 Deputy A.K.F. Green of St. Helier (The Minister for Housing):**

As Members will recall P.189/2010 was debated in this House on 2nd March this year and as a result I can now confirm to the House that in respect of proposition (c), the information on how to access social housing, together with the current eligibility criteria, is available on the gov.je website. Additional information on the waiting and transfer list figures, together with indicative wait durations for each property type has now also been placed on the website. This information will be updated monthly and I trust that this information will be of much use to those seeking social rented accommodation within the Housing Department.

#### **6.1.1 Deputy P.V.F. Le Claire:**

I thank the Minister for Housing for proving he is a Minister of action and getting on with something so swiftly, and just ask him if he is going to include the Housing Trust in this information, and will this feature very prominently within the website of the States of Jersey, because it can be a minefield of links to links to links? Is this information going to be easily findable? I am going to go and look myself.

**Deputy A.K.F. Green:**

The information on waiting lists for the Housing Trusts is not available at present time. There will be links, to keep them simple; links to other housing providers such as Housing Trust.

#### **6.1.2 Deputy R.G. Le Hérisier:**

The Minister for Housing in his selection speech noted that he wanted direct personal access by members of the public and his own customers, as the word has it, to the Housing Department. Does he think he can do this in parallel with developments on the website, as people sometime feel very blocked off physically from the department?

**Deputy A.K.F. Green:**

There is no doubt that the current accommodation for Housing officers is inadequate and more like Fort Knox than a customer-friendly department and we need to do something about that. I will be discussing it as part of my work with the officers and the Assistant Minister on Friday.

**The Bailiff:**

No other questions for the Minister for Housing? Very well, that brings those matters under K to a conclusion.

**PUBLIC BUSINESS**

**7. Draft Loi (No. 7) (201-) concernant la charge de Juge d'Instruction (P.148/2010)**

**The Bailiff:**

We now come to Public Business, the Draft *Loi concernant la charge de Juge d'Instruction*, P.148/2010 lodged by the Chief Minister, and I ask the Deputy to read the citation of the draft.

**The Deputy Greffier of the States:**

*Draft Loi (No. 7) concernant la charge de Juge d'Instruction. Loi pour modifier en plus les Lois (1864 à 2000) concernant la charge de Juge d'Instruction. Les Etats, moyennant la sanction de Sa Très Excellente Majesté en Conseil, ont adopté la Loi suivante.*

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

To make it easy I will explain this amendment in English and it is an amendment in 2 parts really. It broadens the range of people eligible to be appointed as Magistrate, or Assistant Magistrate and also ensures that those people who may be asked to serve as a Relief Magistrate are drawn from the same pool as would otherwise have been used for Magistrates or Assistant Magistrates. At the present time although members of the English bar who have been in practice for 10 years are eligible to serve as Magistrate or Assistant Magistrates, members of the bar in Scotland, Northern Ireland or even Guernsey are debarred from being eligible for such appointment. This seems a bit anomalous when they have similar ranges of experience and ability, and this amendment seeks to put them on an equal footing. It was also an anomaly in the past that Relief Magistrates were dealt with in a different way from Magistrates and Assistant Magistrates, and it makes sense that Relief Magistrates are dealt with in the same way. Finally, there is a minor amendment to remove the possibly anomaly of a Crown Officer being appointed as a Magistrate. That will no longer be possible, although someone who is a former Crown Officer will still be eligible. I propose the principle to be law.

**The Bailiff:**

Is the principal seconded? [**Seconded**] Does any Member wish to speak? Yes, the Constable of St. Lawrence.

**7.1.1 Connétable D.W. Mezbourian of St. Lawrence:**

I am surprised to see that the Jurats of the Royal Court are still considered to be appropriately qualified to discharge this office, and I wonder if the Chief Minister will explain why they are still considered these days to be worthy of that role? If indeed, he is able to fully explain that to us, why there is no time constraint on them having served as Jurats, when there is a constraint of 10 years on all those others who are considered eligible and qualified to undertake this role? Thank you.

**7.1.2 Senator T.J. Le Main:**

I was going to ask exactly the same question. I had made a note of what the Constable has just asked. I also would like an answer to that question. It is a pity the Chief Minister did not put into progress and widen this criteria that at least with the cosy cartel in Jersey at the moment with all the

Jersey lawyers, that U.K. lawyers could represent ordinary people in Jersey, and not as they do at the moment, with a Jersey cartel of £400-500 an hour.

**The Bailiff:**

Does any other Member wish to speak? Then I will ask the Chief Minister to reply. I am sorry, Deputy of St. Martin.

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

I would like to ...

**The Bailiff:**

Just inside the time.

**The Deputy of St. Martin:**

I am sorry. I am having hearing trouble this morning.

**The Bailiff:**

Just in time, Deputy.

**The Deputy of St. Martin:**

Could I raise the issue of human rights? It says this is human rights compliant and Senator Le Main and the Connétable of St. Lawrence have just raised the issue here, whereby if this is human rights compliant, we are not allowing people to have the choice of their lawyer. So, you know, I am not saying that all lawyers get £500 an hour in Jersey, but quite a number of them do. If it was possible to get a lawyer at a lot less cost, surely this cannot be human rights compliant? Maybe the Minister could explain that.

**The Bailiff:**

Deputy, can I say to you that is not relevant? This is an amendment that deals with the appointment of the Magistrate, not legal representation in the court.

**The Deputy of St. Martin:**

Yes, okay, all right, but at the same time, if I could add on then? It says here under the Article 1 of the 1864 law, the Magistrate is appointed by the Bailiff. Now recently we have had a problem with a Magistrate who has been suspended and yet the Chief Minister has not been able to answer any queries as to why the person was ... not suspended, but on garden leave. Has the Chief Minister given consideration maybe to amending the law whereby the person, if a Magistrate does transgress or is suspended or put on garden leave, that it could be dealt with by maybe the States Employment Board, rather than the Bailiff. That would make it much easier if Members were asking questions about the Magistrate and could ask questions of the Chief Minister rather than asking the question of the Bailiff.

**7.1.4 Deputy M. Tadier:**

*Merci monsieur. Est-ce que le Sénateur Le Sueur, dans sa capacité en tant que chef ministre, pense pas que ça soit un peu bizarre que, dans nos jours, nous avons toujours des projets qui sont présentés en français tandis que la plupart de la population ne comprennent plus le français, même je dirais la majorité de l'Assemblée ? Est-ce qu'il va ...? Parce qu'il a fait son adresse même en anglais. Je pense que ça souligne ce point-là. Et aussi, pourquoi, si je peux poser la question ...?*

**The Bailiff:**

Deputy, forgive me for interrupting you. You are of course entirely entitled to address the Assembly in French, which is one of the official languages of the Island. You may wish to take

into account whether those listening to the debates are able to follow what you are saying. It is entirely your choice, but I thought I would make that point available to you for consideration.

**Deputy M. Tadier:**

*Merci monsieur, si j'ai bien compris, l'ironie en fait c'est parce que ce projet-là été présenté par le député greffier en français. Alors, je fais ça seulement pour souligner ce point-là, but I will continue ...*

**The Bailiff:**

It has been presented in French, Deputy, if I may say so, because the original law is in French. That is the only reason it is presented in French.

**Deputy M. Tadier:**

*Exactement, monsieur. Et j'allais poser la question: peut-être dans le futur, ça serait une bonne idée de présenter le projet en anglais au lieu d'en français. Merci, but I will continue with the rest of the point in English. I think I completely agree with the ruling of the Bailiff and the point I was making, for those who do not speak French... and there is no shame in it. I mean, times change. I was just suggesting that maybe we should be presenting the projet in English rather than in French in the future. I know it is quite quaint for those of us who are able to speak French but we are primarily nowadays an Anglophone Island and, of course, we should not be denigrating our French links. I am proud to be able to speak French in the Assembly from time to time. The other question I wanted to ask was about, on a serious point, it is probably just a technical matter, I see that it is going to be extended so that Scottish, Northern Irish and Guernsey advocates could be considered for the appointment. Will this also include Welsh lawyers? Maybe they are covered under English law so maybe they do not have a separate system, but I think the point has been made and I hope to leave the Minister to sum up in his choice of language.*

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

As usual I am going to try and answer some of the questions, particularly the technical ones, for the Chief Minister. First, the question of Jurats; they of course were there right from the start, and the first Magistrate was a Jurat who was appointed on a paid basis for that purpose. I think simply what has happened here is they have not been removed by virtue of this amendment. I can say that Jurats have not sat as Relief Magistrates for a number of years because they have felt it would not be right for them to do so, because of the questions of law which arise. But I can remember as a young advocate appearing before at least 2 Jurats who were acting as Relief Magistrates and most ferocious they were, if I may say so, towards accused persons who had acted improperly. I think that there is an anomaly here but it is most unlikely that it will cause any difficulty in practice. The issue in relation to lawyers, you have already covered the point. The issue in relation to disciplinary matters for Magistrates: there is an issue here. There is no express power of suspension of a Magistrate in the law. There may be an implied power of suspension, or a power in the Superior Number of the Royal Court so to do, but there is no express power of suspension in the existing law. The current position in relation to disciplinary matters, as I recall it, is that dismissal ... or there has to be a decision by the Superior Number to petition the Privy Council for dismissal of a Magistrate.

[12:30]

That I believe to still be the current law. There have been some proposals in the past of which you may have knowledge, in another life as it were, for amending that, but there is an issue as to whether disciplinary matters should entirely take place in Jersey or whether there should be this outside element which was created right from the start. The issue in relation to French is simply because this is an amendment, and of course the practice has been followed here of producing a translation into English. The issue in relation to Welsh is an academic one because there is a single

jurisdiction of England and Wales and therefore anybody qualified in Wales would have qualified under the system of barristers or solicitors of England and Wales.

**The Bailiff:**

I am curious to know whether any Member of the Assembly would like to own up to a telephone beeping just one moment ago? **[Laughter]** I am sure it did not come from anyone from St. John, Deputy, no. Very well, does any other Member wish to speak on the principles? Deputy Le Hérissier?

**7.1.6 Deputy R.G. Le Hérissier:**

Since this is rolling, I was just going to ask why lawyers from the Irish Republic are not included? They form a very ironically big part of the British Colonial Service judiciary and interestingly ...

**7.1.7 Deputy P.V.F. Le Claire:**

I do not know if it is a ruling but last week I was fined £10, quite rightly so, for the Joint Charities Commission for my telephone going off in the middle of the Constable of St. Mary's speech and it would seem to me - I have made this point before - that it is a very worthwhile charity that we are supporting and it is quite sad that whoever's phone just went off is not admitting to that, so if there is nobody going to ... oh, they did? They did admit, oh is it going in the gallery?

**The Bailiff:**

It may have been up in the gallery in which case we do not have the ability to level fines although any member of the gallery whose phone has gone off may get in touch with the Greffier and volunteer to pay £10 if they choose to.

**Deputy P.V.F. Le Claire:**

All right, could they have a reduced fine level, Sir?

**The Bailiff:**

Does any other Member wish to speak? Then I ask the Chief Minister to reply.

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

I am grateful for a former incumbent of the Magistrates bench for doing most of the summing up for me. In fact, I really have very little to add other than to reaffirm to the Deputy of St. Martin that the human rights issues were considered very seriously and it is a matter of balance, I accept. The answer is, that on balance I am satisfied that this amendment is indeed compliant with the Human Rights Convention, in particular Article 6 relating to a fair trial. I think that we have dealt with all matters. The Deputy of St. Martin also asked if the appointment of a Magistrate could be done by the States Employment Board. I rather hesitate to suggest that the appointment of judges should be a political matter. I think that might be something that would be far more questionable under human rights compliance, but that is not before us today. What is before us today is a simple amendment to broaden the ability, broaden the range of candidates. I am grateful to the Members who have spoken and I maintain the principles.

**The Connétable of St. Lawrence:**

May I raise a further question? I know the Senator Le Marquand explained to us that the Jurats ...

**The Bailiff:**

I take the point. You are able to ask the Chief Minister to clarify anything which was not yet clarified.

**The Connétable of St. Lawrence:**

Okay. I beg your pardon. I will ask the Chief Minister to clarify. I did ask about the time constraint that is applied to all the others who are recommended for appointment and the Jurats have no time constraint. Will the Chief Minister just confirm therefore that a Jurat, from his day of appointment as such, would in fact be able to also be appointed to this position on the Magistrates bench?

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

Under the law it is clear that he would be entitled to sit from day one. In practice, as the Senator Le Marquand has reminded us, this is really there as a historic legacy. Jurats have not been appointed to the bench for many years now so the question is really an academic one, but I would also point out that people who are elected as Jurats, or members of the court, are expected to have a range of abilities and experience and it may well be that that is regarded as equivalent to a 10-year qualification period for a solicitor. But be that as it may the question, as I say, is academic.

**The Bailiff:**

Very well, you proposed the principles. The principles are proposed. All Members in favour of adopting the principles, kindly show? Those against? The principles are adopted. Chief Minister, do you wish to propose the articles *en bloc*?

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

Yes, Sir.

**The Bailiff:**

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

**7.2.1 Deputy J.A.N. Le Fondré:**

I was debating whether to add anything to vote in the principles. Just to assist the Constable of St. Lawrence in her query, my understanding is in practice that Relief Magistrates are appointed for a fixed period of time of about 3 years, therefore there is very unlikely, in practical terms, to be a risk of that position carrying on in unlimited time way. But that is only a practical matter rather than something that is presently enshrined in law, though I believe that may be a matter that will be reviewed later on. Thank you.

**The Bailiff:**

Does any other Member wish to speak? Then I ask the Chief Minister, do you wish to reply?

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

No, Sir. Merely to thank Deputy Le Fondré and members of the Legislation Advisory Panel who in fact do a lot of the hard work on this for me, and I am acting here simply as rapporteur for that group. I maintain the articles.

**The Bailiff:**

The articles are maintained. Members in favour kindly show? The appel is called for. Members return to their seats. The vote is on whether to adopt Articles 1, 2 and 3 of the draft law and I ask the Greffier to open the voting.

<b>POUR: 42</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator B.E. Shenton				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				

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

**The Bailiff:**

Do you propose the law in Third Reading, Chief Minister?

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

Yes, Sir.

**The Bailiff:**

Seconded? [**Seconded**] Does any other Member wish to speak? Deputy Le Claire.

**7.3.1 Deputy P.V.F. Le Claire:**

I think the Constable of St. Lawrence has raised an interesting point and I would just like to ask the Chief Minister in passing this in Third Reading, whether or not it might be acceptable to have an amendment to this, that the Jurats in the future do have some relevant experience written into the law, rather than the very unlikely opportunity that there would be one day a Jurat forced into a position where they may not be necessarily comfortable? Would the Chief Minister be minded to consider such an amendment?

**The Bailiff:**

That is a matter of language, Deputy, and relevance. You say the Jurats will be forced into a position, the appointment is made by the Bailiff. Does any other Member wish to speak? Senator Le Marquand.

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

I was about to make exactly the same point, that this is simply saying those people who are in a category by virtue of which they might be appointed, but that does not mean they are going to be appointed, because the appointment in all cases, in the case of a full-time Magistrate to Assistant Magistrate is made by the Bailiff. In practice, there will be an independent panel convened and he will be acting on advice, and similarly in relation to Relief Magistrates, the appointment is made by the Bailiff. So, Members, if you understand that it is very unlikely that Jurats are ever going to be appointed ... if they had a legal qualification in their own right, as some Jurats do have, then of course they would be considered under that as well. I would take the view that if there is going to be a tidying-up operation eventually in this law, that the Jurats should be taken out, but it is not necessary at this stage because of the safeguards.

#### **The Bailiff:**

Does any other Member wish to speak? Do you wish to reply, Chief Minister?

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

Not really, just to thank Senator Le Marquand for answering Deputy Le Claire and to advise Deputy Tadier why - we forgot to answer earlier - that ultimately it may well be that when a new law for a Magistrate is brought forward, that will be done in English. At this stage, because it is only an amendment it had to stay in French. I do not see that as being an urgent priority, so I maintain the Bill in Third Reading.

#### **The Bailiff:**

It is proposed the Bill be adopted in Third Reading. All Members in favour kindly show? Members against? The Bill is adopted in Third Reading.

#### **The Bailiff:**

Now I have been given notice by the Assistant Minister for Treasury and Resources, he wishes to clarify something which he said earlier.

### **The Connétable of St. Peter:**

Thank you very much. In the face of a robust onslaught from the Members, including my very good friend the Deputy of St. John, asserting that 6,500 States employees at a 1:100 ratio would be 650 H.R. staff... I must admit the robustness of his point did knock me sideways because it is not a very good point to be made by an Assistant Minister for Treasury, after all. But 1 in 100 equates to a maximum of 65 H.R. staff across the whole States network. I think we are slightly under that, but I will come back to the Members with the actual number as I did demonstrate earlier on. Thank you very much.

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

Yes, I did say 65. There are 35 at one and 20 at the other.

## **8. Ratification of a Double Taxation Agreement between the States of Jersey and the Government of Estonia (P.7/2011)**

#### **The Bailiff:**



Very well. We now come to P.7/2011 - Ratification of a Double Taxation Agreement between the States of Jersey and the Government of Estonia - lodged by the Chief Minister and I ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to ratify the double taxation agreement between the States of Jersey and the Government of Estonia as set out in the Appendix to the Report of the Chief Minister dated 21st December 2010.

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

Following our policy of trying to encourage the use of double taxation agreements where possible, we have now negotiated and concluded one with the Republic of Estonia and that is before us today. The explanation for this is very similar to that of the previous Double Taxation Agreement. It follows the standard format for it. The terms and disclosures within the agreement are equivalent to those that will be contained in the Taxation Information Exchange Agreement, so I propose the adoption of the Double Taxation Agreement.

[12:45]

**The Bailiff:**

The Double Taxation Agreement is proposed. Is it seconded? **[Seconded]** Does any Member wish to speak? Deputy Le Hérisier.

**8.1.1 Deputy R.G. Le Hérisier:**

I wonder if the Chief Minister can tell us, and it is opportune that Canada follows with an exchange of information agreement; can he tell us when the next Double Taxation Agreements are coming? It is very good that this one is going through but we all know there are other places like France, and Canada of course, where a lot of people have an interest in Double Taxation Agreements, myself included. They have been hanging around for an awful long time and while it is excellent it is coming from Estonia, I hope it is not just going to come from States that are not, shall we say, in the major line of vision.

**8.1.2 The Deputy of St. Mary:**

Two quick points. One, if the Chief Minister could explain why Estonia has reached the first level of countries to have these treaties agreed, because it is, as the previous speaker I think, was suggesting, just a little bit odd, so I would just like to know what the criteria are for selecting or proceeding with certain countries? The second point is, on a lighter note, I have been to Estonia, it is very nice and when will the team be going out to Estonia to drum-up business?

**The Bailiff:**

It is now 12.45 p.m. In accordance with Standing Orders I now invite Members to decide whether to adjourn at this stage. Does anyone propose the adjournment?

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

I suspect that we might just as well wrap this one up because I cannot see any great desire of Members to speak.

**The Bailiff:**

Very well. Does any other Member wish to speak? Chief Minister, do you wish to reply?

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

Yes, very simply, our objective is to try to achieve either Double Taxation Agreements or Tax Information Exchange Agreements with major and minor countries throughout the world. It takes 2 to complete a D.T.A. (Double Taxation Agreement) or a T.I.E.A. (Taxation Information Exchange

Agreement) and very often countries in the developed world find it simpler and quicker, and more in their interests to sign up for a T.I.E.A., and on that basis we do that. Some of the newer countries to the E.U. (European Union) and the G-20 (The Group of Twenty) and some of those with lower taxation rates are more prepared to enter into a D.T.A and Estonia is one such country. We will take either a D.T.A. or a T.I.E.A., and I go for speed rather than the need for one over the other. On that basis I am happy to propose the D.T.A. with Estonia. Like the Deputy of St. Mary, I have also visited Estonia many years ago and it is a thoroughly charming place to go. I do not think I will be going there in the immediate future trying to drum-up business, but nonetheless it would be a nice thought. More seriously, I propose the D.T.A.

**The Bailiff:**

All Members in favour of adopting the proposition, kindly show? The appel is called for. Members return to your seats. The vote is on whether or not to adopt P.7/2011, the Double Taxation Agreement between the States of Jersey and the Government of Estonia, and I invite the Greffier to open the voting.

<b>POUR: 40</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy A.E. Jeune (B)		
Senator B.E. Shenton				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
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 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 J.M. Maçon (S)				

**The Deputy of St. Mary:**

Sir, I wondered if I might raise a quick point of order before the adjournment as no doubt, that is the next thing we are going to do. I did circulate to Members ... I am not sure whether you yourself got a copy or even whether this is the right place to do it, but I did say that because I have to be away on States business on Thursday which is already paid for - a Scrutiny visit to a conference in London - there is a slight risk that if P.15/2011 is not taken further up the Order Paper, in particular P.14/2011 might turn out to be lengthy, there is a risk that I will just have to stay on Thursday and waste that money of the trip that is already booked. So, that was the proposal, that P.15/2011 be moved up the order in some way, perhaps to be taken first after the break.

**The Bailiff:**

Are you making that as a proposition now?

**The Deputy of St. Mary:**

That is probably the easiest thing to do.

**The Bailiff:**

Is that proposition seconded? **[Seconded]** Chief Minister, there are 2 of your ... do you wish to speak? Do you agree?

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

I have no objection.

**The Bailiff:**

And the Privileges and Procedures Committee, Connétable Gallichan

**The Connétable of St. Mary:**

I have no objection.

**The Bailiff:**

Members seem to be generally in favour. We will take The Electoral Commission P.15/2011 immediately after the adjournment.

**LUNCHEON ADJOURNMENT PROPOSED**

**Deputy A.E. Jeune:**

If I may, just before we finish, that was an error on my part. **[Laughter]** It was not the ring binder.

**The Bailiff:**

Well, I am sure the people of Estonia will be very much relieved to hear that. **[Laughter]**

**The Connétable of St. Brelade:**

Sir, sorry, I did not have a chance to catch your eye. Likewise, I have an engagement on Thursday and I have P.20/2011 following that. Could I ask the Assembly to approve P.20/2011 coming after P.15/2011 as it is on the programme, otherwise it is getting shoved further down the line?

**The Bailiff:**

Well, Minister, can I ask you to bring that proposition immediately after the adjournment. Members will have a chance then to consider it. The States now stand adjourned until 2.15 p.m.

[12:48]

## **LUNCHEON ADJOURNMENT**

[14:16]

### **The Deputy Bailiff:**

Deputy Le Claire, just before the luncheon adjournment the Minister for Transport and Technical Services was raising a question of your proposition about green waste.

### **Deputy P.V.F. Le Claire:**

I would obviously be happy to take it after the next proposition if that is agreeable by the Assembly in order to help the Constable.

## **9. Electoral Commission: establishment (P.15/2011)**

### **The Deputy Bailiff:**

Do Members agree that we should take the green waste proposition of Deputy Le Claire immediately after the Deputy of St. Mary's proposition? Very well, that is what we will do. So we now come to P.15/2011 - Electoral Commission: establishment - lodged by the Deputy of St. Mary and I ask the Greffier to read the proposition. Deputy, before the Greffier reads the proposition I have been looking at the amendments which you have lodged to your own proposition, some of them clearly raise quite different issues such as the first one, which clearly is an amendment, which I think we must take separately because it is an amendment which is not inconsistent with what you have put in the rest of your proposition. But the amendments on pages 2, paragraph (b) and paragraph (e) of your second amendment, are inconsistent with what you propose in your main proposition and in those circumstances I would have thought it would be more convenient for you to propose what you believe in, what you think ought to be adopted, rather than propose the proposition in which you no longer have such confidence and then move on to the amendment, which you do have confidence in. Would that be convenient?

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

Yes, Sir, I take the point. The way I have constructed this is that my opening speech will in fact cover the ground of the whole discussion, including the amendment, for example, on the function, the fifth bullet in the terms of reference and so on. But I think it is very difficult to patch it all into the opening speech and I think it is certainly, I believe, simpler to take the amendments. The one on the referendum is a separate point and I think could just be taken, I will not be speaking at length on that in the opening speech, I was proposing to when we come to consider the referendum, and there is an amendment to that anyway, an amendment to what I am saying about the referendum I think, that we just discuss that as a little package.

### **The Deputy Bailiff:**

My question to you was whether you would be prepared to invite the Assembly to agree that you deal with your proposition as amended in relation to paragraphs (b) and (e).

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

Certainly paragraph (b) is covered in my opening remarks. Paragraph (e), I know that is subject to amendments so I cannot speak in my opening speech on the thing as amended because that is subject to another amendment which will have to be voted.

### **The Deputy Bailiff:**

You speak to your own amendment and then we would take Senator Shenton's amendment to that amendment.

**The Deputy of St. Mary:**

So maybe we need to suck it and see, but I do think that as (e) was going to be amended I knew that there would be a separate debate on that aspect of the 60 per cent, and on whether we are inviting a future States to do such-and-such, and the amendment covers that. Therefore, if I put that in the opening speech and the amendment comes an hour later then I will have to say it again anyway. I mean, I would include (b) because it is my own amendment, nobody has challenged it and, therefore, obviously I would speak to that in the opening speech, and Article 1 of my amendment to it is the same, (a) and (b). But (e), because it has been amended by somebody else, I had not thought of addressing that immediately.

**The Deputy Bailiff:**

The only thing that is troubling me, Deputy, is that if we do not take your proposition as amended by yourself then you are required to speak to a proposition in which you no longer have confidence.

**The Deputy of St. Mary:**

Okay, I shall endeavour to speak like that. If I can bolt it in as I come to it.

**The Deputy Bailiff:**

Very well, then if Members agree that is the right way of going about it I would ask the Greffier to read the proposition, it would be as amended by the Deputy of St. Mary's amendments in paragraphs (b) and (e) but not paragraph (a) which we will take separately. I will ask the Greffier to read the amendment.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion (a) to agree that an independent Electoral Commission should be established in Jersey to investigate and report on all aspects of the composition of the elected membership of the States Assembly and the election and voting processes of such Members, with the guiding principles of the Commission's investigation to be (i) the need to secure the greatest possible acceptance by the public of any new arrangements proposed and (ii) the need to ensure the views of the electorate are reflected as effectively and as fairly as possible in the make up of the States; (b) to approve the terms of reference of the Electoral Commission as set out in appendix 1, except that in the said terms of reference in appendix 1, (i) in paragraph 1 in the fifth bullet point for the words "the election process" substitute the words "the functions of the electoral process", (ii) for paragraph 4 substitute the following paragraph "(4) at the conclusion of its investigation the Electoral Commission shall put forward a complete package of how the elections to the States should operate in Jersey with this package being capable of commanding the support of the public and only to desist from this duty if in all conscience it finds itself unable to do so"; (c) to agree that the Electoral Commission should be comprised of a chairman and 2 other members from outside the Island and of 3 Jersey residents all with relevant skills and experience; (d) to request the Privileges and Procedures Committee to take the necessary steps to identify, through a process overseen by the Appointments Commission, the proposed membership of the Commission for subsequent approval by the Assembly on a proposition lodged by the Privileges and Procedures Committee; (e) as amended, to agree that on receiving the recommendations in the Electoral Commission, if the Commission has recommended a package of election reform (excluding such matters as could be classed as administrative improvements, for example matters pertaining to voter registration) the States shall put the option to the electorate in a referendum and to further agree that this option shall not be pursued further by the States unless it is supported by at least 60 per cent of those voting in the referendum; (f) to agree that the Electoral Commission should be appointed no later than 30th September 2011 and that it should be requested to endeavour to complete its work no later than 31st December 2012.

**9.1 The Deputy of St. Mary:**

Yes, I will go back to the proposition itself, paragraph by paragraph, in order to unpack the specific issues around each paragraph in a while. But I want to start with 3 thank yous. One is to the Assembly for taking this early because, as I explained about having to leave on Thursday, I would have had to choose between summing up and going on a Scrutiny visit to London. The second is a thank you to the Greffe for producing the addendum so swiftly, and I think it will turn out to be useful. Members may have misgivings but I assure that I think it will make life a bit easier. Secondly, to thank the Greffe also for all the help that they gave me in preparing this proposition, and I can well see why the Minister for Treasury and Resources did not get around to lodging a similar proposition, it is a lengthy undertaking and I was very grateful for the assistance. Thirdly, a thank you to P.P.C. (Privileges and Procedures Committee) who met with me after I had lodged it, for unavoidable reasons I had to go very swiftly because there was a notion that this would be brought in an, in my view, incomplete form by another and also for producing their comments early because that has been of great help and in fact stimulated a couple of my own amendments to my own proposition. I bring this proposition in hope - in hope - because there are of course mutterings of despair around this topic, what one sometimes hears, and just remind Members in rhetorical style that Spring is truly sprung, there are even daffodils in the computer room and the sun is shining. More importantly, consensus has even seemed to have emerged from debates this year twice now, in January and March, on the need for electoral reform and the need for a Commission to stimulate that reform and enable it to happen. I do appeal to Members to show courage and moral leadership on this issue, to set up an independent Electoral Commission, which is also comprehensive, that is it will look at all aspects of electoral reform, does involve courage. But I believe that we have to do this and I will show that in my speech. We have to let go of the ball, stop the fouls and the dodgy tackling and the arguing with the referee. We have, in fact, to give the ball to the referee, in this case the Electoral Commission. I nearly said stop acting like overpaid superstars, but of course we only get £40,000 a year and not £40,000 a week. Finally, we have to get the crowd - and this does not usually happen in a football stadium, well it does in the sense that they cheer and boo - but we have to get the crowd to take part and that is the point of the whole exercise. This proposition boils down to 2 statements that we would have to agree to if we are going to vote for it, one is that our present electoral system is unsustainable, in the words of P.P.C. It does not fulfil either of the 2 functions of elections, or rather the 2 main functions of elections, the first of which is fair representation and the second is the ability to pronounce a verdict on the Government to decide who governs next. The second statement that we have to agree with is that we cannot do this ourselves, we cannot tackle this reform ourselves. I will take the second one first because it is a lot easier and I only have to remind Members of phrases used in past debates just this year: piecemeal, a complete mess, homes for the bewildered, cocktail of wreckage, selective democracy, vested interests at work - and different people are nodding as I speak - and hours of debate. Hours of debate. I would just pick up on the last 2 of those, oh, I forgot debunk. Debunk, what a wonderful neologism to encapsulate our lengthy attempts to tackle this problem. The last 2 points, the political editor of our local paper - and I quoted him in my report to this proposition - pointed out quite correctly about the January debate that every single amendment or proposition could be seen as showing vested interest. It could be seen as showing that the person bringing it wanted something to happen that would be in their own interest and in the non-interest of a group to which they were opposed.

[14:30]

That is what it looks like and we cannot go on like that. On the point about the hours of debate, in my addendum on page 20 Members will see a list of all the debates, propositions that have happened both on the machinery of Government and on electoral reform and the composition of the States. On pages 21 to 24, that is 4 pages, I list each debate on just this topic, composition of the States, and I summarise what those propositions were about and how the vote went. Many were in fact even withdrawn before they got to the House but debate after debate after debate has taken place and on page 25 I add up the hours and without taking Members through the list, 44 hours

between 1999 and 2009 in this Chamber, 44 hours we have all sat here, or our predecessors, debating this issue. I have estimated - and people may like to disagree or agree - in the last 2 years, 2010 and this year, another 20 hours. We know this, the public knows this, 64 hours, and the cost just of the sittings alone, £115,000. So that is the question of whether we can do this ourselves, I think the evidence shows that although we can improve matters such as the general election, we have inched towards a common term, but thereby have created other issues in fact with the mandate of the Senators and how that will pan out later. But the bigger question is, is the system broke, does it need fixing? I would focus my remarks on 2 areas, one is fair representation and the other is ability to pronounce a verdict on the Government. The first is fairness, and I would refer Members to the chart in my proposition on page 9, I am going to look at the situation in Jersey first, and on page 9 I have developed a different way of showing the fairness of, for instance, one of our classes of member, namely the Constables. On page 9, the chart 3 at the bottom there in blue, you will see that there is huge difference between the population represented by the Constable of St. Helier and down right through to obviously the Constable of the smallest Parish.

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

A point of order, if I may, I wonder if you would give way, Deputy. The blue chart on that page is incorrect. At the top of the page it is headed up Electorate per Constable, that is not the electorate, that is the population, which is completely different.

**The Deputy of St. Mary:**

Well I hope this proposition does not stand or fall on the mistake of one word, but I take the point, thank you, that is the population per Constable, but the point is made because if you subtract the people below voting age I would suspect that the 18 per cent that you subtract would be roughly the same in all Parishes. But it is not going to make a difference to the person who interrupted, or who clarified, it is not going to make a difference of more than one or 2 little men on that chart. Put another way, the Constable of St. Helier represents a population more than the populations represented by the 8 Constables of the 8 smallest Parishes. I just mention that to show how huge this disparity is within one class of Member. If you take Constables and Deputies and you look at the chart above it, chart 2 on page 9 of the proposition, you will see the difference from proportionality which is 0 per cent, which is the second line from the bottom, the difference from proportionality as it exists now between the Constables and Deputies taken together for all the different Parishes. Now, I thought, what if we compared the smallest Parishes to the largest because this is the issue, is it not, the systemic under-representation of the country as opposed to the town, and I did this research more recently... over, am I getting things the wrong way around, thank you for the corrections, it has been a long few days. I would take Members to page 8 of the addendum and on page 8 of the addendum I look at Jersey's proportionality, country versus urban, or rather more precisely the smallest Parishes versus the largest. In the top table Members will see the population of the 8 smallest Parishes by population. The total in 2001 is 28,000, there are 17 representatives, that is Constables and Deputies, and the population per representative is 1,650, 1,650 people are represented as a population by each representative. In the bottom table, the second table, there are the 4 most populated Parishes of the Island, St. Saviour, St. Brelade, St. Helier and St. Clement. Their total population is 59,000, they are represented by 24 and each representative, Deputy or Constable, represents 2,464 people. If you do the sums, as I have done in the first note, you will see that a country dweller in Jersey is worth 1.49 of a town dweller, in other words it takes 3 town dwellers to have the same voting power as 2 country dwellers. That is the extent of the inequality. I then show that if country dwellers had the same representation as those living in the largest Parishes they would not have 17 States Members, they would have 11.4, so they are overrepresented by 5.5 Members, no doubt one of them is myself. So would that not be a good thing, to cull one of the 5.5 and then you would not have to listen to this and we would not have any electoral reform on the table. Put it around the other way, we have the opposite of a cull, we have a shortfall. The urban Parishes, if they had the same representation as the country, would

not have 24 States Members, they would have 35.8, there would be another 12 Trevor Pitmans, or another 12 Deputy Greens, well, depending on your stripe. However, it does show that we are wildly out of kilter, that is an extra half added to the representation. I would ask Members to imagine the outcry if the same thing happened in the U.K., if you were to take the rural constituencies in leafy Hertfordshire and Worcestershire and give them all constituency sizes that made it so that 2 constituencies in rural Hertfordshire was worth 3 constituencies in the middle of Leeds. Imagine the outcry. Or the other way around, if it was arranged so that people in Leeds had 1.5 times the power of the people in leafy Hertfordshire, it would not last the public outcry. That is within the mandates of the Constables and Deputies. There is another problem, of course, the problem between the mandates, which I have referred to in my letter that was published in the paper today. Yours truly, with 261 votes, the Senators opposite - most of whom have gone for a cup of coffee - with 12,000, 13,000 - maybe some of them are doing departmental works or they are in Mumbai, which is fair enough, or Abu Dhabi - but returning to the point, they have mandates of 12,000, 13,000 and yet we count for the same in here and we have seen - as Deputy Pitman often points out - that our chances of being a Minister now are not related to the size of our mandate, maybe one day they were but they are not anymore. So 261, 12,000, no difference. That is not what the public out there think, they do not think that those 2 mandates are the same. Is there to be a relationship between mandate and power or not? So that is one question which I ask. I do not say what the answer is and I do not say that we should not have 3 ways into the States, that would be for this Electoral Commission and the public to sort out. But I just ask whether it is right and whether it is what the public want and whether it underlies this attachment to the Island-wide mandate, which we know exists, that there is a feeling that there needs to be a connection. So there is a problem within a mandate, there is a problem within 2 mandates taken together and there is a problem between mandates. So I thought, how do they do it in other jurisdictions, how do they approach this issue? I did the research with a little bit of trepidation, maybe other jurisdictions do not take this proportionality thing as seriously as I thought they should. I looked at Germany, why did I look at Germany? For obvious reasons, because after the Second World War they had to get it right, the occupying powers made sure that they got it right. They put people in a room and said: "Write a constitution and we will not let you out until you have." So it went on, there were deliberations, it was a lengthy process and I have never forgotten going on an exchange when I was 15 or 16 and my German friend telling me about the lessons they got in political responsibility, in civics, in the relationship between himself as a citizen and the state. They were not going to go there again, so that is why I looked at Germany. I looked at the U.S.A. (United States of America) because Senator Ferguson has remarked in this Chamber that: "Oh well the Senate is not proportionate." Well, no it is not, but I looked at the House of Representatives. I looked at the U.K. obviously and I looked at Bermuda, because Bermuda is a small island state similar to us which had an Electoral Commission in the 1960s, I think because their system was cracking up, they were having riots and indeed assassinations in their political life, and we have not got there yet. **[Laughter]** The first thing I found, and I impress on Members, is that proportionality is everywhere, you cannot escape this fact. Canadian provinces elect representatives to the Canadian national government on an exact quota determined by dividing the population into the number of provinces. The Germans, the same proportionality, the U.S. states proportionally, the U.K. the same and Bermuda. All the details are in the addendum for Members to have a look at. But the second thing which I found more interesting was the trend and the trend is only one way and I do refer Members to page 6 to look at the situation in the German federal law, in 1996 Article 3 of the Federal Elections Act 1996, paragraph 2: "The population of a constituency should not deviate from the average population of the constituencies by more than 25 per cent in either direction. Where the deviation is more than 33.3 per cent a re-delimitation shall be made." So the absolute legal limit was the deviation of a third, the absolute legal limit you cannot go over, that was 1996. If Members turn back to page 5, at the bottom, Federal Elections Act 2008, and the same 2 figures, 15 per cent is the target, not 25 per cent, and where the deviation is greater than 25 per cent then it is illegal. Then it is illegal. A lot of the representation in Jersey would be illegal in Germany, it



would also be illegal in the U.S.A. and it does not meet the guidelines in the U.K. So what was the trend in the U.S.A.? Again, I give figures on page 11 to 13, I list all the States in the U.S.A. and if you just look at the figures there for the largest district and the smallest congressional district in each state, it jumps out of the page how unequal those constituencies were back in 1960. I do not have to read them out, you just have to look at some of them and you can see the vast discrepancies in proportionality. So the States, by constitution, had to be equally represented but within the States they made up their own rules and my goodness, was it unequal. Then I refer Members to page 14, 15 and 16 where I list what the situation is now in 2008 and you run your eye down the right hand side and there is hardly a single double figure, 3 per cent, 2 per cent, 5 per cent, 8 per cent, 5, per cent, 6 per cent, 7 per cent.

[14:45]

That is 8 years after the census with all the population changes in between. In fact, at the census the figures are almost exactly proportional. In the U.K. there is the same trend from disproportionality to proportionality. In the U.K. in 1944 the target was 25 per cent either way, in 1972 they adjusted the rules because the Boundary Commissions were having difficulty and the Boundary Commissions that year got within 10 per cent of the electoral quota in most areas. Now there is a proposal by the new Government and it is on page 19, to reduce the deviation to 5 per cent. It is in bold in the middle of page 19, the Bill will require the Boundary Commission to set new constituencies within 5 per cent of a target quota. Just 50 years ago 25 per cent was good enough and it was flexible. Now it is 5 per cent, not flexible. The only 2 exceptions Alderney and Shetland and the Western Isles. Well, St. Mary might be an exception but we are not offshore, not yet, we are part of the same land mass. So I think that trend, 25 per cent, 10 per cent, 5 per cent and in Germany 25 per cent to 15 per cent, 33 per cent to 25 per cent, and the Bermuda example I quoted where all the seats are within 5 per cent of target. So fair and equal representation is what happens everywhere else. It is the target everywhere else. I think that there is a point to be made about our international reputation and I notice that this is mentioned in P.9, which we are going to debate later about accepting the new symbol of the red crystal as a symbol of the red cross, and in there we are told that this will do good to our international reputation. In P.10, which we are going to debate later about banking and about auditors, in there is a phrase about international standards and whether we like it or not Jersey is now a player on the world stage as we can see by the fact that 2 of our Ministers are now in countries unknown, I think it is Abu Dhabi at the moment. We sign up to international conventions on marine pollution, quite rightly because the responsibility for the sea is that of all, and on human rights we sign up to international conventions, our voting system is or will become an embarrassment. So much for fairness. The other function of a voting system is that it delivers a verdict and again in nearly all modern democracies - I am not going to make a generalisation, I have not looked at this carefully - but I would suggest that in most modern democracies this is what happens, that when you have an election you decide on who gets to govern you. A member of the public said to me as I was preparing for all this, he said to me: "I do sometimes think it is not worth voting, it is just a waste of time, it is not going to make any difference." That was not from someone who wants to be put off the electoral process, it was from a politically interested retired worker from the finance industry. He also said: "Many of my friends have come to that conclusion, they do not vote, I still do." So he has not lost hope, but I think we need to listen to that cry quite carefully because he is telling us something very important. There should be a link between the vote or votes the voter casts in the polling booth and the end result that matters most to voters, which is who gets to have decision making powers in their jurisdiction. But in Jersey, as things stand, the public does not vote the Government in or out and this weakens the mandate of Ministers and the Chief Minister. They cannot tell the world honestly that they or their colleagues have won the election. They do not have direct legitimacy from the voters.

**The Deputy Bailiff:**

Deputy, are you now speaking to the amendment, because we will come to that later on.

**The Deputy of St. Mary:**

I am sorry, I thought that the amendments to my own proposition you had suggested to me that I should speak to them.

**The Deputy Bailiff:**

All except the first one.

**The Deputy of St. Mary:**

But the first one and the second one address the same issue.

**The Deputy Bailiff:**

The first one deals with ...

**The Deputy of St. Mary:**

I am sorry, they are 2 different paragraphs because the second part of the amendment, part 2, refers to the terms of reference and part 1 refers to paragraph 1 of the proposition. But they make exactly the same point.

**The Deputy Bailiff:**

It sounds as though you were addressing amendment number 1, which deals with the make up of the States including the Executive, the Chief Minister, Ministers, and Assistant Ministers, if I have not understood that correctly then I will withdraw it.

**The Deputy of St. Mary:**

Yes, the effect of adding that phrase is to cover exactly the point I am now addressing as you rightly point out and ...

**The Deputy Bailiff:**

So we are not discussing that amendment yet?

**The Deputy of St. Mary:**

I am sorry, I do not know how you refer to these but number 2 in my amendment, which you suggested I take as part of this opening speech, because I was amending my own proposition and no one has challenged it, should be taken as part of the speech and the first part of my amendment refers to exactly the same area.

**The Deputy Bailiff:**

I am sorry I interrupted you.

**The Deputy of St. Mary:**

So, direct legitimacy, the Chief Minister and the Ministers do not have that. This is a very strange and unusual situation in modern democracies. Could it be that this gap and disconnect between the votes cast and the end result is one reason for the voter apathy, which we all know to exist and which we all agree is so damaging? So I suggest to Members that the voting system we have at the moment is not fit for purpose and it needs to be brought into the 21st century, it is not fair and it does not allow voters to deliver a verdict and secondly we cannot do this ourselves. I would now like to take Members through the proposition itself and obviously with direction from the Chair there will be some adjustments as I go along. But if Members want to turn to the proposition and just look at it paragraph by paragraph, of course I have dealt with a lot of it already. The very first sentence, paragraph (a): "To agree that an independent Electoral Commission should be established in Jersey to investigate and report on all aspects of the composition of the elected membership of the States Assembly and the election and voting processes." The point to be made here, there are 2 words there that matter: one is "independent" and the other is "all" - all aspects - comprehensive

and independent. Independent is obvious, the Commission has to be credible, it has to achieve acceptability and there will be obviously debate on paragraph (c) when we come to that about the form the Electoral Commission should take, so I propose to make all my remarks on the form of the Electoral Commission and this issue of credibility and independence under that heading when we come to that amendment from Senator Shenton. The second point is comprehensive, it has to be comprehensive. The piecemeal approach that we have seen for 10 years has led to hours and hours of debate, more heat than light, and the linkages get obscured. A case in point is the recent debate on Senators where we went from 12 to 8, and there was the fact that we have chosen to reduce the only class of Member, which at the moment is truly proportional, the class for which most people vote and the class of Member we know to be most popular with the public. Now, I do not want to revisit that debate, I am just saying that is a result of the way we have tackled these amendments one by one. But I do maintain that this has raised questions out there about whether the decision was properly reached and the piecemeal nature of how we make these decisions. The Commission has to be comprehensive, there is no point in looking at this aspect or that aspect of our electoral system. To attempt to do so reignites all the old accusations about vested interest, so that is why that first sentence is there. Paragraph (a) continues with the guiding principles of the Commission to be firstly the need to secure the greatest possible acceptance by the public of any new arrangements proposed. I think that is pretty well *ça va de soi*, as Deputy Tadier would say. It is self explanatory, acceptability is integral to the success of this whole enterprise, it is obvious that the public must approve this voting system and we will go there with a referendum. On the referendum it is necessary to endorse or reject any proposal resulting from the review and the existence of such a referendum is the guarantee of a robust and fair process and that is why this acceptability thing is so important. It is not us in the last analysis; well it is us in the last analysis who will decide because that is the nature of the game, but I want the public to be the driver of this whole process and to tell us, after lengthy discussion and debate, what they would be happy with. If I can refer Members to the addendum, page 26, where I have copied what P.P.C. said about referenda in their P.72 report of 2009. I just want to highlight the need for a referendum and how important it is. They say at the end of their first paragraph there - 9.1 - they say that it is difficult to see what more important issue there is that could justify the holding of a referendum than the composition of the Assembly. Amen to that. Then they say at 9.2: "Although no referendum is legally binding under the terms of the Referendum (Jersey) Law 2002 P.P.C. has proposed in this proposition that the States should agree in advance [I underline that, that the States should agree in advance] that no proposals agreed in principle by the States will be implemented unless they are supported by a majority of those voting in a referendum." What they are saying there is: "We will not do it unless the population agrees with what we are suggesting. We will respect your rejection." I have spoken to the Attorney General, he will correct me if I am wrong, but what P.P.C. were offering there was by way of a political commitment, a political commitment that they would respect the electorate if the electorate said no. I want to turn that on its head and say that in my view that we should say to the public quite clearly: "We will go with what you tell us, provided there is a good solid majority in favour." I mentioned 60 per cent. So that is what I would like to say on the subject of the referendum, and I have no doubt that topic will return. Going back to the proposition (a)(ii), the need to ensure that the views of the electorate are reflected as effectively and as fairly as possible in the make-up of the States. I have covered that in the remarks I have made so far about fairness. But the amendment is that we add as fairly as possible in the make-up of the States and of the executive, namely the Ministers, the Chief Minister and the Assistant Minister.

**The Deputy Bailiff:**

The amendment I am not asking you to speak to at the moment, we are going to come to that in a minute.

**The Deputy of St. Mary:**

Well, that will be interesting because when I get to the terms of reference I will be covering exactly the same ground, but then that will be all right and then I can refer back. So if we go then to paragraph (b), I am asking the States to approve the terms of reference of the Electoral Commission as set out in appendix 1. On page 7 we have appendix 1, which is the terms of reference suggested for the Electoral Commission.

[15:00]

The first item is what the Commission would look at and I have deliberately made it inclusive. I think that covers everything and indeed there is a bit saying all other issues arising in the course of the work of the Commission. So they are able to look at the entire electoral process. However, on the fifth bullet in the second amendment I have amended that not to read “the election process” but to read “the functions of the electoral process”. That is intended to cover the fact that one of the functions of the electoral process is to cast a verdict on the Government, to say: “Yes, we liked what you did, yes, we would like some more of that please.” Or: “No, we did not like that, can we have a change please?” That is not otherwise included in the terms of reference or not explicitly and so I have amended the terms of reference to include that notion. So are we saying that there will be a separate debate on paragraph 1 of my amendment?

**The Deputy Bailiff:**

Yes.

**The Deputy of St. Mary:**

That is fine, we will come back to that. Right, proposition paragraph (c) is to agree that the Commission should be comprised of a chairman, 2 other members from outside the Island and of 3 Jersey residents, all with relevant skills and experience. Sorry, I have been thrown, we should still be on the terms of reference, I apologise to Members. The terms of reference, page 7, because of this thing about the 2 amendments. So terms of reference, the second one, the views of the public should be sought and views taken into consideration, formal meetings and hearings and so on is self-evident and how the Commission should run in public unless there is a good reason not to. The third item of the terms of reference is that they shall review existing studies and research and conduct further research as it sees fit, again I think non-controversial. The fourth term of reference which is subject to amendment is that the Electoral Commission shall put forward one or at most 2 complete packages. Sir, should I speak to this now or will this be taken later?

**The Deputy Bailiff:**

Yes, you should speak to it now because this is part of the amendment 2, which is being taken with the main proposition. In other words, you are proposing an amendment, which you have put in your first proposition, namely in paragraph 2(ii). You have your amendment?

**The Deputy of St. Mary:**

Yes, I have got the amendment here. The second part of the amendment has 2 amendments to the terms of reference and one concerns the functions of the electoral process, which I have already covered, and the second concerns the way that the Electoral Commission would suggest one or 2 packages. What I am wanting to know is whether that should be talked about now?

**The Deputy Bailiff:**

Yes, because when the Greffier read the proposition as amended he read this particular paragraph.

**The Deputy of St. Mary:**

Fine, okay. So the paragraph 4 then of the terms of reference suggested for the Electoral Commission as amended are that the Electoral Commission shall put forward a complete package of how the elections to the States should operate in Jersey with this package being capable of commanding the support of the public. So that is their job, they have to come up with a complete

package and they only do not do this, they only desist if in all conscience they find themselves unable to do so. Well, I sincerely hope they do not reach that impasse but I have allowed for it. So that is the terms of reference as proposed in this proposition. So now turning back to page 2, which is the proposition, paragraph (c) the construction of the Electoral Commission, should it be comprised of a chairman and 2 other members and 3 Jersey residents, that is subject to amendment and will be debated later. Paragraph (d) is I think, and I hope, non-controversial; it simply says how this would be taken forward if the proposition is carried, requests the P.P.C. to take the necessary steps with oversight from the Appointments Commission of the membership of the Commission for subsequent approval by the Assembly. So I think that is clear and self-explanatory. I do not think any other body would be properly there to do it and the Appointments Commission is the body that we ask to help us in these matters. Paragraph (e) is about the referendum and I have to speak to this as amended. So what the amendment has done is simplified to one package, excluding mere administrative matters, the States shall put the option to the electorate in a referendum and they will agree that they will not take this matter further unless it is supported by 60 per cent of those voting in the referendum. The 60 per cent is there because it is really important that the public give us a clear steer and that we do not have the opt-out of saying: "Well, this is a bit 50/50 and so we can stall so we can not take the view of the public." But 60 per cent, it would be very, very hard for a States Assembly to ignore that. Now, arising from a conversation with the Attorney General earlier this morning, I would point out that all this is in the life of the next Assembly, the setting up of the referendum in 2012 following the recommendation of the Electoral Commission. The Act would be written by the next Assembly, they would be able to tie themselves to this 60 per cent in some way, just as P.P.C. tied themselves down in P.72 and in my view quite rightly. So that is as much as I think I need to say on the referendum, I think the principle is pretty clear. Finally, paragraph (f): "To agree that the Electoral Commission shall be appointed no later than 30th September 2011 and that it shall be requested to endeavour to complete its work no later than the end of 2012." I need to explain this timeline and I think it is a very important timeline. The first deadline is the end of September this year and the reason for that is that we need to finish the job in this Assembly and not let it drag on to the next because otherwise we will have this debate again, which would be great fun of course, and there is no reason for delay and if we did delay that would have a knock-on, on when the Electoral Commission did their work, which would make it impossible to implement any changes that they recommend and that the public decide and that the States then implement by the next election in 2014. It would be impossible. If we get the Commission set by September, appointed, and they start their work in January, they can report by the end of the year and then it is possible to put the changes in place for the next election, which is the first general election, and that is I think a goal well worth pursuing. So that is why that timeline is specified, and again I think there is an amendment which relates to that and we can deal with that when we discuss the amendment. Finally, a few words about cost because cost is always a matter of concern. Where does the £250,000 sit? I must say I am a little bit ambivalent about talking about costs when you think of the value of what we are talking about. But there we go, I think it is an issue that will raise its head so I want to make a few remarks and it will influence the debate on the make up of the Commission. Do we go for all local, which of course is cheaper, do we go for 3/3 as I suggest, and is cost a factor or is it more important just to decide which is the best way to do this so we get it right? I have a few examples here of the way that we spend money all the time. We are going to spend £1 million on the sex offender's register and all aspects of that, we spend money on helping young people to make better choices in their lives; Alzheimer's, only a couple of days ago in the paper there was the Chairman of the Alzheimer's Society saying: "We will have to invest to give older people a better life." All these are ongoing, they are ongoing, they are what we spend money on all the time and you are talking way over this sum. But this is a one-off, it is an investment whose time span is like cedar fences, many years. Verita will cost £750,000, like other Members I challenged this, but again it is an investment and it is seen as such. Somebody would have had to do it because of the state of our health service and the challenges it faces. That £750,000 we hope

will improve how the entire health service functions and how to get the most out of highly-trained staff, how to ensure quality of care, how to get the best use out of buildings and how to reduce costs. That is an investment, a one-off in the future of our health service. This is an investment in something different, the way our democracy works, whether our people feel connected, whether they feel in control and I would put it to Members that £250,000 is a good investment. I would remind Members of just 2 things; one is that on page 25 where I list all the number of hours we spent debating this issue the cost of just the debates is £115,000. Just the debates, that is not including the preparation, that is not including the officers, that is not including the visits, that is not including anything but the sittings. Just remember that, and looked at another way investment in the future, 25 years, the last time we changed our constitution was 50 years ago, but if we take a timescale of 25 years, £250,000, £10,000 a year, 60,000 voters, a sixth of a pound each year, 16 pence we are spending, or I am proposing that we spend 16 pence a year for democracy and I would suggest to Members that it is worth it. I alluded earlier to the pains that Germany went to, to get this matter of democracy right. Many here have direct experience and nearly all of us have second-hand experience of what happens when democracy fails and it is no coincidence that after World War Two, Jersey too, like Germany, remodelled its constitution in 1947 and 1948, or the nearest thing we have which is the composition of the States. Now we face the same task again, to recreate and renew our democracy for the 21st century. I do invite Members to unite behind this proposition, to do the right thing for our Island and to show the courage that I mentioned right at the beginning of my speech and let go of the ball. Just let go of the ball. Allow the public the final say in determining the way they elect us through the mechanism of an Electoral Commission. It is we who serve the public and their needs and not the other way around. I make the proposition.

## **9.2 Electoral Commission: establishment (P.15/2011) – Second Amendment (P.15/2011 Amd.(2))**

### **The Deputy Bailiff:**

Is the proposition seconded? [**Seconded**] Very well, we now come to the first amendment which is lodged by the Deputy of St. Mary and I will ask the Greffier to read the amendment.

[15:15]

### **The Greffier of the States:**

(1) page 2, paragraph (a) in paragraph 2 after the words “make-up of the States” insert the words “and of the executive, namely the Chief Minister, Ministers and Assistant Ministers”.

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

For the record it is the first amendment we are taking but it is listed as amendment 2.

### **The Deputy Bailiff:**

I see what you mean, this is the second amendment, yes, thank you very much.

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

So, as I say, just for the record, when people are researching this 50 years from now.

### **The Deputy Bailiff:**

This is the second amendment with the first paragraph (a) on it, thank you.

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

Good, so we are talking about the first paragraph of the second amendment and it is to add the words “and of the executive, namely the Chief Minister, Ministers and Assistant Ministers”. I have made the point I do not need to dwell on this, it is not just a matter of fair representation it is a matter of how the electorate, when they cast their votes in the polling booth, what that means in terms of who gets to be the Ministers, who gets to be effectively the Government here. At the

moment it is indirect, they vote for Members and then after that whatever happens is down to us and I think there is an issue there, I am not saying how it should be resolved, I am just saying that is an issue, we know it is out there, I have been made aware of it too in debates in the House and that is why I am adding this matter of the relationship of the poll, the electorate and the executive, that is why I am adding that to the second sub paragraph of paragraph (a) and I would like to inform Members that I accept my own amendment.

**The Deputy Bailiff:**

Is the amendment seconded? [**Seconded**] Does any Member wish to speak on the amendment? You seem to have won by default, Deputy. If no Member wishes to speak then I will ask if the appel is called for?

**The Deputy of St. Mary:**

Do I get to reply to my own amendment, Sir?

**The Deputy Bailiff:**

I think you do not. The appel is called for and I invite Members to return to their seats. The vote is on the amendment of the Deputy of St. Mary to add the words “and of the executive, namely the Chief Minister, Ministers and Assistant Ministers” in paragraph (ii) and I will ask the Greffier to open the voting.

<b>POUR: 31</b>		<b>CONTRE: 7</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator A.J.H. Maclean		
Senator B.E. Shenton		Senator B.I. Le Marquand		
Senator J.L. Perchard		Connétable of St. Ouen		
Senator F.du H. Le Gresley		Connétable of Grouville		
Connétable of St. Helier		Connétable of St. John		
Connétable of Trinity		Connétable of St. Saviour		
Connétable of St. Brelade		Deputy J.A.N. Le Fondré (L)		
Connétable of St. Clement				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
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 J.M. Maçon (S)				

### **9.3 Electoral Commission: establishment (P.15/2011) - Amendment (P.15/2011 Amd.)**

#### **The Deputy Bailiff:**

Very well, we now come to the next amendment which is the first part of Senator Shenton's amendment and I will ask the Greffier to read the amendment.

#### **The Greffier of the States:**

Page 2, paragraph (c), for paragraph (c) substitute the following paragraph: "(c) to request the Privileges and Procedures Committee after consultation to bring forward proposals for debate ahead of the debate on the annual business plan 2012 detailing the proposed composition of the actual assembly, its anticipated costs and how it is to be funded."

#### **9.3.1 Senator B.E. Shenton:**

I will be fairly brief in my speech. The amendments were prompted largely after receiving the comments of the Privileges and Procedures Committee, which was received in good time before the debate in order to lodge amendments. What this does is it turns the proposition around slightly. If these amendments are accepted what we will be doing today is saying that we agree with the principle of an Electoral Commission but we would look to sort out the detail and the costings at a later stage. What we have at the moment is the Deputy of St. Mary's concept of what an Electoral Commission should look like and, if I may say, the financial calculations are a little bit woolly and certainly I think there are a few Members that believe that perhaps this could be done in a much cheaper way, maybe through honorary positions, because there are a lot of people that are willing to give their time to the Island. So what the amendments do is they turn it around and basically say we agree with the principle of an Electoral Commission, we will allow the Privileges and Procedures Committee to go off and do some consultation, we will get a firmer figure on the costings and we will bring that forward as part of the Annual Business Plan debate, as it should be, for 2012 and that everything will be done in a much more structured manner. So, as I say, this is quite a straightforward and it just gives this Assembly more time to consider and to have input into how an Electoral Commission should be structured and it removes the concept of the Deputy of St. Mary - and I am not saying that this is not how we may end up, it may well be - that it should be comprised of a chairman and 2 other members from outside the Island and 3 Jersey residents. So I think it just makes the whole thing a little bit more fluid.

#### **The Deputy Bailiff:**

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

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

I think it is only right that I respond to this amendment. I do have some sympathy and certainly when the proposer said that this is, in effect, the Deputy of St. Mary's version and it should be consulted on through P.P.C. I have some sympathy with that view. But I would just like to explain the thinking behind the 3/3 and a plea, because I suspect this will go through, that P.P.C. do look very carefully about the matter and the proposer did allude to it, the cost. We are talking over the lifetime of this investment, we are talking quite small amounts. It looks big because it is a one-off and it is up-front but it is in the nature of investment, and really this Assembly has not got to grips with how we manage investment, particularly how we manage investment in process, which is not the same as investing in bricks and mortar. But I would just like to put some pointers down about this business of inviting people from outside. I just remind Members that in the discussion on education exam results I read a comment about the importance of external inspections of schools, the schools are inspected from outside and that is why we can have more or less confidence in them. Of course we set up those inspections so that we have confidence. The V.S.S.E. (Validated School Self-Evaluation), the V stands for validated, that means someone from outside, and I would just remind Members of that, remind Members that we chose to have someone from outside to look at the suspension process of the former Chief Officer of Police. That was inevitable, it had to be a



pair of eyes from outside. There are possibly other ways of doing it, there is peer review, there are expert submissions, and so on, but I just want to make that plea that I do not think we can have the appearance and the robustness of a really impartial process if we have no outside input. Just a couple of examples of the sorts of pitfalls, the sorts of minefield that we are looking at, in the Fifth Republic there was a little bit of gerrymandering carried out by the Gualleists. What they did was they divided cities in wedges like a cheese, they probably sold it on that basis: "Look, it is like a cheese." But the effect of drawing these wedges into the middle of each city was to destroy the Communist party in one go because the little bit of the wedge in the middle, which was where the poor people vote who might vote red were outweighed by the nice leafy bits on the end of each wedge and it was pointed out to me by the person that I was discussing this with that most drawings of districts in towns are blobs, and they are blobs because of the associations of the people who live there. So in Norwich, which I happen to know, Nelson Ward is the people who have a community of interest, of course it is like that, it is the same with our own Parishes. So I am just saying there are pitfalls that we need to be aware of and that we might fall into if we do not have outside expertise bearing on this issue in some way or another. I have read in full the paper on the Bermuda redrawing of the boundaries, and there it is really quite technical how you use different devices to get proportionality and yet respect the existing boundaries. It is very difficult to do. Some of the more technical passages in a House of Commons document from which I quoted in the addendum, it is not easy and I do urge Members not to think that we necessarily have the expertise on the Island. So I think I will reserve which way I am going to vote on this but I look forward to what other people have to say.

### **9.3.3 Deputy R.G. Le Hérisier:**

I do take on board what Deputy Wimberley said, I have received an email and I think he has been in fairly intense correspondence with this person. It basically attacks the 2 points, say that they should be outsiders, experts from England they are called in this email, and that it should go ahead at such a huge cost. There are 2 main reasons why I think this aspect of his plan is wrong and he had the audacity to tell him so, he says. Firstly, it is highly unlikely that anyone in England can have any idea how this Island is governed. [Laughter] Because a lot of people on the Island, of course, suffer from that problem as well, and even less likely that they can comprehend a voting system that allows voters 6 equal votes. It is a mathematical absurdity. I think part of the problem is people look to Clothier and of course it was, as I recall, a 3/3 thing and I think a lot ... 4, okay, but I think the feeling was that it was fairly useful because it brought both perspectives to bear. But of course we could have Senator Shenton's idea in that you do not have to employ outsiders, or have them as full-time members, you can bring people in who can analyse electoral systems for you, that is what Deputy Wimberley is after, who can tell you these are the implications of adopting this system or that system or whatever, and I know he is in correspondence with people who are talking with him about those very issues at the moment. So I think it is quite possible to have a body which is consisting of local appointees but can draw in outside expertise as and when required to do the figures, as I say, or other things.

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

Yes, I would be remiss if I did not stand up on this one, given the Deputy of St. Mary's suggestion that we have blobs of electorates with different views or whatever, in my case I suppose probably because of my family. But what he does not realise, my family is that much bigger even in St. Lawrence although the poor Deputy of St. Lawrence, Deputy Noel, is not here today he is also a member of my family, as are probably one or 2 others here. [Members: Oh!] I see the Constable of Trinity nodding his head because his son is also a member of my family, and it goes on. But I do not think that blob that the Deputy of St. Mary was talking about does affect us, whether we cut it in a wedge or not. I believe I get elected because I do what my people like, like the way I operate. So, therefore, I believe the Deputy's point in my case, or generally, does not hold water and, therefore, I think there is merit in what the amendment is saying.

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

Just a question for the proposer of the amendment, it seems to me while we are discussing his first amendment to paragraph (c) his second amendment to paragraph (f) is contradictory and I just wonder if when the proposer of the amendment sums up he can explain the procedure.

[15:30]

If we approve (c) at the moment, as I read it, the P.P.C. will be instructed to get cracking and come back with proposals that could be included in the Annual Business Plan debates, which will happen in September. The alternative which is to come, and perhaps the proposer can explain, does that not mean 18 months' time in September 2012, and so the process would not start until after that Business Plan debate in September 2012. I may have misinterpreted this, if the proposer can clarify this when he sums up - the difference between the 2 amendments that he proposes - I would be grateful.

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

Can I seek clarification now because I need to know in terms of what I have just said and also which way I am going to vote? I read this meaning Annual Business Plan 2012 debate happens this year. That is what I am assuming.

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

Yes, the Annual Business Plan 2012 does happen this year and a fresh series of costings might be put forward, that is if the present P.P.C. has the time and energy to devote to it. Whether or not the proposer's intention was already to stick here something in the spokes of this wagon before it got rolling, I think he effectively has done so. This is the first stage that could produce a delay and may produce a delay and slows the whole process down so that by the time we are getting to 2012 perhaps the whole thing has drifted to a slow shuddering halt and a new House says: "Oh well maybe it was not such a good idea, we will drop this idea." This is the first way in which we might slow the whole process down and keep it from becoming a reality I think, so I will be voting against this amendment.

### **The Deputy Bailiff:**

I call on the proposer to reply.

### **9.3.7 Senator B.E. Shenton:**

We will be debating in September the Annual Business Plan for 2012 and allocating funds to be spent in 2012. They can be spent from 1st January 2012. The Deputy of St. Mary's propositions ask for the works to be completed no later than 31st December 2012 so even if the money is allocated in 2012 they have got 12 months to complete their work. I think this is the way that we should, as a House, do business. First of all we are asking for the Privileges and Procedures Committee, which is the committee charged with this job of work, to consult with all Members. The Deputy of St. Mary has not consulted with all Members, this gives an opportunity for every Member to put their input into how the Electoral Commission should be formatted. It also allocates funds on a proper basis in 2012 in the Business Plan and makes sure that we are all aware of the funding consequences. From my own point of view as chairman of the P.A.C. (Public Accounts Committee) we had a most disgraceful debate a few weeks back where we voted money to a Committee of Inquiry when we had no absolute idea whatsoever of how much that Committee of Inquiry was going to cost, and indeed there was an amendment by Deputy Tadier that said that there were no financial implications to an amendment that had enormous financial implications. Now, all this amendment is basically saying is should States Members be allowed to consult on the construction of the Electoral Commission or should we go with the Deputy of St. Mary's concept, and should we do it in a proper structured way where we allocate resources during the Business Plan. It is as simple as that and I would ask for the appel.

**The Deputy Bailiff:**

The appel is called for, I invite Members to return to their seats. The vote is on paragraph 1 of Senator Shenton's amendment.

**The Deputy of St. Mary:**

Sorry, I was distracted, may I ask a point of clarification to the proposer which is quite important. He referred to the word "consultation" and qualified it by saying consultation with States Members. I had understood the meaning of this amendment to be consultation with the public and States Members, would he please elaborate?

**Senator B.E. Shenton:**

The Privileges and Procedures can consult with whoever they so wish, and I would imagine they would consult with as many people in many walks of life as possible.

**The Deputy Bailiff:**

I invite Members to return to their seats, the vote is on the first amendment of Senator Shenton and I ask the Greffier to open the voting.

<b>POUR: 37</b>		<b>CONTRE: 7</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy J.A. Martin (H)		
Senator B.E. Shenton		Deputy G.P. Southern (H)		
Senator J.L. Perchard		Deputy of Grouville		
Senator A. Breckon		Deputy S. Pitman (H)		
Senator S.C. Ferguson		Deputy M. Tadier (B)		
Senator A.J.H. Maclean		Deputy T.M. Pitman (H)		
Senator B.I. Le Marquand		Deputy M.R. Higgins (H)		
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				

Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

#### **9.4 Electoral Commission: establishment (P.15/2011) - Second Amendment (P.15/2011 Amd.(2)) – Amendment (P.15/2011 Amd.(2)Amd)**

##### **The Deputy Bailiff:**

We now come to paragraph (e) of the proposition and there is an amendment also in the name of Senator Shenton and I ask the Greffier to read the amendment.

##### **The Greffier of the States:**

Second amendment, amendment: in the substituted paragraph (e) for the words “shall put the” substitute the words “shall take into consideration the wishes of this Assembly which is that they should put the” and for the words “and to further agree that this option shall not be pursued further by the States unless it is supported by at least 60 per cent of those voting in the referendum” substitute the words “having followed the procedures laid out in the Referendum (Jersey) Law 2002”.

##### **9.4.1 Senator B.E. Shenton:**

It seemed to me rather perverse when I read the proposition that we were saying that we should give the Electoral Commission a free hand in independence in deciding how they should come to their conclusions and then tying their hands by saying that they shall put the options to the electorate in a referendum, so we are telling them what to do, or in the case of 2 options, and we are also telling them that it should be supported by at least 60 per cent of those voting in the referendum. If the Electoral Commission come to these conclusions then so be it, that is fair enough, but I do not think it is up to this House to say: “Go off and be independent but by the way you must do it this way.” It is slightly perverse. So what this amendment does, it takes out the words “shall put the” which takes out the word forcing them to take action and just puts in the words “shall take into consideration the wishes of this Assembly” which I admit is a little bit woolly but it does stop them being forced to take an action by this House. It removes the 60 per cent requirement because I think that is something that they are going to be set up to look into and come about to their own conclusions, and obviously following the procedures laid down in the Referendum (Jersey) Law this was an item picked up by the Privileges and Procedures comment that it should be included within the proposition itself. So all I am doing here is saying give the Electoral Commission complete independence to go off, do their consultation, come to their own conclusions and let us not, as an Assembly, put any words in their mouths.

##### **The Deputy Bailiff:**

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

##### **9.4.2 Deputy J.A.N. Le Fondré:**

Just briefly, although I supported the Senator’s first amendment on the financial side I have to say I do disagree with this particular amendment. I would have thought the States was anyway bound by the Referendum (Jersey) Law, in other words that aspect is probably irrelevant. But I have to say all this is doing is laying a minimum threshold by which the Commission is going to operate and that is saying that if the Commission - I am looking at the proposition as presently amended - recommends a package of election reform then that is one threshold that they have got to get through and that they are happy to propose it, the States will then put that option to the electorate in the form of a referendum. But what we are saying is that the States are not bound to accept the results in any shape or form but what it is also saying is that the States will not accept that option if less than 60 per cent of people have supported it. That, to me, is a very sensible way of pursuing it because if we only get a 30 per cent vote on the referendum, to me we are going to end up arguing

among the results for years on end, which we probably will be anyway. So I have to say that I will be voting against the amendment of Senator Shenton because I think what the Deputy of St. Mary has proposed in his amended version is probably more acceptable. I will just caveat that I may not be supporting my own proposition.

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

I fear that we are in danger of getting ourselves into the most extraordinary muddle here. There are a number of problems with the amended paragraph (e) in my view if it is not further amended. One of the problems is it seeks to bind a future States, and the States can not bind itself for the future in this way, the next States can decide differently. But a second and more major problem in my view is that if we are committed to a situation of not doing anything unless there is a 60 per cent vote for change then I do not think that there is any conceivable package of reform that would ever get anywhere near 60 per cent and that is the ultimate muddle where we would spend a lot of money on doing something, which we could predict in advance would never achieve anything. But the fundamental problem is that the only matter upon which I think you could get a 60 per cent vote would be on the issue as to whether the number of Members of the States should be reduced. There I think you would get a much higher vote but any other package of reforms that could possibly consist of would be defeated in terms of change, either by people who wanted to keep Connétables in when it was trying to take them or people who wanted to keep Senators when it was trying to take them out or people who wanted to have constituencies when others wanted to have deputies, I do not need to go on any further, we have gone around and around this ground *ad nauseam*. So unless this is amended in the way suggested by Senator Shenton we are in my view tying ourselves into something which could never possibly achieve its result because you could never possibly get 60 per cent. In fact, we have now made it even worse in my view by taking on board the amendment which brought in constituting the executive as well because if the package that is going to be put forward is not just going to deal with electoral reform but also in the way in which the States manages itself, again any package is even less likely to succeed because there will be those voting against it because they want to go back to the committee system, those voting against it because they want to have a Chief Minister who can hire and fire his Ministers in a more centralised control, *et cetera*. One of the problem with referenda in my view, is that they only work where there are perhaps 2 options, yes or no, (a) or (b). Here there are so many multiple options in terms of the make-up of the States, in terms of the make-up of Government and one of the reasons I voted against the amendment adding these things in is because it makes it, in my view, even more impossible to achieve a 60 per cent vote for anything. So I am going to ...

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

Can I ask for clarification, I think the Senator may have got the wrong end of the stick from what it sounds like. I do not think the proposition is saying a 60 per cent turnout is required for the referendum to be valid, it is saying that those who vote one way or the other it needs to be done by a 60 per cent majority. There could be a 10 per cent turn out, as long as ...

#### **The Deputy Bailiff:**

That is not a point of clarification, the Senator is making his speech, if you wish to contradict him you can make your own speech in a moment.

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

I was intending 60 per cent of those who had turned out to vote, not of the total electorate. My comments equally apply to that. So I am going to support the amendment of Senator Shenton for slightly different reasons than those advanced by him, but I do fear that if we allow ourselves to get locked into a narrow process, which goes absolutely nowhere unless there is 60 per cent of those who vote at the referendum, this is a complete and utter waste of time and I do not want to see that.

#### **9.4.4 Deputy M. Tadier:**

I will happily finish my speech, that was not intended to be a speech, I was just trying to be helpful, that is all. But I still think that the Senator seems to get the wrong end of the stick, I mean, I do not see why 60 per cent voting one way or the other is not unfeasible at all, it is very likely that any referendum question, which is a yes or no answer, with a campaign run in the background could easily get 70 per cent or 65 per cent, 62 per cent in favour one way and then 38 per cent the other.

[15:45]

That seems to be a red herring. The issue for me is more one of statistical significance in the sense that 60 per cent may be the correct figure if you have a particularly high turnout so we know if there is, for example, a 70 per cent turnout at an election, for it to be statistically significant you do not need such a high threshold of people voting one way, whereas if you do have only a 5 per cent turnout in a referendum then it is unlikely that say a 52 per cent option one way or the other, a 52 per cent result would be fairly meaningless. So I think that is something that should be looked at, the more people turnout to vote the less you need the percentage to be one way or the other. If there is 100 per cent out of all people on the electoral register 51 per cent would be quite sufficient. But just reemphasise the point, if you had a 20 per cent turnout you might well need a 75 per cent swing either way for it to be statistically significant but that is something which we have experts to decide. I also tend to agree with Deputy Le Fondré insofar as what we are looking at here is that the recommendations will be put forward by the Electoral Commission, and I think we are confusing perhaps the independence of that Commission with what recommendations that they are coming forward with and we are saying it is the recommendations, which the Electoral Commission would come forward with would form the basis for the packages which we put forward. So I think it has to go in that order. I think really we are grasping at straws a little. I think the current wording is the correct wording. I think it is for the States to put forward a package option, but that is based on the independent Electoral Commission and their finding. So, I do not think the 2 are mutually exclusive.

#### **9.4.5 Deputy P.V.F. Le Claire:**

I have been trying to keep up with the debate. It has been quite difficult to keep up with at times. I now know how Members feel when I speak. [Laughter] Anyway, the point I would like to make is that it does seem to me that Senator Shenton's amendment is trying to remove the prescriptive nature of the amendment that exists, if I am not wrong. There would not be anything precluding the Electoral Commission, if it is supported, coming back and recommending that we go this way, if they choose to. It is nonsense really if we say 60 per cent what is wrong with 59 per cent? Unless I am mistaken, and I am sure the Senator can clarify or not, there is nothing stopping the Commission saying 60 if it wants to anyway, but it just gives them that freedom.

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

The reason for the 60 per cent was to bullet proof, as far as possible, what the public vote on the proposal put to them would be. Because if it is 52 per cent, 53 per cent - I think a previous speaker has alluded to this - or if it is near enough to 50/50 then this House will simply curl up into a ball and possibly rightly so. So I have proposed a high figure, but not impossibly high. I do not agree with the Minister for Home Affairs that 60 per cent is an impossible margin. I got 60 per cent when I was elected. It was not many people, but it was still 60 per cent. I am not sure that it is impossible. I think what it does is it puts the onus - and I have always wanted to do this - on the Electoral Commission to come up with something that people want. It is not enough to listen to 20 people who go along to them and shout for one thing and 10 people who shout for something else and say: "Well, the 20 people are right, because there are 20 of them and there are 10 people who said the other thing." No. They have to test what their first idea was. They have to test it again until they find: "Right, this is going to fly." Then you get your real public mandate, from which the States would find it very difficult to turn away. I think that is the key. I would just like to point out to Members a curious divergence between what the Minister for Home Affairs said just now and

what he said in his manifesto in 2008: “Accountability of Government: Ministers should be more accountable to the people of Jersey and to the States.” Amen, to that. Then a few words later: “I do not believe that we can long continue with the present situation in which the people of Jersey have no effective say as to who will be the next Chief Minister and other Ministers.” So I think this matter of saying that because we have now added the function at election, which is to have a say in who becomes the next government. I do not know how it is going to be done. I do not know how it should be done, but it is a vital issue. To say that it is too much for the public to vote on, I am not sure that is correct. So, I shall go with my own view, which I started with. I recognise what people have said, that in fact the Commission can still come back and say: “We think the target should be so much.” But I think it is better that the States set a firm target and that would make the campaign, as I say in one of my proposition reports, really tough. You have to get out there. You have to convince people this is the way to go. After the whole process is finished, done and dusted, there is a majority of over 60 per cent. The ones who have lost out, with 40 per cent or less, will go: “Okay. Fair fight. We will go with it now.” I think that is where we want to end up. Thank you.

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

Just briefly. Senator Le Marquand has inspired me to say a few words. He said 2 things that stood out. Firstly, that this Assembly cannot bind future Assemblies. Well, I am not sure if I agree with that completely. I know what he means. But, of course, this September we will be debating the Annual Business Plan and this Assembly will be handing over to a new Assembly in late October, November. So, one would assume that there is precedent that the will of an old Assembly is passed on, particularly if it is an area like electoral reform. Secondly, he said something that escapes me suddenly. **[Laughter]** Oh, yes. We will never achieve 60 per cent. I think that is a little bit arrogant of the Senator to say that. The proposal, surely, is for an Electoral Commission to consult and develop a proposal for the mechanism that this Assembly will adopt to represent people into the future. If the proposal is carefully considered and put to people through a referendum and rejected, so be it. I think it is perfectly reasonable to say that if it is a just 52 per cent, 53 per cent-type decision that the future States may have a problem with it. But if at the outset the Commission and the people of Jersey know that if they want to change the way that they are represented they will have to accept the proposals from the Commission by at least 60 per cent. The rules will be clearly defined. I think that is important to make up the rules once the Commission have reported on adopting the findings of a referendum could be quite controversial. I think it is quite important at this early stage to say it will be a referendum, it will be put to the people of Jersey and if 60 per cent or more want to adopt the proposals they will be adopted. Anything not quite there will be an opportunity for wriggle room or, as the Deputy of St. Mary said, for the States to curl up into a ball. I think it is quite an important principle that we establish at this time that should a Commission produce a proposal and it goes to referendum, we expect our successors to adopt it if 60 per cent of more of people who vote in that referendum wish it to be adopted.

#### **Deputy R.G. Le Hérissier:**

I wonder if we could get the Attorney General’s advice on the binding of a future Assembly.

#### **The Deputy Bailiff:**

If I may say from the Chair, it is perfectly plain that the Assembly cannot bind a future Assembly. The adoption of the resolution would have political consequences, no doubt for Members, but it cannot in law bind this.

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

So what is then the position referred to by Senator Perchard, that when we vote on the Annual Business Plan, we put straightjackets round the next Assembly? That is the budget they have to play with. What is the situation?

#### **The Deputy Bailiff:**

A straightjacket is created as a timing matter, but not as a matter of law. Now, does any other Member wish to speak?

**Deputy A.E. Jeune:**

Just perhaps a point of clarification from the Attorney General also, please? Is it not correct (because I am sure I have asked this before) that any referendum is not binding? Thank you, Sir.

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

Yes, it is correct.

**9.4.8 Deputy G.P. Southern:**

One of the admirable things that I respect about the Deputy of St. Mary is his enthusiasm and indeed his faith in human nature. I envy him it, because I am afraid some of mine has been knocked out of me. But I have this vision: after the Electoral Committee has reported and after this thing has gone to a referendum, on the night I am sitting there thinking: "Oh, boy. At last, at last, we have the change that we have fought for for the past decade, ever since Clothier [it seems to me] was in his nappies." And the result comes in and it is 50 per cent to 41 per cent and I collapse in yet another heap **[Laughter]** on an eventful night and weep and gnash my teeth. So I think I will be going with Senator Shenton on this one.

**The Deputy Bailiff:**

Does any other Member wish to speak? Then I call upon Senator Shenton.

**9.4.9 Senator B.E. Shenton:**

I will deal with Deputy Southern first, because it is worse than he thinks, **[Laughter]** because what Deputy of St. Mary has said is the States shall put the options to the electorate in a referendum and in the case of 2 options being put to referendum there should be a third option ...

**The Deputy of St. Mary:**

On a point of clarification, that has already been dealt with and it is gone. It is gone the way of the something ...

**Senator B.E. Shenton:**

It has gone has it? The long and the short of it, the Electoral Commission could come back with these recommendations. But we are giving them a free hand. We are not pre-prescribing anything and we are not saying that 60 per cent should be the number. Personally I think a majority is enough, but so be it. No doubt Senator Perchard will put his thoughts to the Electoral Commission and I will put my thoughts to the Electoral Commission. So all this does is remove the hand-tying of the Electoral Commission and gives them a much freer and more independent stance in which to undertake their work. I ask for the appel.

**The Deputy Bailiff:**

The appel is called for. I invite Members to return to their seats. The vote is on the amendment to the second amendment, lodged by Senator Shenton, and I ask the Greffier to open the voting.

<b>POUR: 33</b>		<b>CONTRE: 8</b>		<b>ABSTAIN: 1</b>
Senator T.A. Le Sueur		Senator J.L. Perchard		Deputy M. Tadier (B)
Senator P.F. Routier		Connétable of St. Saviour		
Senator B.E. Shenton		Deputy of St. Martin		
Senator A. Breckon		Deputy R.G. Le Hérissier (S)		
Senator S.C. Ferguson		Deputy of Grouville		
Senator A.J.H. Maclean		Deputy J.A.N. Le Fondré (L)		
Senator B.I. Le Marquand		Deputy of St. Mary		
Senator F. du H. Le Gresley		Deputy M.R. Higgins (H)		



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

## **9.5 Electoral Commission: establishment (P.15/2011) – amendment (Part 2) (P.15/2011 Amd.)**

### **The Deputy Bailiff:**

Very well, we now come to the final amendment which is in the name of Senator Shenton. It is the second amendment on his first amendment, as lodged. I ask the Greffier to read the amendment.

### **The Greffier of the States:**

Delete the words “shall be appointed no later than 30th September 2011 and that it” and after the words “31st December 2012” insert the words “subject to additional funding being provided in the Annual Business Plan 2012”.

#### **9.5.1 Senator B.E. Shenton:**

When I read the proposition I noted that the Deputy of St. Mary had asked the Commission complete their work no later than 31st December 2012. I was a little bit surprised that he should put in that the appointment should take place no later than 30th September 2011, because this seemed to be quite a tight timeframe. It is even tighter when you bear in mind that we do not debate the Business Plan until September.

[16:00]

So it would make the appointment process extremely rushed. I think with something as important as this, we could ... well, there is an old saying in investments: “Invest in haste, repent at leisure.” I think if we rush into the appointment of the Commission ... no doubt the Deputy of St. Mary will speak and say why 30th September is so significant. I would imagine that getting the right Commission and getting the right people and going through the proper process is more important than fixing a date of 30th September, especially if they have until the end of 2012 to carry out their work. The other thing is obviously ‘subject to funding.’ We have heard from a couple of speakers

to say that there may be a possibility that requires next to no funding at all. But we will have to wait and see what the deliberations are. So it is really down to the Deputy of St. Mary to make a convincing point as to why 30th September... bearing in mind that the Business Plan debate does not take place until September itself. I will put the proposition.

**The Deputy Bailiff:**

The amendment is proposed. Seconded? **[Seconded]** Does any Member wish to speak? Deputy of St. Mary.

**9.5.2 The Deputy of St. Mary:**

I suppose I better rise to the challenge. The reason for the 30th September and then subsequently that the Commission should endeavour to report back by the end of 2012 was to keep it on track that the new proposal, if it makes sense and is accepted by the public and is then enacted by the States, is in place for the next general election. That is the key. We will be laughed out of court. We will be made to look extremely stupid if we do not get it in place for 2014, but dither until the one after that. So, going backwards it is very difficult. They have to start at the beginning of 2012, in my view. You are then looking at a disappointment process. We have now accepted an amendment which means that the debate effectively on putting the Electoral Commission into being is the Annual Business Plan. I agree that that makes the timing very difficult. One would have to take soundings, but without the budget. It is almost a consequential amendment now. So, having accepted the previous one, we probably have to go with this.

**9.5.3 Deputy M. Tadier:**

I think what is happening here, there are many things going on in the background. When Deputy of St. Mary talked earlier about the consent in the Assembly for reform, that is slightly optimistic. I think there has been a slight amount of sea change. But I know from talking to certain Senators - by all means not all of them - they are quite happy with the system as it is. It is not everyone in the Assembly who wants change. There are many people in here who think everything is fine. Clearly we all got elected under the current system, so there must be something good about that system. **[Laughter]** We do not want to risk any new boys or girls coming into the playground and maybe ousting us from that playground, which is what some of the public may think. Although of course we operate at all times for the best of motives. My concern with this is really twofold, I think. The first one is that if we are really serious about having Electoral Commission, we need to get it up and running as soon as possible. If we do not want an Electoral Commission, that is fine, just vote against this. I think we are, again, looking for reasons not to get this started. Realistically, September, although it is not that far away, the elections will come on us very quickly, I think it is important for this to be done ahead of the elections, for the committee to be set up before the next elections. It is March now. There is clearly 6 months. That is clearly sufficient time for this body to be appointed. So I think that argument has to be thrown out of the window. If we are serious about this it can be done, I am sure, in a few months and it can be up and running. I think it is important that it is done before the elections, first of all, because I think this will be a theme at the election anyway. I suspect there are those who do not want it to be any more of a theme at the elections. But clearly I think if the body is set up, it will be good to hear from the public, their opinions on the subject and for that all to be incorporated into the subjects which are being debated around election time. I think this is, if I am honest, a wrecking motion and it is also a procrastination motion, because we do not want to get anything done. We do enough of that in this place already, so I would say let us see where this is going. Hopefully we will adopt and recognise the need for an Electoral Commission, because clearly we are not capable of reforming ourselves or even deciding on whether we want to perform ourselves. I think we should do that as soon as possible. So I will certainly not be supporting this amendment. With regards to the Business Plan, clearly the money will have to come from somewhere. I think that is understood. What we are trying to do today is make a decision, but we do want an Electoral Commission. Let us get it set up

as soon as possible, with the right people on board, who are independent who can make well-thought out judgments and involve the community. I think it is better to do that now. Strike while the iron is hot, would be my message to say to Members.

**The Deputy Bailiff:**

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

**9.5.4 Senator B.E. Shenton:**

This amendment does not change the deadline date. The deadline date stays 31st December 2012. All it does is say why, having voted money in the Business Plan, do we have to set up a... appoint members of the Electoral Commission within a very short period of time. [Aside] [Laughter] I think it is quite straightforward really, to be honest with you, and I think everyone can make up their own minds. I will not speak any more and ask for the appel.

**The Deputy Bailiff:**

The appel is called for. I invite Members to return to their seats. The vote is on the amendment of Senator Shenton to paragraph (f) of the proposition. I ask the Greffier to open the voting.

<b>POUR: 33</b>		<b>CONTRE: 9</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy of St. Martin		
Senator P.F. Routier		Deputy R.G. Le Hérisssier (S)		
Senator B.E. Shenton		Deputy J.A. Martin (H)		
Senator J.L. Perchard		Deputy G.P. Southern (H)		
Senator S.C. Ferguson		Deputy S. Pitman (H)		
Senator A.J.H. Maclean		Deputy M. Tadier (B)		
Senator B.I. Le Marquand		Deputy of St. Mary		
Senator F.du H. Le Gresley		Deputy T.M. Pitman (H)		
Connétable of St. Ouen		Deputy M.R. Higgins (H)		
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

**9.6 Electoral Commission: establishment (P.15/2011) - as amended**

**The Deputy Bailiff:**

We now come back to the main proposition as amended. Does any Member wish to speak?

**9.6.1 Senator B.E. Shenton:**

It was just to point out to the Assembly, subject to having these amendments go through, what we are now voting on is just the principle of having an Electoral Commission subject to funding being found in the Business Plan. That is it. We are not here to discuss how it is going to be constructed or anything else. That will all come back. P.P.C. will consult on it. It should be fairly straightforward. You either want an independent Electoral Commission or you do not.

**The Deputy Bailiff:**

I am not sure, Senator, that that is entirely accurate. [Laughter]

**Senator B.E. Shenton:**

It was wishful thinking, Sir.

**The Deputy Bailiff:**

The extent of the work of the Electoral Commission is set by paragraph (a) of the proposition and the terms of reference are obligatorily set in paragraph (b) in the appendix. Does any other Member wish to speak? Senator Ferguson?

**9.6.2 Senator S.C. Ferguson:**

The principle of this is fine. But I would remind Members that we have a census this year. I think it would be foolish to start pre-judging the results of the census, which is what we would be doing setting up an Electoral Commission now. If you notice the figures for St. Saviour, the population there has been falling. St. Saviour now comes behind St. Brelade in terms of population. St. Brelade has been moving up fast. So that any allocation of seats, anything like that would be premature when we have to start looking again at the results of the census in order to make for fair representation. I think, perhaps, this is an idea that has come here to the House before its time.

**9.6.3 Deputy J.A. Martin:**

Just briefly. I do not think it has come to the House before its time, after all the amendments have just been accepted. I think Senator Shenton got it in one, and I know the ruling from your Chair is basically if the money is found in the Business Plan. We all have the census reports. I am just waiting to see, because on Hansard - I will not read them out - how many people stood up in previous debates on the Senatorial seats and said: "The only way forward is to have an Electoral Commission." So, as Senator Shenton has said, the principle is either you now still want one or you do not. It is not about dates or times, it is the principle. I am sorry, I hope, as the Deputy of St. Mary said in his opening speech, we have the courage. I have the courage of my convictions. I said that I wanted an Electoral Commission. I said I wanted it looked at, because we are going back over, over and over again. It was a shocking amount of money that we spend in the States. At the moment I am speaking about ourselves. The public are fed up with it. I will leave it there. I really think it is a matter of principle, you either believe what you said before or hopefully, if I do not have to point it out, there will be some very good journalists who can point out who was really up for an Electoral Commission even as short as about 4 to 6 weeks ago and they may be changing their minds. It really has been knocked into the long grass already. Do not fool yourselves. Thank you.

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

I am the Acting Minister for Treasury and Resources, because what I really want to do is point out the financial implications of this, which are set out in the report. As the Deputy of St. Mary says we are really at about £250,000 for this work at a time when the States is committed to reducing

expenditure by £65 million. Now, it is fine to spend £250,000 if we think we are going to get any value for money out of our spending. My concern over this whole proposition, laudable though the intention is, is that it is so widely drawn in terms of reference, perhaps understandably, that the likely outcome, I fear, is going to be a bit of a curate's egg. Good in parts, but not necessarily uniformly acceptable. The suggestion that there might even be 2 options and maybe a third ... neither of those 2, strikes me as being a recipe for spending £250,000 to end up with nothing at all at the end of it. That is something which as a Minister for Treasury and Resources would concern me and as a States Member responsible for being accountable to the public for our spending would concern me. I do want to see some sort of independent review for our electoral process and I am a bit torn in that respect. But I do think that with this sort of spending and, to me, unlikely prospect of getting anything positive with results. I am very nervous about accepting this proposition in the way it is currently put before us.

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

I thought I may have already spoken on this. I agree with Deputy Martin and her comments about the Electoral Commission, because I have been calling for one since I came back to this Chamber 2 years ago. The Chief Minister's comments: yet again, we see the Senators not wanting to give way to progress. We have had I do not know how many debates ... I think we were shown ... we have a list among our file here that were given to us this morning by the Deputy of St. Mary which runs into several pages of times we have debated electoral reform. It shows we are not able to reform ourselves, for one reason or another. More recently we have seen 3 debates in as many months on whether we should have Senators in the States or not. I would have thought the Chief Minister would want, on leaving the States at the end of his term of this year, to make sure the right things were put in place. Not yet another fudge. We spend more than £250,000 on many of the things that we do in this House and they go through on the nod. They go through on the nod. The Minister for Treasury and Resources will bring something to the House or his Assistant Minister.

[16:15]

Then they are just voted on. Sometimes with the aid of their BlackBerries, just to bring their Assistant Ministers and others into line. What is £250,000 to put something in place that hopefully our children and grandchildren will not have to tamper with for another 60 or 80 years? In 1948, I do not know what that particular Commission cost, but I am sure it would have been quite considerable, but it gave us some 55, 60 years of solid government; solid government. I want to put a stop to all these small debates that are getting us nowhere, we are getting the wrath of the public. We are getting the wrath of the public. I even get it from across the table at home. My good lady says: "Get on with running this Island, not looking at your navels." For the Chief Minister to be concerned, yes £250,000 is an awful lot of money, but if we can put something in place in the long term for another 50 to 100 years, break that down over 50 years and see what the actual cost is. It will be minimal; minimal. That is where I would have been hoping that the Chief Minister would have been coming from, not burying his head in the sand. Because the comment he gave: "Let us look at some other way" and we have tried all the other ways and we cannot get sufficient Members to agree. We need to be told from outside how to do it and then the one debate and either adopt it or otherwise. I cannot agree with the Chief Minister. I can agree with Deputy Martin, they are the only 2 speakers apart from the proposer who have spoken and at this time I will reserve the way I vote, but I do know which way I am going, but I do not want to influence anybody else, Chief Minister. Thank you. **[Laughter]**

#### **9.6.6 The Connétable of St. Mary:**

I do wish to state though that P.P.C., when we considered the initial proposition of the Deputy of St. Mary, did say that there were political decisions to be made and I speak not as chairman of P.P.C. but in my own right. Just simply to give my own experience, having brought so many packages of reform to the States myself and how I see things going. I agree certainly there are

inequalities. I do not agree with the reasonings that the Deputy of St. Mary put through in some cases in his report. I think it is very true that you can make statistics say what you want them to say and I think certainly again that has happened. But I do agree with him that there are inequalities, that is not in question. What I have concerns with, and I made my point of view clear in the earlier debates when I said something like we were going into *Harry Potter and the Electoral Commission*. An Electoral Commission is not a magic wand. I find it hard to conceive of any combination or any different groupings of possible reforms that have not been considered already in one way or another, either on the floor of the Assembly, in propositions that have been withdrawn, in outside bodies, in letters in the media, *et cetera*. It has all been thought before. What the crucial difficulty is is getting this Assembly to make the right decision. Usually when a Parliament goes to the Electoral Commission it has made the decision of where it wants to go, but it needs the assistance of the Electoral Commission to find the right way of getting there. For example, in the U.K. recently the Parliament has passed the U.K. Parliamentary Voting Systems and Constituencies Act. That has had a number of consequences, it has reduced the number of M.P.s (Members of Parliament) from 650 to 600 but it has also brought into question where the constituency boundaries will be, and that element has been passed to the Electoral Commission and they will report back and assist the Parliament with that. The Parliament knows where it wants to go, it has made a decision and is now asking for assistance in getting there. We have not made a decision, we are just saying we do not like where we are. That is not really, necessarily, the best direction to head off with. I firmly believe, as I say, that the difficulty is with the Assembly. The Deputy of St. Mary said there were a couple of things that we had to agree and that one of them was that we were incapable of reforming ourselves, and I think on the contrary, the only people who can get the reform through are the States Members and I think the States Assembly are the ones you have to convince. I fundamentally believe having in the last Assembly come so close to major reform and then having literally a 5 vote defeat on a major reform with the change to large constituencies, *et cetera*, and having brought almost that same proposition back to this current Assembly and having had it heavily defeated just illustrates the point that things change from one Assembly to the other with the break-up of the Assembly, and I fundamentally believe that if an Electoral Commission is the way to go - and I am yet to be convinced of that - that the only way it can ever work is if it is conceived of and its results are acted upon by the same Assembly. The Deputy of St. Mary has said that is impossible but I have checked it out and it is perfectly conceivable, although there would have to be a tight timetable for consideration for the new Assembly to establish a Commission, say in February of the first year, for that Commission to be set up 3 or 4 months later to allow enough of a robust appointments process, to allow them a year to report for the referendum to happen that year plus a month or 2 months later or even 3 months later and for the results of that referendum to be known and to be brought back and legislation to be put through the Assembly all within the lifetime of that Assembly. I do not believe that it will ever happen that one Assembly will back-up necessarily the Assembly before. Fine, make it an election issue, find out what people are thinking before you elect them, find out which way they are going, but the Assembly must know that the people who will be in it at the end, when the Commission has reported, when the referendum has been held and the legislation is debated, must have the same will and the same driving force as the Assembly that set the whole process in motion. That is my firm belief, because I have been there before, I have been so close and I have been astounded at the about-turn. I believe that we do need to make the changes I have said, I think the inequalities do need to be addressed, not only the inequalities of membership but the fact that people in certain areas of the Island have more votes than others. I think that has always been a question. But all these things are up for debate but I really do not think that the Electoral Commission appointed now will carry forward the new Assembly. I find it very difficult to see how that will happen. At the moment I will need convincing that this is the way to go. Thank you.

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

I have kept very quiet during the amendments because I was really looking forward to this debate, but Deputy Southern talked about weeping on the floor and I just cannot help saying that I hope he has got a very big hanky now, because the way I feel this is going I am going to join him. It just seems once again all the talk of the last few weeks, months, and now when it comes down to it we do not really want change. We certainly do not want our cosy little world challenged, and that is such a disappointment. I mean the Deputy of St. Mary deserves an awful lot of credit, I have told him before his biggest fault is he is too nice, he likes to see the good in everyone. It is sad that that is a fault, but it is in politics. I have been here 2½ years and it is just making me so cynical. We have seen a very tiny but vociferous minority of vested interest create a backlash in recent weeks that does not exist, I think it is only the editor of the local paper and a couple of former politicians, and yet when it comes down to something really important now all the excuses and the wrecking, the backtracking, the obstacles are coming up. One thing I learned from the proposals last week, which was really relevant here, we had talk of going to the Privy Council with an absolute triviality, well maybe the Privy Council, if this is the way we are going, as it looks as if we are, maybe we should go to it and say: “Look, public, we want a proportional form of representation imposed on us” because clearly we are not going to get there through this House. The Deputy’s figures... I have to give him credit because they are really shocking when you look at them in black and white. No one can surely object to that. The objections about money are frankly offensive, I believe, some of the things we find cash for. As the Deputy of St. Mary has pointed out when you analyse this over a period of years it is an absolute pittance for something that will hopefully be in place long after us, our children and grandchildren have gone. Why is it that this issue of cost only rears its head when it seems to suit certain people? It really worries me and I know it worries a lot of other people. Just a month ago everyone was saying: “No, no, you have to have a Commission, you cannot do this, and we must have a Commission.” Now we are seeing obstacles where we do not want any outside influence on the Commission, why do we not just give it to a couple of former Senators and they can decide which way we go and it would certainly suit a few people but it will not suit the majority, and I do not believe for a minute that it will lead to good, effective government and prosperity for the future. The Deputy of St. Mary has proposed something which will give us the chance to have something looked at by independent eyes but which we can all contribute to and I say if ever something deserved some support and if ever something was a possible step to stopping the endless debates on piecemeal reform this is it. Let us do it. What is the problem? Let us not find excuses that do not need to be there. Let us not make comparatively simple things difficult. I will definitely be voting for this, but as I say I am going to borrow Deputy Southern’s handkerchief and sit down now. Thank you.

#### **9.6.8 Deputy P.V.F. Le Claire:**

I do not believe for a moment that we have finished with piecemeal debates and I am certain that we will be debating before the finish of this Assembly the issue of the reduction of Senators yet again. What happens in politics is a certain amount of manoeuvring in relation to what debates get debated when, as we have seen, and there have been arguments on both sides of the House as to whether or not people were using tactics to debate matters or keep us here late or whatever. Certainly it did upset me in the last session when I saw activity to my right from the Council of Ministers that what was happening was that they were trying to put their debate ahead of the Deputy of St. Mary’s debate and I know from speaking to a few of the Ministers, some of them not here today who shall remain nameless, but they will not support this and the political group behind them will not support this. Interestingly the premise of this is what we should be supporting, because importantly as I said I do not think it is going to be the last time we debate whether or not the Senators come back, but importantly under (a)(i) it is the need to secure the greatest possible acceptance by the public of any new arrangements proposed. That is really what we need to focus on, building our House on concrete foundations and not building it on sand. So if the Senators’ thing does come back again, that is fine. But what we are likely to see then is the numbers game reoccur, and this will have been kicked into touch because of the issue of £250,000, as highlighted

by the Chief Minister. Nobody will be talking about the cost of keeping another 4 Senators in perpetuity. Nobody will be talking about the £890,000 a year we spend on compost, which I am going to get to in a few minutes, touch wood. So I think it is simple. It is a case of seeing what numbers today will support this proposition, because without significant numbers, and we talk about percentages, without a significant amount of us willing to put forward to the people an opportunity to have their say, because let us not forget that they could go back and say: "The best thing that we think for the States of Jersey is 12 Senators, 12 Constables, 29 Deputies." Put it to a referendum and it comes back as a 60 per cent majority and we are going to ignore that? No. We cannot ignore that. The way it is made up at the moment is that the Electoral Commission can go away and it can come back with 30 Senators as mentioned by the great speech of the Constable of St. Lawrence the other day, as promised by P.P.C. in previous debates, it can come back with 24 Senators or as I said it can come back with the same constitution that exists today.

[16:30]

But if we are not prepared to put this to the people- for the first time to the people - in a meaningful way, to allow them to have a House that is not built upon sand, then we will be for ever debating this and I am sorry, I did not support Clothier and I did not support a move to Ministerial government in isolation of what Clothier said in its entirety. I was and have been a great supporter and a great fan of Jersey's traditions over the years and we have been bludgeoned because too few of us have been willing to stand up and stick up for ourselves and oppose the use of the media by certain political entities to badger us into doing things which are wholeheartedly bad for the Island's Government. Now Ministerial government either way it seems needs to be decided upon in future considerations, whether it be a smaller committee system or continuing the way we are or a change of the assignments of Ministries. But one thing is for certain, we need to be honest about this. It is a political wrestling situation at the moment. Former Senator Pierre Horsfall was in the newspaper as saying he was disappointed with the result because it showed that only so many Deputies with such a few marginal votes had managed to take the debate and win it, and this will mean a fundamental shift in power to the left. Well, if that occurs what does that mean? We are just 3 miles slightly right of centre. I am a great believer in the capitalist system because it provides the money to provide the necessary social services that we enjoy in Jersey today. If you go around the world there are not many places that compare with Jersey. I have been around the world. We do have an Island to be proud of but we cannot build any pride in the Island until we have courage in our convictions and stand up and let these sorts of things be decided. I am certainly going to support the Deputy of St. Mary who I think has done an excellent amount of work. It would not have mattered if he had spent a month of Sundays on this, quite frankly, from the get-go it was going to be opposed, before they had read it. I am sorry to say the Council of Ministers will not support this in its entirety and although there are a couple of them away today I think it is up to us to give the States our full support behind this proposition because it will give the people their chance to say what they want. If the people come back and say: "We want 12 Senators, 29 Deputies and 12 Constables" then let us give that to them. But I guarantee that we have not heard the last of the Senatorial reduction debate prior to this Assembly's expiration, and once that decision is re-reversed which it will be, because of the numbers, this proposition will be in the bin. £250,000 and it staggers me the amount of money that the Council of Ministers could be saving in all areas, as I said I will get to it in my compost proposition where we are content to spend £1 million on something we are not required to do to underpin some strategy that will not give us any great future. This is very important.

**The Deputy Bailiff:**

Not yet, Deputy. We are talking about the Electoral Commission.

**Deputy P.V.F. Le Claire:**



Sorry, Sir. This is very, very important and I urge Members to consider the political games that are occurring here rather than what is in the print. There is a political game going on here. It is a chess game and this is the piece and this is the play that matters.

#### **9.6.9 Deputy M. Tadier:**

There are a few of us who play cricket here. I am by no means adept at cricket but I know that Senator Perchard, who captains the States Assembly team is, and I thought that the Deputy of St. Mary put his finger on it earlier with his cricket analogy, saying that basically it boils down to a problem of balls. Basically I think he is saying there is a problem with our balls, we have been playing with our balls for too long and there have been allegations of ball tampering and of match fixing over the years, and he is quite right in saying that we need to hand in our cricket ball for examination to the umpire. So we need to be putting the balls with which we have been playing for too long into the hands of somebody else who has got more expertise and who is completely impartial so that he can make a decision on that basis. I think that is very apposite because that is essentially the problem that we have been facing. We get accused of navel-gazing, perhaps we do not always get accused of what I have just said, but it is another way of looking at it. There are a couple of issues here. I think the first ball to bat into touch immediately - to mix my sporting metaphors - is the suggestion of Senator Ferguson about the census, because we will know the results of the census before the Electoral Commission has been established, or certainly before it has completed its findings. Of course it is absolutely sensible to make sure that we base the new boundaries, if there are to be new boundaries, and the whole issue of proportionality when that comes into question must be done on the latest figures. Thankfully we are in a census year so that coincides perfectly. I think that is a reason to do the Electoral Commission as soon as possible while we have fresh figures from the census. I was particularly struck by the comments of the Constable of St. Mary. We know that in her capacity as chair of P.P.C. that she has been working on reforms for a long time and there was talk about a magic wand, but the issue is that as States Members there is both a perception of us being conflicted in making decisions and there is a reality in us making decisions. For all the talk about it has to be decided by States Members, which I suppose ultimately it will be, but that does not necessarily mean we are the best placed to make those decisions and to do the analysis. Certainly as politicians we have to run all sorts, we have to run a hospital, a school; it does not mean that we each possess the individual expertise to be able to run a hospital or to do surgery. What we do of course is we leave it to the experts, we appoint people who have proven themselves to be adept in any one area and we say to them: "There you go, get on with the job" and this is exactly what we would be doing with the Electoral Commission. Of course it would come back to us for us to look at what they have said and that needs to be treated in an even-handed way and to be looked at. I cannot help feeling when I am preached to, it felt like it, about reform and saying: "What we need to do is just discussion because at the end of the day debate and logic will win through", I mean that is clearly not where we are. I think there have been victims of previous P.P.C.s who have been burnt in that way. They know that logic does not work. Even when I tried to bring what I thought were the least radical of propositions just to discuss perhaps the role of Constables in the House in the form of a referendum so that for once the public could get on board in a meaningful way and have their views expressed perhaps even at a Parish Hall meeting, we were told we cannot even have a referendum because we know that the public love this position of Constable. Similarly I do not think that any other position should be outside of scrutiny, so I do take exception when I am talked to about letting States Members debate the issues and let them make the decisions. The only alternative that I can see to an Electoral Commission would be a lot more nuclear, it would either be something like a Royal Commission where we say: "We cannot do this ourselves." We have had Commissions in the past and we have completely ignored them or at least partially ignored the most democratic parts of them and we failed to institute them. Clearly that is an argument which can be used here. There is nothing to say that once we have commissioned this Electoral Commission that when they come back we could ignore it again, but hopefully I have sensed that the zeitgeist over the last few years is moving towards a

position where we realise once we have commissioned these reports at a fair price but certainly from experienced individuals - some locals and some not locals - it is right that we do listen to them and we act on those decisions. So I hope that would be the case here, because the real alternative otherwise is just to petition the Crown or to send in the troops and to set up a military junta which I do not think we are in the position of doing in Jersey. Hopefully we can be sensible about this and show that once we have had an Electoral Commission, if we go for that today, that we are adult enough and autonomous enough to be able to act on those interests. There are various reasons we should do that. As I have said it is partly about perception. How on earth can we send delegates from Jersey to Commonwealth functions and to seminars? I know I went to London 2 years ago, sorry, last year, I would have been in London at this particular time, and we are supposed to be lecturing other countries who are perhaps not in the Commonwealth about the democratic process, when it is quite clear to any right-minded individual that there are issues in Jersey with proportionality, with the amount of votes that any individual voter can get, so depending where you live we know that you might get 4 votes in St. Helier for Deputy. You might only get one vote for Deputy if you live in a country Parish. There is an issue there, there is an issue to do with proportionality, we know that in Grouville at the moment and St. Lawrence have similar populations, it will be interesting to see what the next census comes out with, and they have completely different amounts. I do not need to say this again, it has been well-rehearsed, but St. Lawrence has got twice the amount of Deputies as Grouville even though they have got the same population at the moment. These things are clear yet we have been inert in the last few years in addressing these issues. So clearly it does need to be taken out of our hands and then the ball needs to be given back to us when we have got a bit of a fitter cricket team who can go on and play a fair match on a fair cricket field. I am also minded that we are often told in the States by the Chief Minister that the proposition is widely drawn. Well, of course it is widely drawn because we have just gone for amendments to make it more vague, so it is going to be more widely drawn. On the counter side if it was too specific we would have been told that the Deputy of St. Mary is giving us a straightjacket, so really I think we are looking for excuses to vote against and we have to step up to the plate and start doing something which is positive and not dillydallying. I do want to come back quickly to the quote which was in the *J.E.P. (Jersey Evening Post)* on 18th January, because I think it highlights 2 things. It highlights the issue of perception and it also highlights the fact that in reality we are not always best placed to make these kinds of decisions. But I do have to take exception with part of what was said. I will not quote from the whole of it, but it talks about for example right-wing-leaning Deputies proposing to cut seats which are usually held by left-wing Deputies, then it talks about a couple of Deputies, including myself, and it describes me as a left-leaning Deputy, allegedly, from the country, although I do not consider St. Brelade the country, I consider it semi-urban, certainly my part, proposing to cut seats usually held by right-leaning Deputies from the country. So there is an issue with perception that we are just going to act within our own interests, but the issue here of course is that was not my motivation by any means. My motivation was because I believed that the proposition at the time by Deputy Noel did not take into account the fact of proportionality. He was not counting the Constables as representatives of a Parish and that if we did want to achieve proportionality we needed to redress the unbalance that was there between country and between Parishes. But again we are not the ones who are best placed to do it, simply because we will get accused of political bias. I think I have made the points there, but just to reiterate, there clearly are issues that need to be looked at from a point of fairness, if we are to achieve a level playing field. Those are to do with boundaries, they are to do with proportionality and they are to do with the 3 positions that currently exist within the States. Everybody has their different opinion on that, clearly we have just seen the Senators and some former Senators rallying around, not 100 per cent, but most of them, saying that they are the new Democrats, apparently, because the Senators' position is currently under threat. It will be interesting to see how many of those same Senators will be voting today for an Electoral Commission and how maybe some of those who are not in the Assembly would vote. Because I think as I have said we need to take the ball out of our own hands, we need to throw it to a team

who can do some work and then give it back to us at a time when the rules have been changed so that they are fairer. Remember the rules are there not for us as an Assembly, they are there for the greater good of society so that we can have at least meaningful and fair elections and I look forward to the Electoral Commission, when it does come back with its results, which I am sure will be fair and even-handed.

[16:45]

#### **9.6.10 Deputy R.G. Le Hérisssier:**

There is no doubt that the mood as people have said that was set a few weeks ago seems to have somewhat changed. I think some of the fears about costs for example, it must be remembered that the amendment moved by Senator Shenton has in fact brought the costs into a much more disciplined environment, so to speak. So I do think the Chief Minister is perhaps chasing a red herring. I do wonder when we look at suspension costs and payment costs for staff suspended, costs for staff who have to substitute for staff suspended, we know that they have run out of control. We look for example at the cost to Health and Social Services in 2009, it was £448,000 to pay suspended staff and it was £243,000 to cover them, which is an interesting discrepancy, it should be said. We know in 2009 Home Affairs was paying £209,000 to cover suspended staff and so it carries on. So I do think this is a red herring and particularly if we tilt towards a locally-manned Commission bringing in advice as and when needed, which I thought was a possibility. If we tilt towards that the cost will undoubtedly reduce, so I do not think we ought to be worried. It strikes me that the elephant in the room, and it has been alluded to, is if there is work on the boundaries will it - and this has always been the elephant in the room at reform debates - lead to the inevitable demise of the Parish system? This is the elephant in the room, and I do not think it will. Surely that is one of the questions a Commission will look at. Clothier looked at it and tried to embrace reform within the constraints of the Parish system. Other people, myself included, it was looked at, and larger constituencies, based upon Parish boundaries but the amalgamation of several Parishes was the other solution. In neither case were the Parishes going to be removed, that was not the case. In neither case were boundaries drawn that were going to be totally irrelevant to the structure, so that is an issue that is clearly one of the big issues that will have to be discussed but I think it would be wrong to dismiss a Commission on the basis that it is going to come in and undo the system in that way. It may well say: "You have got to work around the system and you can numerically still carry it off, you can carry it off." So it would be very, very wrong to prejudge it. There is no doubt... and I do remember the Constable of St. Saviour saying in the original debate: "Do not go down this route because this is just going to be Clothier all over again" and I have been thinking about that because it was, I have to say, a powerful point. I think the main justification is the one that Deputy Tadier alluded to; we have proved quite frankly incapable of reforming ourselves. Yes, we have got some incremental reform on the table. Yes, it has annoyed some of our colleagues, we know that, but I believe that the only way to do it will be to bring in an outside view. I wish I could say it will be a eureka moment when they report, everyone will say: "This is the answer, this is the Holy Grail which we have been searching for and it has come forward." I do not think it will work like that. I think the credibility will come from the group of outsiders. The fact that they cannot for ever keep resisting the view, as the Deputy of St. Mary so eloquently said in his speech, that for a proper electoral system you have got to have roughly equal-sized constituencies to have credibility. It just cannot be. But there are different ways of arriving at that answer, and we would be so wrong to allow our prejudices to answer it before a Commission did it. I wish, as I said, it was eureka, but it will not be, but this is the only way to move it forward, it is something that lots of people pinned their colours to the mast to at the last debate and I earnestly hope that all fears about cost, about dismantling of the Parish system, all these fears are laid to rest and the Commission is allowed to get on with its job. These are issues that it will undoubtedly look at and it will have to have robust answers.

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

I think it was 6 weeks ago that we in the middle of debate suddenly found the commitment and deeply held commitment of the Minister for Treasury and Resources to an Electoral Commission. I think it was in response to a suggestion from Deputy Le Hérissier and at that time the Deputy of St. Mary said to me: "Well, what should we do? He is obviously keen on it, shall we let him bring it?" I said: "No, get hold of it, get your structure on it, get your terms of reference, do not let it be wrecked." So we are here today in very short order, thanks to the Deputy of St. Mary, because he did take that as his pace and it is his structure, his terms of reference. I think they are very good terms of reference. So here we are, we wait to see however what that commitment will mean from the Minister for Treasury and Resources and other Ministers and we have already received a hint from the substitute Minister for Treasury and Resources today - the Chief Minister - who says that his enthusiasm is less than 100 per cent to the spending of a mere £250,000. As he said that and he said that some time ago, I was struck by the irony of a man who can decide at the end of his term that we are going to spend over £100 million in one go on a new incinerator when we had planned to do it bit-by-bit, over time, over 20 to 25 years. Boy, could we do with that £100 million now, as I will continue to keep reminding him. That was his choice some time ago, and yet he can cavil at £250,000 possibly in order to restructure our entire electoral system into a functioning and proportional democratic one. I think that shows an extreme short-sightedness which I find very disappointing. I will not go on for too much longer because this is not the real debate. The real debate is sometime down the line when we get to discussing the Business Plan and, boy, then are we going to see the mass troops, are we going to see the forces out about spending possibly £250,000 in order to do this. That is when the debate will really happen. That is when we will see how deep the commitment of the Minister for Treasury and Resources is. Does it run even as shallow as £250,000? Perhaps not. We will see the troops out then arguing against funding this possibility. So we will see it sabotaged before the end of the year, I am sure. Worse still for the Deputy of St. Mary, I would like to sabotage his move as well, but I would like to sabotage it in a somewhat different way. I would like to campaign, and I will be campaigning, for as many as possible candidates to stand on the basis of a commitment to the rest of Clothier, which essentially comes down to a single type of Member in this House. If we can get, by then, 26 Members committed to that then we will not need an Electoral Commission, we can go ahead and pursue Clothier after that over a decade and make sure that we get a proportional democratic system in place before the next election comes around in 4 years' time. That is the way I would be trying to sabotage the Electoral Commission. I hope I succeed and I hope the Minister for Treasury and Resources shows himself properly committed to what he has suggested, the Electoral Commission, and that his commitment and his fellow Council of Ministers' commitment runs deeper than £250,000.

#### **9.6.12 Deputy J.M. Maçon:**

Deputy Martin commented how Members should recall what they have said in this House previously. Of course one thing which I have been known to say in this House is that no system is perfect. Every system is going to have its flaws somewhere along the line. The Commission has been talked about as being a solution to so many of the other problems and that it will give a better representation of how people feel that they should be governed. Of course I recall the Connétable of St. Clement's speeches previously, where he made the point quite clearly that within the Island community there are certain people who hold very different views and that those views themselves can be very contradictory, which indeed has been part of the stumbling blocks that P.P.C. have always battled against, that different people in the Island want very different things and at different times, and ultimately you are going to have to reach a compromise. If you reach a compromise that can be the worst thing that you reach. So just to challenge the Deputy of St. Mary's optimism that this Commission will solve all the problems and we will not go through these debates over and over again, because I come to this fundamental question, what will this Commission do and provide that P.P.C. will not or that P.P.C. does not? Because P.P.C. has had to look at this information, they have had to go through the motions, they have brought different things which as the Chairman or

the Constable of St. Mary has pointed out they brought to the States and one House might be in favour of one thing and then another House might be in favour of another thing. How is that going to be different if we have an Electoral Commission? Also another problem is that ultimately, no matter what is decided, it always has got to come back to this Assembly. This Assembly has got to endorse it. One of my big problems is that gives the opportunity for States Members to monkey it, to once again change it, to bend it to their ways and you have got the problem of vendettas and Deputy Tadier made this point that we must have an independent Commission because that way it removes the accusation of political bias, but ultimately if it has to come back to the States there is always going to be that there. That is always going to exist no matter what happens. I am concerned that if we do adopt this Commission are we paralysing ourselves? Although reform has been incremental we have had some reform. If we outsource it is it possibly just going to wither and die on the vine? We do not know. Also on the issue of cost there is something else to consider, because although the Deputy of St. Mary has highlighted costs and financial and manpower implications, one must also consider of course the work that P.P.C. has to do. If P.P.C. does not have to consider electoral reform that is something out of their workload and therefore that cost goes away. Or does it? Because will this Commission simply be having to do the same work and therefore that cost is there, just in another guise? However, one positive thing, although I struggle with this proposition, one thing that has been included and I think it is important to note, in the terms of reference, it is things such as the voter registration and one of the problems in the fractured system that we have got at the moment where we do not have a centralised voting register is that it prevents things like voting at different polling stations, having the opportunity to be able to go to another Parish, say if you work in St. Helier why you cannot go to the polling station in St. Helier if you happen to live in St. John? Things like that. Whereas the benefit of moving to an Electoral Commission, a centralised function that it is, then that gives the opportunity for that flexibility within the system. So while I am not completely against the Commission I do not believe it is as optimistic as perhaps some Members have portrayed before us. I think there are some good things within it, however I do not think it is going to remove the debate, I do not think it is going to stop all the arguments, I think they are going to rattle on here. I think it has still got to come back here and at the moment I am struggling to support it and I wait for the Deputy of St. Mary to reply. Thank you.

### **9.6.13 Connétable L. Norman of St. Clement:**

Deputy Maçon will be pleased to know that I am not going to give the usual speeches I give in reform debates, as valid as the points I made in those debates are today. I do like to think that over the years I have always supported reform, not just any reform, but meaningful reform and positive reform. That is why I think that today I will not be able to support this proposition, because I really do think that the job the Deputy of St. Mary is asking to be done has already been done. It has been done in a thorough, professional and positive way by the Clothier Review Panel. Now the Deputy of St. Mary belittles the work of the Clothier Panel in his report because, he says, it is 11 years old.

[17:00]

We have been debating reform for the whole of those 11 years, and quite honestly no one - no one - has come up with anything better than the Clothier Panel did 11 years ago. Their report of 11 years ago is as valid today as it was then. Now I do not have a copy of the Clothier Report with me, but just from memory let us just think of some of the good things that Clothier offered us. **[Laughter]** Touché. They offered us a general election, which means all Members elected on the same day on the same basis and for the same term. People understand that. They do not understand what we have got now and they will not understand what we have got in 3 years' time or 4 years' time. But they do understand your general election on that basis. Clothier offered us fewer States Members, something which I believe would be universally welcomed. Clothier offered us a better and fairer representation by having constituencies of similar sizes and that will be welcomed by all the mathematical purists. Clothier offered us an elected Speaker, welcomed or suggested by many

reports in the past. Clothier offered us an Ombudsman, which we have been crying out for, for years. Clothier offered us an Electoral Commission, which could oversee all of the good things which Deputy Maçon touched upon during his speech. All of these good things, all of that work done, all these good things on offer and the one thing we have constantly refused to do, Assembly after Assembly, is ask the public what they think. **[Approbation]** Now if we are going to have a referendum, and I want a referendum, I have always supported a referendum on reform, put a referendum to the public on the Clothier proposals which are positive, workable and meaningful. No one has done the work over decades that those people did and did an extremely good job. Instead of doing that what we have been asked to do is have a referendum on a recommendation which has not yet been made so that we have got no idea what it is going to be, by people who have not only not been appointed but have not been identified. What sort of nonsense is that? We have got the process of a referendum, we have got the Clothier proposals, I am going to vote against this one and hopefully someone will bring back the Clothier proposals and if they get thrown out then by all means come back with a proposition like this, but let us give the people a chance to speak on what has already been proposed.

#### **9.6.14 Deputy J.A.N. Le Fondré:**

I think I am very pleased to follow the last speaker. I did pass some time ago when I thought I was on the list. I agree entirely, or almost entirely, with what the Connétable of St. Clement has said. I was about to refer to him as Senator Norman because I happened to look down the list of Members who made submissions to Clothier and obviously in those days it was the then Senator Norman who was one of the people who made an oral and written submission, and I include myself within those 11 because I was also one as was the Deputy of St. Mary, although we were obviously not Members of the States at the time. Sorry, also obviously the Deputy of St. Martin. The point is I too have exceptionally strong reservations about this proposition as a whole because we have done Clothier and what is different now to what happened 11 years ago? I really do think this is a case of: "Let us just have another Clothier. Let us just have a review. Let us put it back another few years and then let us cherry-pick and argue over it for another decade." There has been reform achieved, in fact to be honest I may be exaggerating but I think the present Privileges and Procedures Committee has achieved in terms of any reform more reform than has been achieved in the last decade. Personally I think that is enough for the time being. Equally, I think we need to agree with Senator Ferguson. We have the Senators coming through and I have to say that one of the comments made in the Deputy of St. Mary's arguments was about perceived need. He spent a long time analysing the present figures of the electorate and the population to demonstrate the inequalities. Yet as a guide, and I know Senator Ferguson is privy to the figures we did and I believe the Deputy of St. Peter was, in about 2006 a group of Deputies at the time of the west of the Island and one or 2 Constables, came together to try and identify the number of new households that had been achieved in a limited number of years. Obviously after the census in about 2006 or 2007 and at that time on a very *ad hoc* basis we identified at least another 1,000 households. If we are saying now that the population is expected to be I think around 92,000 people and the census in 2001 which I believe the Deputy of St. Mary has based his figures on is 87,000, then obviously there will have been a shift in some shape or form I would expect in the representation of the various Members. I think it is relevant to wait until those figures come out and to see how that has changed and as far as I am aware the figures will not be released until very late this year, and I believe that is after the elections. I was very pleased to hear the comment about a curate's egg, I think was applied to this proposition. That was exactly what Clothier was described as in St. Lawrence Parish Hall when it was doing the rounds, about a decade ago. I would like to reiterate the comment that the Chief Minister made about cost. I may be losing the plot, I probably am, but I get very concerned when I hear Members starting to say or inferring that £250,000 is an insignificant sum of money. Thanks, give me the cheque. I mean it is a large sum of money and we have to keep exercising prudence in these troubled times. That is why I have supported the amendment of Senator Shenton, because at least that was sensible. So having voted through the

reforms that we have had previously, we have another debate later on this week, I think adopting of this and saying we are now going to have another review is going to send a very muddled message through. What is different between the Clothier Report and the 60-odd pages and all the work that was done in 1999 and 2000 and what we are going to get now? An independent review? That was an independent review at the time. That is what really does wind me up about this type of proposition, a review is held up to be the panacea, the cure of all the ills, of all the debates we have had. I have to say that I think this is an enthusiastic but a slightly naive approach. From experience we have seen Clothier, we have seen what has happened to it. I did not agree with all the contents of Clothier. What is to say that I or whoever is in the Assembly in 2 years' time or whatever it will be will agree with the contents of that independent review? That whole cycle is going to start again. Again, letting go of the ball I think was the comment, but the States are still the ones who decide. It cannot be binding, we have heard that already, so the States will be in exactly the same position as they had on Clothier let us say a decade ago. What is different here? What is different here, we are going to spend another £250,000 to demonstrate the point. There has been talk about a disconnect between voters and the end result and for example I think simplistically that means: "Oh, X topped the poll but he was never voted in as Chief Minister or as Minister X, Y or Z." If you apply the U.K. principle, which is where we tend to end up, that is not what happens over there. You vote for your M.P. You do not vote for your M.P. to be Minister for Health and Social Services. What is going to be different here? Do we see that coming out of the result? I think that is where we need to get a bit of a reality check in what we are expecting. As far as I can see this is this little parrot to say: "Oh, let us delay things more, it might even be an excuse to unravel some of the things we have voted on already." As I said let us blow another £250,000 to redo a review in quite similar areas to what Clothier has already done. I think on that basis I am not prepared to spend that money, I am not prepared to justify that to the electorate and on that basis I am not supporting this proposition.

**9.6.15 Deputy M.R. Higgins:**

I was not planning on speaking in this debate but I feel I must, just simply to record my views. I have to agree with a number of speakers that there are elements of this Assembly who want no change whatsoever. In fact the phrase: "I am all right, Jack" and I am not going to be accused of being sexist: "I am all right, Jill" springs to mind. These Members will only ever speak up if the changes suggested directly affect their own interests and I agree with Deputy Le Claire who said that the rescindment of the decision to lose some Senators will come back in some form. Why? Because quite simply 8 into 4 will not go, because there are at least 8 credible candidates likely to stand and so some of the existing Senators may not be elected. Now I voted for the reduction in Senators not because I do not like them, in fact there are some of them that I like, not all [Laughter] but there are some that I do like. But I voted for the reduction because I think it was the right decision, in the same way that I believe that the representation of Deputies needs to be addressed. There are some Parishes who are over-represented and others are not. I also believe that the role of the Constables in the States needs to be examined, that has lost me 10 people. This House needs to be reformed because in my view it is letting down the ordinary people of this Island. I believe that too many of the laws and policies that we pass or pursue are driven by vested interests in the Island and I believe that this situation will only be changed when we reform the composition of the States. I also believe that Senator Shenton's amendments are wrecking amendments, so that if the main proposition is passed it will lead to elements of the plan being emasculated so the issue will have to be debated again and again by the Assembly and effectively killed off at a later date. I do not believe that this House is capable of reforming itself and I believe that we must pass it on to an independent Commission. Let us stop talking about reform and vote to get on with it. I will be supporting the proposition and I urge Members to put their vested interests aside and support it as well. Thank you.

**9.6.16 Senator J.L. Perchard:**

There is not a lot more to add, but there are a couple of points I would like to make. This House knows only too well it is not very good at discussing its own remuneration and as such I set up a committee and that committee dictates to the majority of Members as to how to deal with Members' remuneration. Members will recall debates where there is almost a reluctance or a refusal in some cases to debate remuneration on the floor of the Chamber because there is a committee, a body, set up to do it. I think that is right. Similarly, we are not good at debating or reforming ourselves or the make-up of the Assembly and the democratic differential we know exists and should be dealt with. We are not good at it. For whatever reason we display all sorts of objections. We have a very simple opportunity here, as amended now, so this is not so prescriptive that it is frightening, to engage a group to make recommendations on how this Assembly should be formed. They will do so knowing that ultimately their recommendations will go to the people of Jersey by the mechanism of a referendum and that decision we would expect a future House to adopt. This is not unreasonable, in fact there is an arrogance displayed by some Members here saying: "We know best, this is happening too slowly." It is happening too quickly for some. Anything but make some commonsense of this dilemma we are in. It is very simple, it is a long process, it is going to be measured, it is going to be thought out, and there will be plenty of bumpy arguments along the way, but this is the only mechanism to achieve some sort of long-term reform. It is not going to happen overnight. We have already agreed that it is going to be at least next year before funding can be available and then presumably once funding has been made available the P.P.C. will go out and look to produce a committee that can deliver an efficient set of recommendations. Then it has got to go for referendum, so we are talking years probably. But this is a step in the right direction. It is not anything to do with Senators, Constables, Deputies and I think Deputy Higgins did not need to introduce that aspect in his speech. This is about common sense; it is the first step on a long road to reforming the Assembly. I cannot believe that any Member can stand up here and say: "No, we cannot do this." This is only the first of many steps.

[17:15]

#### **9.6.17 Deputy A.E. Jeune:**

Just very briefly, listening to what Members have been saying during this debate I am really starting to feel should we be making decisions about what the next Assembly should be doing? I am not sure that that is the correct thing to do. Thank you.

#### **The Deputy Bailiff:**

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

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

Well, I do not know about a hanky but some of the comments I have heard have made steam come out of my ears that is for sure, in some ways, and others have made me optimistic. So it is a mixed bag. I think the starting point really is one person saying, and I am afraid I will refer sometimes to people but not always, someone said: "Everything that you might fear has gone." I think that is true, and it boils down to - Senator Shenton said it - you either want an Electoral Commission or you do not, and fundamentally that is what it is and I will be extremely disappointed and I think members of the public will be, if we back away from this and just decide to do nothing. So a few of the specific points. The first sort of category, if you like, is delay. We heard a few speeches on the theme of delay. They did not say the word: "delay" but that is, I think, what was happening, although one or 2 raised interesting points. The first one I wanted to address is Senator Ferguson who brought up the census. That was not one I was expecting, and somebody else echoed this comment. On the one hand it is a nonsense, because the population is increasing all the time, the difference of course is the census gives us a still picture, it gives us a photo, a snapshot of where the population is now. Any solution to this problem of proportionality has to include an ongoing mechanism for adjusting for population, and that is the practice elsewhere and it would surely be the practice here. So let us take that as a plus, we will have accurate, up-to-date information when



the Electoral Commission is meeting. So I think that is surely to the good, although it was presented as a reason for delay. The second area of delay was by my Constable, the Constable of St. Mary who pointed out, and Deputy Jeune echoed this, that we cannot really bind the future Assembly, we cannot proceed on the basis of tying the hands of the next Assembly. Sorry, we do that in the Strategic Plan which runs for 5 years, over 2 terms of 3 years, we do that in the Annual Business Plan and I have never heard anyone come back and say: "Well, that £300,000, that £500,000, that £1 million, we do not like that", not in the detail of a Business Plan. We do it all the time, the whole ship rolls through the 3-year cycle and just carries on, so it is bizarre to say that the laws we pass today are not valid in 2 years' time. I do find that argument a bit odd. There are issues around how the Referendum Act is couched and so on, but that is obviously after the Electoral Commission has reported. Deputy Southern even joined the delay brigade with his: "Let us wait until we vote enough people into the House who agree on a certain method of reform and then we will not even need a referendum because the people will have spoken, they will have put enough people in the House who agree with that particular reform." Well, thanks a million, I am not sure which way the Deputy is going to vote, but it did paradoxically seem to be another method for delay. We do have to vote for this and then see about that particular issue. Constable Norman, he said that the people have not been identified yet, which I rather thought was scraping the barrel a little bit in argument because we constantly set up panels and then come back later with the names. The substantial thing that he and others mentioned was Clothier. What is different about this? What is the difference between an Electoral Commission and Clothier? There are a few differences. One is that Clothier was 11 years ago. The second major difference is that Clothier covered the whole gamut of how our Government is organised, and by the way, the election system as well, and I think you can see from reading Clothier that the attention was not focused on only electoral matters and electoral reform and proportionality. He covered Ministers, committees, the make-up of the House; he covered the library facilities and so on. So I think with respect Clothier was not a focused review on this one issue. One thing he did omit was the test of accountability. He completely omitted this aspect of how does the voter in the polling booth influence the Government they get? Somebody on that point mentioned that in the U.K. people elect their M.P., they do not elect Ministers. Well, they elect their M.P. because they are part of the Labour Party or the Lib Dems or the Conservatives and they know what they are going to get at the end of the day because they have voted that way. So I think there is an accountability there. Someone else said the case for the Lib Dems, that is very apposite, because when the Lib Dems as a result of the Coalition had to go back on some of their pledges with regard to tuition fees they had to account for going back. They had to explain to their voters, they had to explain to their activists why they had done so and that they had won A and B but they had lost Z and Y and the reason was because they were in a coalition. So I think that shows what accountability looks like when it works. Another issue, next to delay, I suppose the next issue was cost. We heard the Chief Minister who only weeks ago was in favour of an Electoral Commission. He said: "I am in favour of an Electoral Commission" in the debate on the Senators, and then now we find out that maybe this might cost too much. I would remind Members, just to put this into context yet again, Harbours and Airport, we have voted or sorry the Minister decided that this body would at a cost of £125,000 a year help us to improve the functioning of our harbours and airport. In Brussels we spend £400,000 a year and Guernsey the same amount to protect our interests in Brussels. All these investments are in the hope that they will bring a return, that they will bring home the bacon. There is no certainty about it and they are annual expenses, £450,000, £400,000. What we are asking for here, what we are talking about here, is a maximum of £250,000 as amended it could be a lot less for a process that as we were reminded by Deputy Rondel will last for at least 25 years if it is done right. So it is a tiny investment in terms of the amount per year per person and we do have to look at capital investment like that. We do not say £100,000 now for an incinerator, it is going to last 25 years and you look at it in that light. So I do find the argument around cost a little bit puzzling. Then we have the points around expertise and bringing in expertise and paying for expertise. Well, we do it with the Fiscal Policy Panel. Nobody, I do not think in this Assembly, has seriously questioned the advice

we get from the Policy Panel. The fact that they should be there, the fact that we should be getting professional economics-based advice on the way our economy functions and the way it could go forward. On the back of an envelope I reckon they cost us around £30,000 a year. I do not know, I have not asked, but I think it would be roughly around that. Now we bring those experts in firstly to inform the people we already have in-house, secondly to raise the level of debate and thirdly to give us the advice on our economy. No one has complained. Senator Perchard rightly said the Remuneration Board, we hive-off this matter of expenses of our own pay to a board because we would not be able to debate it rationally ourselves and I think that is a good precedent. I have a little note saying: “Maçon”. Yes, here we are, on this same matter. He raises the important question, will this solve all the problems and raises the issue that this Assembly must endorse it. Yes, we do have to proceed with a little bit of optimism and faith. Right, there is the cynicism, maybe people are going to vote against this on that basis, that this House cannot be trusted to take a steer from the electorate, to take a steer from an Electoral Commission that has done oodles and oodles of work on this and comes up with a package that is successful. Expertise, focus and robustness is what the Electoral Commission should provide and with the best will in the world P.P.C. also have a lot on their plate when they come to these issues. The Electoral Commission will have nothing else on their plate, they will engage with the public and get a steer and hopefully come up with the right solution. I do think that we need to go outside and the whole point, when people talk about the States not agreeing, the whole point is that the public will drive this process. The public will be asked to contribute, the public will no doubt be polled. There will be test runs to see whether it is going to reach the 60 per cent or now we do not have a 60 per cent but there should be test runs to test the acceptability and the public will drive this. So if we turn around at the end of the day, the States, when it has been endorsed and say: “Oh, sorry, we do not like this, it is going to disadvantage me, you or the cat”, I am sorry, that is not showing much respect for our voters. Please, please vote for the people of Jersey. Someone referred to the boys and girls in the playground, that we might let some new ones in. Well, okay, that is the name of the game but please, the injustice which I have outlined in the fairness of representation cannot go on. It is unsustainable, in the words of the P.P.C. and the verdict that the electorate should pass on the Assembly and on the Government, the Council of Ministers in effect, just is not there. We need to rectify those 2 things. So please vote for the people of Jersey. Funny that I should say that, but that is what I am saying, vote for the people of Jersey. Leaving aside Deputy Tadier’s facetious remarks, let go of the ball and let it go to someone more qualified and more able to put aside the vested interests and the endless fractious, long, expensive debates. The people will decide in a referendum how they are going to vote for those who represent them and those who govern them and someone mentioned pride in the Island and I think that is a very apposite phrase. We do have to restore the way we work together between Government and people. I would like to conclude by reminding Members of the preamble to the 2005 States of Jersey Law and I am indebted to the circular someone I suppose I should not name but an advocate locally sent around to us a few weeks ago in the context of another debate. He usefully quoted the preamble to the States of Jersey Law and please, Members, bear this in mind when you vote on this proposition as amended: “Whereas it is recognised that Jersey has autonomous capacity in domestic affairs” and long may that remain, I add: “and whereas Jersey wishes to enhance and promote democratic, accountable and responsive governance in the Island and implement fair, effective and efficient policies in accordance with the international principles of human rights.” I think that the preamble to our own States of Jersey Law sums up the case for this proposition and I urge Members to support it and I call for the appel.

**Senator A.J.H. Maclean:**

If I may, Sir, can I ask the Deputy if he would consider taking it in parts, in particular taking out part (b) or taking it separately?

**The Deputy Bailiff:**

Deputy, are you inviting the States to vote on all the paragraphs together or to take them separately?

**The Deputy of St. Mary:**

Yes, Sir, I had given this some thought. I think that if we start unpacking this it just becomes crazy and I think we should take this *en bloc*, it is a yes or no, do we want a Commission or not?  
**[Approbation]**

**The Deputy Bailiff:**

So the appel has been called for and I ask Members to return to their seats. The vote is on the proposition of the Deputy of St. Mary as amended and I ask the Greffier to open the voting.

<b>POUR: 29</b>		<b>CONTRE: 18</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator T.A. Le Sueur		
Senator B.E. Shenton		Senator S.C. Ferguson		
Senator J.L. Perchard		Senator B.I. Le Marquand		
Senator A. Breckon		Connétable of St. Ouen		
Senator A.J.H. Maclean		Connétable of Trinity		
Senator F.du H. Le Gresley		Connétable of Grouville		
Connétable of St. Helier		Connétable of St. Brelade		
Connétable of St. Lawrence		Connétable of St. John		
Deputy of St. Martin		Connétable of St. Saviour		
Deputy R.G. Le Hérissier (S)		Connétable of St. Clement		
Deputy J.A. Martin (H)		Connétable of St. Peter		
Deputy G.P. Southern (H)		Connétable of St. Mary		
Deputy of St. Ouen		Deputy R.C. Duhamel (S)		
Deputy of Grouville		Deputy J.B. Fox (H)		
Deputy J.A. Hilton (H)		Deputy of St. Peter		
Deputy P.V.F. Le Claire (H)		Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		Deputy A.E. Jeune (B)		
Deputy S.S.P.A. Power (B)		Deputy A.T. Dupré (C)		
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

**The Deputy Bailiff:**

Very well. It is now 5.30 p.m. The adjournment is proposed. The States will therefore stand adjourned until 9.30 a.m. tomorrow morning.

**ADJOURNMENT**

[17:30]