

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 9th MARCH 2010

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

[9:37]

QUESTIONS

1. Written Questions

1.1 DEPUTY J. MAÇON OF ST. SAVIOUR OF THE MINISTER FOR HOME AFFAIRS REGARDING THE REVISED DISCIPLINARY CODE FOR THE CHIEF OFFICER OF THE STATES OF JERSEY POLICE:

Question

When will the Minister bring to the States for ratification a revised Disciplinary Code for the Chief Officer of the States of Jersey Police and, if he has no proposals to do so, could he state why not?

Answer

Following the announcement by the Chief Officer of the States of Jersey Police that he is due to retire, I will shortly be bringing a proposition to the States to appoint a successor. In advance of the appointment, it is my intention, in conjunction with the States Employment Board, to revise the Disciplinary Code to the extent that it will affect the next Chief Officer. It is not my intention to bring the Disciplinary Code to the States for ratification, as that is not in accordance with Article 9(1) of the Police Force (Jersey) Law 1974, as amended, which states:

“The Chief Officer shall be appointed by the States on such terms as to salary and conditions of service as the States Employment Board may from time to time determine.”

I also intend to review and bring amendments to the Police Force (Jersey) Law 1974 in respect of the terms and conditions of appointment (including the disciplinary provisions for Chief Officers and Deputy Chief Officers of the States of Jersey Police). As members will be aware, however, changes to legislation take time, and whilst the Disciplinary Code will be amended before a successor to the current Chief Officer is appointed, it will not be possible for the changes to the Law to have been implemented.

1.2 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING LEGISLATION DEALING WITH DANGEROUS DOGS:

Question

In light of his response to an oral question on 1st December 2009 concerning the importation of dangerous dogs, would the Minister consider amending the Dogs (Jersey) Law 1961, in order to address the following specific matters and, if so, what would be the likely law drafting costs and timescales involved?

- (a) giving the Court power to specify control measures in respect of particular dogs;
- (b) creating a small number of new criminal offences in relation to dogs on private property without permission;
- (c) giving the Court powers to confiscate dogs;
- (d) conferring power on police officers to seize dogs which are out of control in a public place;

- (e) making dogs owned by young persons the legal responsibility of the head of the household in which the young person lives.
- (f) removing certain breeds from being kept in Jersey or admitted to the Island by visitors?

Answer

I indicated in my response to Deputy Power's oral question on the 1st December 2009 that I would not be seeking to amend the Dogs (Jersey) Law 1961, as I believe that the current measures that are in place in relation to dogs are sufficient. Subsequently, I met with Deputy Power and with a representative of the Jersey Animal Shelter in order to discuss the relevant issues. I am awaiting a further communication from the Jersey Animal Shelter in the eventuality that they continue to have concerns in this area.

Under the Customs and Excise (Import and Export Control) (Jersey) Order 2006, a licence is required to import or export any of the following breeds of dog:

Any dog of –

(a) the type commonly known as –

(i) the Dogo Argentino,

(ii) the Fila Braziliera,

(iii) the Japanese Tosa (or Tosa), or

(iv) the Pit Bull Terrier; or

(b) any other type which appears to have been bred for fighting.

As Minister for Home Affairs, I am responsible under that Order for granting the requisite licence to enable a person to import or export such a dog, and I have no intention of granting any import licence in respect of these breeds of dog. This covers question (f).

Police officers are empowered under the Dogs (Jersey) Law 1961 to seize and detain dogs which are, or which they believe to be, stray, pending their return to the owner on payment of a fine. It is also an offence under that same Law for any dog to worry livestock. This covers question (d)

In respect of dogs that are not being kept under proper control, or that are found to be dangerous, Article 11 of the Dogs (Jersey) Law 1961 provides:

Where it is shown to the satisfaction of the Magistrate's Court, on a representation made by any person, that a dog is dangerous or is not kept under proper control, the court may make an order relating either –

(a) that the dog shall be kept under proper control; or

(b) that the dog shall be destroyed

If a dog owner subsequently fails to comply with an order that the dog be kept under proper control, they are guilty of an offence. This covers questions (a) and (c).

Under Article 2 of the Policing of Beaches (Jersey) Regulations 1959 it is an offence for a person to 'permit any dog of which the person is in charge to rush at, worry or otherwise interfere with the safety, comfort or convenience of any other person on the beach'.

In relation to question (b), this suggestion would effectively create an offence of a dog owner in relation to the dog trespassing on private property. I do not think that this is necessary and believe that issues relating to straying dogs are already adequately dealt with.

In relation to question (e), I believe that the head of household would normally be treated as the responsible person in relation to a dog which was owned by a young person.

Therefore, I do not see the need to amend the Dogs (Jersey) Law at this time, as I believe there to be sufficient safeguards already in place within that Law, and other pieces of legislation. Moreover, as I made clear at the time of responding to Deputy Power's question, I have a large number of major pieces of legislation that I wish to progress and, as Members will be aware, that there is currently a shortfall both in the law drafting programme and in the ability of the Minister and his Department to complete these matters within the life of the current Assembly.

1.3 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING PARISH REGISTERS OF DOGS:

Question

Would the Chairman advise the Assembly whether all Parishes keep registers of all the dogs within their respective Parishes; whether the conditions of the Dogs (Jersey) Law 1961 are being met and enforced, particularly in respect of mandatory identity discs, and can he also advise the Assembly how anyone who was injured by a dog could access the information held by the Parishes?

Answer

Each Parish maintains a register of dogs for which an annual licence has been purchased.

The Dogs (Jersey) Law 1961 requires all dogs over 6 months old, other than those trained to assist visually or hearing impaired persons, to be licensed and requires every dog while on a highway or in any other public place to wear a collar with the name and address of the owner inscribed on the collar or on a plate or badge attached thereto. The law is enforced and where the Connétable is made aware of an infraction then the appropriate action will be taken.

A person who is injured by a dog should report the matter to the police so that the matter may be investigated. The Dogs (Jersey) Law 1961 also makes provision for the Magistrate's Court, where it is satisfied on the representation of any person that a dog is dangerous or is not kept under proper control, to make an order that the dog shall be kept under proper control; or that the dog shall be destroyed.

1.4 THE DEPUTY OF ST. MARTIN OF THE CHIEF MINISTER REGARDING THE NUMBER OF STATES EMPLOYEES SUSPENDED OR EXCLUDED FROM THEIR EMPLOYMENT FROM 2006 TO 1ST MARCH 2010:

Question

- (a) Will the Chief Minister inform Members of the number of States Employees, including Police Officers, who were suspended or excluded from their employment for each of the years from 2006 to 1st March 2010?
- (b) For those employees, including police officers, who were suspended or excluded as at 1st March 2010, would the Chief Minister inform members -

- (i) which Departments they work in?
- (ii) what was the commencement date of their suspension or exclusion?
- (iii) what are the reasons for the continuing exclusions for each of the employees?
- (iv) what is the cost to date for covering the salary of each of the employees and that of additional staff to cover the employee's absence?

Answer

- (a) The number of States Employees, including police officers, suspended in each of the years 2006 to 1st March 2010 is as follows:

YEAR	NO. OF EMPLOYEES
2006	13
2007	17
2008	29
2009	13
2010 (to 1 st March)	0

- (b) The number of States Employees, including police officers, suspended as at 1st March 2010 is three.

The Department in which each individual works, the date of commencement of their suspension or exclusion, the reason for their continued suspension/exclusion and the cost of the suspension, including the salary of the suspended individual, for each of the three is as follows:

Dept.	Commencement of suspension	Reason for continuing exclusion	Cost
Home Affairs	12/11/08	Continuing investigation	£369,749
Education, Sport Culture	20/08/09	Continuing Police investigation	£38,413
Health and Social Services	02/02/09	Continuing Police and Health & Safety Inspectorate investigation	£406,621

1.5 THE DEPUTY OF ST. MARTIN OF THE CHAIRMAN OF PRIVILEGES AND PROCEDURES COMMITTEE REGARDING CONTRAVENTIONS OF HUMAN RIGHTS:

Question

Following her response to a written question on 30th June 2009, regarding Human Rights cases before the States of Jersey Complaints Board, will the Chairman inform Members whether the Privileges and Procedures Committee has discussed the matter and, if so, what was the outcome of those discussions?

If no meeting has taken place, will the Chairman inform Members of the reasons for this and advise whether it still the Committee's intention to meet the Members of the Complaints Board?

Answer

In my answer to the Deputy Le Hérisier last June I indicated that the Committee was waiting for the States of Jersey Complaints Board to be re-constituted, which happened on 11th September 2009. A meeting is being arranged, either at the end of March or in April, for the members of the Panel to meet the Committee so that it can welcome the new members and discuss matters of mutual interest. When PPC meets the members of the Complaints Panel it will be keen to discuss the extent to which the Panel should be alert to human rights issues that are raised by complainants even if it is only to know when further information or advice on matters raised should be sought.

As I said last June, it is important to stress that the complaints system is a way for complainants who are aggrieved by a *specific* decision of a Minister, Department or person acting on their behalf to have the complaint reviewed and it would not therefore be possible for a Board to consider human rights matters unless they were directly relevant to a particular decision. It would be inappropriate for the Complaints Board to operate as a kind of Human Rights Tribunal, as this is not the reason why it was established by Law in 1982. However, if Human Rights issues arise while reviewing a complaint about a specific decision, a Board will look into them, and if appropriate, seek legal advice.

1.6 THE DEPUTY OF ST. MARTIN OF THE CHIEF MINISTER REGARDING INSTRUCTIONS TO THE LAW DRAFTSMAN REGARDING P.175/2009:

Question

Will the Chief Minister inform Members when he submitted the brief/instructions to the Law Draftsman for the amendments to P.175/2009 ('Employment of States of Jersey Employees Law: Proposed Changes') following States approval on 18th November 2009; the date when the draft amendments were returned to him from the Law Draftsman, and will he provide the Assembly with a copy of the brief/instructions submitted to the Law Draftsman?

Answer

The initial brief/instructions were submitted to the Law Draftsman on 1st December 2009.

There have been a number of drafts and the final draft was dated 19th February 2010.

The initial instructions to the Law Draftsman were taken from the States minute on this issue which I attach for information. The States Employment Board considered a draft amendment at its meeting on 22nd January 2010, at which it decided that, in order to ensure that the policies and

activities of the Board remain part of Executive Government, whilst at the same time including a greater breadth of States opinion, further clarification was necessary in two areas:

- 1) The two non-executive members on the Board will be recommended to the States by the Chief Minister and that
- 2) The quorum for a meeting of the Board will consist of at least two Ministers/Assistant Ministers, one of whom may be the Chief Minister himself.

The final draft was approved by the Board and lodged on 1st March 2010.

STATES MINUTES 18th November 2009

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Employment of States of Jersey Employees Law – proposed changes P.175/2009

THE STATES commenced consideration of a proposition of the Deputy of St. Martin concerning proposed changes to the Employment of States of Jersey Employees Law. The States, in accordance with Standing Order 26(8), agreed to reduce the lodging period of an amendment to the amendment of the Chief Minister, so that his amendment to paragraph (a)(i) of the proposition read as follows –

‘that in sub-paragraph (a)(i), for the words “one other Minister” there should be substituted the words “2 other Ministers or Assistant Ministers”, and agreed that the remainder of the amendment (‘for the words “and 2 elected members of the States who are neither Ministers nor Assistant Ministers elected by the States.” substitute the words “and 2 elected members of the States, who are not Ministers, to be nominated by the Chief Minister.”) should be disregarded.

THE STATES, adopting an amendment of the Chief Minister, as amended, agreed that in subparagraph

(a)(i), for the words “one other Minister” there should be substituted the words “2 other Ministers or Assistant Ministers”.

Members present voted as follows –

POUR: 28

Senator T.A. Le Sueur
Senator P.F. Routier
Senator S.C. Ferguson
Senator A.J.D. Maclean
Senator B.I. Le Marquand
Connétable of St. Ouen
Connétable of Trinity
Connétable of Grouville
Connétable of St. Brelade
Connétable of St. Martin
Connétable of St. Saviour
Connétable of St. Clement
Connétable of St. Peter
Connétable of St. Mary
Deputy R.G. Le Hérisssier (S)
Deputy J.B. Fox (H)
Deputy J.A. Martin (H)

CONTRE: 17

Senator B.E. Shenton
Senator A. Breckon
Connétable of St. Helier
Connétable of St. Lawrence
Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy G.P. Southern (H)
Deputy P.V.F. Le Claire (H)
Deputy S. Pitman (H)
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 D. De Sousa (H)
Deputy J.M. Maçon (S)

ABSTAIN: 0

Deputy of St. Ouen
Deputy of St. Peter
Deputy J.A. Hilton (H)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy K.C. Lewis (S)
Deputy I.J. Gorst (C)
Deputy A.E. Jeune (B)
Deputy A.T. Dupré (C)
Deputy E.J. Noel (L)
Deputy A.K.F. Green (H)

STATES MINUTES 18th November 2009

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THE STATES, adopting paragraph (a)(i) of a proposition of the Deputy of St. Martin, as amended, agreed that the Employment of States of Jersey Employees (Jersey) Law 2005 should be amended as necessary to provide that the composition of the States Employment Board should be amended so that it was comprised of the Chief Minister as Chairman (or another member of the Council of Ministers nominated by the Chief Minister in his or her place) together with 2 other Ministers or Assistant Ministers appointed by the Chief Minister and 2 elected members of the States who were neither Ministers nor Assistant Ministers elected by the States, Members present voted as follows –

POUR: 41

Senator T.A. Le Sueur
Senator P.F. Routier
Senator B.E. Shenton
Senator A. Breckon
Senator S.C. Ferguson
Senator A.J.D. Maclean
Senator B.I. Le Marquand
Connétable of St. Ouen
Connétable of St. Helier
Connétable of Trinity
Connétable of Grouville
Connétable of St. Brelade
Connétable of St. Martin
Connétable of St. Saviour
Connétable of St. Clement
Connétable of St. Peter
Connétable of St. Lawrence
Connétable of St. Mary
Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy R.G. Le Hérisssier (S)
Deputy J.B. Fox (H)
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy of St. Ouen
Deputy of St. Peter
Deputy J.A. Hilton (H)
Deputy P.V.F. Le Claire (H)
Deputy of Trinity
Deputy S.S.P.A. Power (B)

CONTRE: 4

Deputy S. Pitman (H)
Deputy M. Tadier (B)
Deputy T.M. Pitman (H)
Deputy M.R. Higgins (H)

ABSTAIN: 0

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

1.7 DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE TELECOMMUNICATIONS INDUSTRY:

Question

With reference to the numerous reports completed by the Jersey Competition Regulatory Authority in respect of the Telecommunications Market, could the Minister provide the following details with regard to the recommendations of the Regulaid and LECG reports (57 and 9 recommendations respectively) -

- (a) the number of recommendations that have been or will be implemented and how they will/have been implemented?
- (b) a timeline for the implementation of the recommendations?
- (c) who will be responsible for the implementation of recommendations?

Answer

The JCRA has not completed major reports of the telecommunications market itself. The LECG Report was commissioned by my department, as a consequence of the findings of the steering group and Oxera report that looked into the potential privatisation of Jersey Telecom. The review was also recommended by the Economic Affairs Scrutiny Panel. One potential area of concern identified at that time was with regard to the powers of the JCRA to act as an effective telecommunications regulator of a privatised JT. The LECG Report specifically addressed this aspect of the JCRA's functions

The Regulaid report was carried out on behalf of the JCRA, pursuant to its 2009 Aims and Objectives – to review JT's wholesale access provision and separated accounts methodologies. The purpose of this review was to facilitate greater access to JT's fixed-line access and thereby promote greater choice and competition in the provision of fixed-line telecommunication services in Jersey.

- (a) the number of recommendations that have been or will be implemented and how they will/have been implemented?**

Concerning the JCRA's implementation of the LECG recommendations, since the publication of the LECG Report the JCRA has:

- published procedural guidelines on telecommunications regulation;
- revised its annual Aims & Objectives into a Strategic Plan;
- adopted KPIs for competition law enforcement;

- broadened its statistical analysis of Jersey's telecom markets; and
- consulted on the publication of JT's separated accounts.

These tasks were all completed by the JCRA in 2009. For 2010, the JCRA Strategic Plan committed it to consider adopting and publishing case management timelines, based on international best practice.

Concerning the recommendations in the Regulaid Report, the JCRA is currently working on a number of initiatives:

- i) a review of significant market power in telecommunications markets (per Regulaid Recommendation 8.1). A public consultation on this recently closed, and a decision on the way forward is expected by May;
- ii) the publication of JT's separated accounts (Regulaid Recommendation 4.5, also recommended by LECG). Again, a public consultation on this recently closed, and the JCRA expect to make a decision by May;
- iii) in co-operation with the telecoms operators, the JCRA is currently considering the potential implementation of a series of wholesale access remedies (Regulaid Recommendations 5.1, 5.7, 5.9, 5.10, 5.11, 5.17, 5.18, 5.19, 5.20 and 7.1-7.7). This analysis is being conducted on a Pan-Channel Islands basis, in cooperation with the Office of Utility Regulation;
- iv) the JCRA recently invited JT to implement the structural changes recommended in the Regulaid Report (Regulaid Recommendations 6.1-6.4, 6.6, 6.10, 6.11, 5.12-5.13, 5.28-5.29, 5.30, 6.7, 6.8 and 6.9) and will be working with JT to implement these;
- v) working with JT to implement cost accounting changes to its separated accounts (Regulaid Recommendation 4.1).

Finally, later this year the JCRA plan to consider wholesale RIO price controls (Regulaid Recommendations 4.3, 5.21 and 8.4) and then other potential wholesale price controls (Regulaid Recommendations 5.22-5.26).

These are all set out in the JCRA's 2010 Strategic Plan.

b) a timeline for the implementation of the recommendations?

The JCRA's timeframe for implementing recommendations under its responsibility is set out above. Amendments to the Telecommunications (Jersey) Law will be delivered this year once the drafting process has been completed.

(c) who will be responsible for the implementation of recommendations?

Regarding the LECG recommendations, responsibility for the legal changes is with EDD, whilst responsibility for the operational changes is with the JCRA

In respect of the Regulaid recommendations; this is a joint responsibility of the JCRA and the industry operators.

1.8 DEPUTY A.K.F. GREEN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING CHILD CYCLISTS FIGURES FOR 2005 TO 2009:

Question

Would the Minister advise the Assembly whether the number of child cyclists for the years 2005 to 2009 inclusive has reduced?

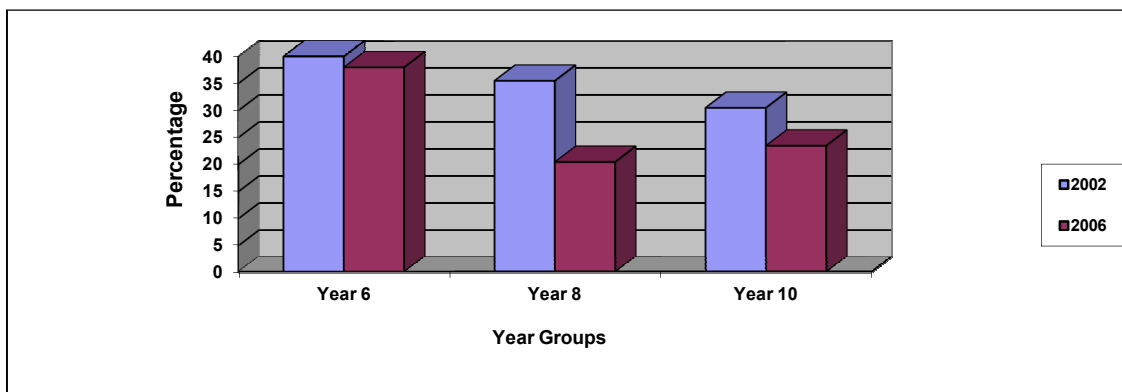
Answer

The absolute number of children cycling is not known. It is therefore difficult to give exact numbers relating to cyclists during any given period.

However, the Health Related Behaviour Survey asks school children in school year six, eight and ten to describe various aspects of their health including exercise. Cycling is an activity which children identify as a way of exercising. By comparing school children's answers to similar questions asked in the surveys of 2002 and 2006 trends for children cycling in these age groups can be estimated.

Between 2002 and 2006 there has been an overall downward trend in children who describe riding a bike more than once a week as a means of exercise. The reduction is particularly marked in year 8 and 10 children (see fig 1 below). These figures mean that there were 221 fewer children cycling more than once a week in 2006 than in 2002.

Figure 1: Percentage of Children Cycling at Least Once a Week



Source Health Related Behaviour Surveys (2002, 2006)

To summarise, there is evidence to show that school children in year 6, 8 and 10 are cycling less.

A critical success factor in promoting and protecting children's health will be to encourage more children back onto their bikes as part of their everyday routine.

A wide range of States of Jersey initiatives are working hard to make this a reality. They include Healthy Schools, Safe Routes to Schools, Eco-Active Schools and the Sustainable Transport Policy and the further development of cycle routes.

1.9 SENATOR A. BRECKON OF THE MINISTER FOR HOME AFFAIRS REGARDING THE SUSPENSION OF 2 SENIOR POLICE OFFICERS:

Question

In relation to the recent suspension of two senior police officers over the alleged assault of a woman on a boat in St. Helier, would the Minister advise -

- (a) how long each officer was suspended for,
- (b) how much was each officer paid during suspension,
- (c) the length of any investigation and the reasons for its length,
- (d) how much was paid to Thames Valley police for investigating this matter,
- (e) the total cost to the Home Affairs Department/States of Jersey Police for all of the costs associated with this case?

Answer

- (a) Both officers were suspended for a period slightly less than 18 months.
- (b) Both officers were suspended on full pay during the period of suspension, as is customary, the total of which was £249,020.
- (c) There was an investigation, which lasted for slightly less than 18 months. Any investigation takes time, and as the investigation started out as a criminal investigation this added to the length of the overall investigation. The delay attributable to the criminal investigation was approximately 7 months. There was further delay relating to the issue of legal advice for the officers, together with the need to bring an adjudicating officer from the UK. The delay attributable to these factors was approximately 4 months.
- (d) The Thames Valley police made no charge for investigating the matter. Their accommodation was paid for in the total amount of £1,159.
- (e) The total additional cost to the Home Affairs Department / States of Jersey Police of this case is £94,269. This figure includes local police officer costs, the accommodation for Thames Valley Police, acting up costs and legal costs.

1.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHAIRMAN OF COMITÉ DES CONNÉTABLES REGARDING THE ELECTORAL REGISTER:

Question

Will the Chairman inform members of the following figures relating to the electoral register:

- 1. the total number of those registered, both by parish and Island-wide
 - (a) at the time of the October/November 2008 elections;
 - (b) in early 2009 following the elimination of those not registered for 3 years;
 - (c) currently?

What measures, if any, have been considered in conjunction with the Privileges and Procedures Committee to improve these figures in time for a potential by-election this year?"

Answer

1 (a). There were 3 public elections in October/November 2008 relating to Connétables, Senators and Deputies. Not all positions of Connétable or Deputy were contested and details of the electoral

registers for these elections have not been retained. However, there would only have been a minor variation in number of electors for these elections compared to the number for the election of Senators. The table below therefore shows the number of electors in each Parish for the Senatorial election 2008.

1 (b). The Public Elections (Jersey) Law 2002 was amended by the Public Elections (Amendment No. 3) (Jersey) Law 2008. These changes came into force on 31st October 2008 and provide, at Article 8(3), that if a person whose name is included on an electoral register has not, for a period of 3 consecutive years, been included in and signed a statement returned under Article 7(3), the Connétable shall serve notice on that person stating that the Connétable shall remove the person's name from the register unless the person delivers to the Connétable, within the period of 28 days following service of the notice, confirmation, in such form as the States may prescribe by Regulations or, if none is prescribed, in such form as the Connétable requires, that the person is still entitled to have his or her name on the register. As the first statements sent under the amended law were in 2009 the 3 consecutive years will be 2009, 2010 and 2011. No persons have therefore been eliminated because they have not registered for 3 years.

1 (c.) The electoral registers are rolling registers and therefore change on a daily basis. The table below gives the number of electors on 4th March 2010.

Number of electors by Parish at dates shown:

Parish	St Br ela de	St Cl em ent	Gr ouv ille	St H el ie r	S t J o h n	St La wre nce	St M ar ti n	S t M a r y	S t O u e n	S t P e t e r	St Sa vio ur	Tr ini ty	To tal
2008 Sen ator s elec tion	7,148	5,428	3,277	15,174	1,906	3,403	2,530	1,113	2,739	3,245	7,443	1,792	55,198
4 Mar ch 2010	7,360	5,857	3,300	16,242	1,949	3,601	2,665	1,185	2,791	3,338	7,959	1,903	58,150

The Comité des Connétables has not, as yet, discussed with the Privileges and Procedures Committee whether any measures should be taken to improve these figures in time for a potential by-election this year.

However, depending upon the timing of a by-election, if any, in 2010 the Connétables might send the annual statements to every unit of dwelling accommodation in, say, late April rather than late

May. With suitable publicity regarding the closing date for electoral registers, if there is to be a by-election, this would provide the ideal opportunity for any person whose name is not currently included on the electoral register in the district in which they currently reside to update their details and so ensure they are eligible to vote.

The figures would also be improved if those no longer eligible to vote, because they are no longer ordinarily resident in an electoral district, were removed from the register. The Connétables will remove from the register the names of those whom they know to be deceased in accordance with Article 8(3). However, as outlined in answer to 1(b) above, a person will have to fail to register in 2009 – 2011 inclusive before his/her name will be removed and, prior to the removal, the person will receive a notice with 28 days to confirm that he/she is still entitled to be registered.

1.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE ESTIMATED COSTS OF ANY REDUNDANCY PAYMENTS:

Question

Will the Chief Minister inform members of the estimated costs to States revenues over a 6-month period in lost Income Tax and indirect taxes, Social Security contributions, and Income Support payments of the redundancy of an employee on the average wage, in the absence of any redundancy payments, if that employee is –

- (a) single;
- (b) married with 2 children, wife not working, and either
 - (i) in appropriate States social rental accommodation, or
 - (ii) Owner/occupation with a mortgage of £200,000?

Answer

I can confirm that the estimated costs to States revenues over a six month period of the redundancy of an employee on the average wage*, in the absence of any redundancy payments is as follows:

	Household type	Income Tax	States Contribution to Supplementation	Income Support payments
(a)	Single	£2,644	Gain of £719.50 (supplementation not being paid)	If occupying a 1 bed flat at fair rent then IS = £291.76 per week x 26 weeks = £7,585.76
(b)	married with 2 children, wife not working, and either			
	(i) in appropriate States social rental accommodation, or	£804	Gain of £719.50 (supplementation	If occupying a 3 bed House at fair rent then additional IS = £607.25 x 26

			not being paid)	weeks	=
				£13,218.40.	
(ii)	Owner/occupation with a mortgage of £200,000.	£0	Gain of £719.50 (supplementation not being paid)	£363.37 per week x 26 weeks	=
				£9,447.62	

- Average wage based on average weekly earnings per full-time equivalent employee was £620 (June 2009, Statistics Unit).

It is not possible to determine a meaningful estimate of the effect of redundancy on indirect taxes because the influence of any potential behavioural change resulting from redundancy on the distribution (not the level) of expenditure by an affected household is unquantifiable.

1.12 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE RESULTS OF REVIEWS OF INCOME SUPPORT AND REDUCED TRANSITIONAL PROTECTION PAYMENTS:

Question

Following his answer to written question 5130 on 23rd February 2010, will the Minister now give the results of the losses and gains in the ranges requested, of just over 800 reviews of Income Support (IS) conducted this year?

Would he state how many of the 393 applicants whose payments were reduced were on Transitional Protection and have seen their payments reduced without the phasing provided by the Income Support (Transitional Provisions) (Jersey) Order 2008?

Will the Minister explain under what circumstances such a reduction in income at short notice can be justified in the light of the clear intention of the abovementioned Order to protect benefit recipients from such financial shocks?

Answer

Written question 5130 provided an analysis of claims already open on 4th November 2009 that remained open on 2nd February 2010, including those reviewed between 4th January 2010 and 1st February 2010. The extraction of data in the form specified by the Deputy is a manual process and this work has not yet been undertaken in respect of claims reviewed between 2nd February and 19th February.

The data provided in the previous answer relating to claims already open on 4th November 2009 that remained open on 2nd February 2010, indicated that 615 claims have been reviewed and now receive a higher amount compared to November 2009. Of the 393 claims whose payments were reduced, 38 were in receipt of protected transition payments.

Table – Reduction in weekly payments for claims with transition protection

Change in total weekly payment	Number of claims
---------------------------------------	-------------------------

Reduced by £90.00 or more	8
Reduced by £60.00 - £89.99	5
Reduced by £30.00 - £59.99	5
Reduced by £ 0.01 - £29.99	20

The answer to question 5130 confirmed that the phasing included in the Income Support (IS) (Transitional Provisions) (Jersey) Order 2008 has not yet been applied because households currently in receipt of IS transition are all still receiving 100% protection of their legacy benefits, where they continue to be entitled to the legacy benefits. This does not apply to individuals who are no longer entitled to those legacy benefit.

The clear intention of the IS (Transitional Provisions) (Jersey) Order 2008 is to provide a phased transfer from previous benefits to IS provided that entitlement to the previous benefit remains. There is no intention for the Transitional Order to continue to make payments once entitlement to the legacy benefit has lapsed.

The Income Support (Transitional Provisions) (Jersey) Order 2008 states -

‘Change in entitlement to a protected payment

(1) Where –

- (a) a household is entitled to a protected payment; and
- (b) the circumstances of the household change so that any replaced benefit, if it had not ceased to be payable on the appointed day, would nevertheless because of that change of circumstances cease to be payable,

The top-up sum shall be recalculated by means of the formula –

$$\text{RRB} - \text{RADIS}$$

Where –

RRB is the weekly amount of replaced benefits to which the household would have been entitled immediately before the appointed day had the circumstances giving rise to the recalculation existed on the appointed day;

RADIS is the amount of income support (if any) to which the household would have been entitled on the appointed day had the circumstances giving rise to the recalculation existed on the appointed day.’

The Income Support (Transitional Provisions) (Jersey) Order 2008 is being applied correctly to all IS claims. As the circumstances or income of a household changes it is appropriate for their benefit entitlement to be reviewed. It would not be appropriate for the household to continue to receive the legacy benefit when there is no longer any entitlement under the previous scheme. When there is a change in circumstances this must initiate a review of the claim with benefit levels set appropriately according to current circumstances.

1.13 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING TARGETS FOR THE COMPREHENSIVE SPENDING REVIEW:

Question

Can the Minister confirm whether the Comprehensive Spending Review (CSR) has a target to deliver savings in States expenditure across departments through gross expenditure savings targets of 2% by 2011, 5% by 2012 and 10% by 2013, and, if so, will he state how such large targets can be met without cuts in services and job losses?

Could these targets, if met, endanger any recovery from the economic recession?

How does the Minister propose to achieve such targets at a time when many services in the public sector such as medical and social work services are struggling with recruitment and retention rates?

Answer

I can confirm that departments have been asked to put forward proposals that will reduce expenditure by £50m by 2013, which equates to a 10% budget cut. In addition, departments are being asked to consider any services which might be charged on a 'user pays' basis. These are substantial targets and I am asking departments to consider how they might deliver services in a different way but for less money. It is likely that budget reductions of this scale will mean cuts in some services and that some jobs will be lost. The decision as to which proposals will be approved will be a political one taken with all relevant information relating to every option and with the knowledge that if the States do not achieve these savings targets, then taxes will have to increase.

I do not consider that these targets will endanger recovery from the recession. The States must live within its income and this challenge presents an opportunity to look at how we deliver our services and consider whether there are better and cheaper ways to do so.

While Jersey is in a stronger financial position than many governments, forecasts show that the economic downturn will result in an ongoing deficit and this is not a sustainable way to manage Jersey's future.

I acknowledge and appreciate that some services are currently under pressure for a variety of different reasons but this does not negate the need for a comprehensive review of States spending. There will be some areas that for very good reasons cannot contribute to the savings targets but there are others that can and will.

1.14 DEPUTY G.P. SOUTHERN OF THE MINISTER FOR SOCIAL SECURITY REGARDING MEASURES TO PROTECT THOSE ELIGIBLE FOR ATTENDANCE ALLOWANCE:

Question

Will the Minister explain to members what measures, if any, are in place after July 2011, to protect those with severe disabilities previously eligible for Attendance Allowance (whether child or adult), from any reduction in benefit under Income Support designed to cater for the additional living costs attached to such disabilities?

Answer

With the introduction of the Income Support (IS) scheme individuals with severe disabilities who received Attendance Allowance under the previous system were transferred to IS with personal care level 3 (subject to review as conditions may change). The component value of personal care level 3 is now £140.91 weekly (an increase of 14.7% since January 2008). A range of personal care components are available to all IS claimants with personal care needs.

Benefit	As at	Weekly Component value
Attendance Allowance	27 January 2008	£102.62
Personal Care Level 3	28 January 2008	£122.85
Personal Care Level 3	1 May 2008	£126.56
Personal Care Level 3	1 October 2008	£131.25
Personal Care Level 3	1 February 2009	£138.25
Personal Care Level 3	1 October 2009	£140.91

Transition protection was awarded to families whose entitlement to IS was less than the total value of their previous benefits. Families who transferred from the Attendance Allowance system to IS are receiving the most generous phasing within the protected transition scheme which is maintained at 100% until 30th June 2011, after which it will reduce by 20% per annum from 1st July 2011 as shown in the table below.

Period	% Reduction in top up sum
28 January 2008 to 30 September 2010	100 %
1 October 2010 to 30 June 2011	100%
1 July 2011 to 30 June 2012	80%
1 July 2012 to 30 June 2013	60%
1 July 2013 to 30 June 2014	40%
1 July 2014 to 30 June 2015	20%

As Members are aware there is already a full review of the IS scheme scheduled to commence during the second half of 2010 and the treatment of individuals with disabilities will be included as part of this review.

1.15 THE DEPUTY OF ST. MARY OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING A SPEED LIMIT REVIEW:

Question

Can the Minister inform members what information, if any, he has gathered from other jurisdictions and authorities about the effects of different speed limits on accident and injury rates as part of the speed limit review, what this research has shown, and can he advise members of progress on this review?

Answer

The speed limits review was carried out by the Connétables of St John and St Saviour, Deputy Fox and my Assistant Minister Deputy Lewis, with assistance where appropriate from Departmental officers. This panel has produced a report of their findings and made recommendations for the rationalisation of the Island's speed limit structure.

The recommendations of the review are practical and pragmatic proposals based on the 927 Submissions made by the general public during the consultation phase, the Public Meeting held on 6th July 2009, a detailed submission from the States of Jersey Police and the expert knowledge and experience of the officers advising as well as the knowledge and experience of the members of the review team. While specific research on accident and injury rates did not form part of the review, my officers maintain a watching brief on national best practice and were able to advise accordingly.

With regard to progress against Deputy Gorst's Proposition, as I have described, this work has now been completed and I presented a report detailing the findings of the review to the States on 26th October 2009. I have asked the Law Officers for advice on one of those recommendations. This advice was received two weeks ago and I am now examining how the recommendations of the report should best be taken forward.

1.16 SENATOR B.E. SHENTON OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE NUMBER OF AMBULANCE SERVICE EMPLOYEES SUPPLIED WITH MOBILE PHONES:

Question

Which Ambulance Station employees, if any, are issued with mobile phones?

Would the Minister advise whether additional payments are made to any persons supplied with mobile phones to cover 'personal telephone costs' and whether these payments are also extended to secretaries, store men, and other staff? (Please list job titles of all persons that receive a payment, together with the payment amount)

Answer

The following members of the Ambulance Service are issued with mobile phones:

Acting Chief Ambulance Officer

Combined Control Centre Manager

Fleet and Technical Services Manager

Operations Managers x 3

Fleet and Technical Services Assistant

1 x PTS Care Assistant

As an Emergency Service it is vital to have reliable and quick methods of communication with the service managers, particularly in the event of a Major Incident. This is regarded as good practise.

The Fleet and Technical Services Assistant is issued with a mobile phone which he uses only whilst at work as he is often away from the station. His calls are work related only.

The Patient Transport Service Assistant is issued with a mobile phone as a means of contact as her vehicle is not based at Ambulance HQ; again this is only used in work time and for work related calls.

The use of all service issue mobile phones is closely monitored by the Acting CAO on a monthly basis. As this audit produces an itemised list of calls, abuse would be immediately apparent.

**1.17 SENATOR B.E. SHENTON OF THE MINISTER FOR HOME AFFAIRS
REGARDING THE NUMBER OF FIRE SERVICE EMPLOYEES SUPPLIED WITH
MOBILE PHONES:**

Question

Which States of Jersey Fire Service employees, if any, are issued with mobile phones?

Would the Minister advise whether additional payments are made to any persons supplied with mobile phones to cover 'personal telephone costs' and whether these payments are also extended to secretaries, store men, and other staff? (Please list job titles of all persons that receive a payment, together with the payment amount)

Answer

Under a States of Jersey approved contract the Fire and Rescue Service has issued 20 mobile phones within the department. 19 are held by specific operational personnel:

- 1 Chief Fire Officer
- 1 Deputy Chief Fire Officer
- 1 Area Manager
- 2 Group Managers
- 6 Station Managers (1 Retained)
- 4 Watch Managers (1 Retained)
- 3 Crew Managers
- 1 Emergency Response Firefighter

The remaining unit has been allocated to the Service's Operational Support Officer.

The mobile phones should only be used for communication involving work related matters (e.g. Officers contacting clients or Fire Service Headquarters whilst away from the office and Duty Managers whose roles dictate it is essential they have the ability to maintain immediate contact

with appropriate personnel.) These Operational staff also are on the 24/7 roster for Operational Support, Bronze, Silver and Gold Commander roles.

Of the 20 individuals who have been issued with mobile phones, under current policy, 17 receive a telephone allowance (relating to landline / handset rental) varying from £25.50 to £32.70 per quarter

1 Area Manager	£32.70
2 Group Managers	£32.70
4 Station Managers (1 Retained)	£32.70
2 Station Managers	£30.09
3 Watch Managers	£32.70
1 Retained Watch Manager	£30.09
2 Crew Managers	£30.09
1 Crew Manager	£25.50
1 Emergency Response Firefighter	£30.09

An additional 62 operational personnel also receive such payments. This is to facilitate off duty contact in the event of a large incident requiring recall to duty.

1.18 SENATOR B.E. SHENTON OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE IMPLEMENTATION OF RECOMMENDATIONS FROM THE LUCAS REPORT:

Question

How many recommendations of the report prepared by Mr. Adrian Lucas on the States of Jersey Ambulance Service completed in June 2008 ('the Lucas Report') have still to be implemented?

Answer

Mr Lucas reported on his review of the Ambulance and Patient Transport Services in June 2008. The report was commissioned as a result of issues arising from pay talks and in particular the roles and responsibilities of Paramedics and Technicians.

In his report, Mr Lucas made a total of nineteen firm recommendations and a lesser number of observations. Of these recommendations, ten are completed. Five are on going, to be completed in due course, and of these, four relate to terms and conditions of employment.

The four remaining recommendations from the original nineteen are rejected at the present time. Three are considered as aspirational and unlikely to be realised in the current financial climate, whilst the remaining one is not considered appropriate for the local setting.

1.19 SENATOR B.E. SHENTON OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE COST OF THE THIRD PARTY APPEAL IN RESPECT OF WESTMOUNT QUARRY:

Question

Following the loss of a Third Party Planning Appeal in respect of the Westmount Quarry application, what was the total cost to the taxpayer, including legal costs and third party costs, in respect of this judgement and from which budget will it be paid?

Answer

At this moment in time it is not possible to inform the States what the final costs are.

The Third Party Appeal against the Minister's decision to grant permission to the Westmount Quarry application was successful, and the Royal Court awarded costs against the Minister.

The effect of the Court's decision is that the Minister is required to obtain further detailed information to assess the impact of loss of light on adjoining properties and relates only to a small part of the development. The Court did not quash the decision, as such. Rather, the decision needs to be reconsidered taking into account the accurate information. The required information has been submitted and advertised, and the Minister will be dealing with it soon.

The Minister is not in a position to advise what the costs are as there is still a process to go through before there is a final figure.

The Minister will inform States members of the actual level of costs, either when they are agreed by the parties or following an oral taxation hearing of the Court.

There is no specific budget to cover the award of costs against the Minister, and it is envisaged that the costs in this case will be absorbed within the Department's total budget for 2010.

1.20 SENATOR B.E. SHENTON OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE QUALIFICATIONS OF THE MINISTERIAL REGISTRATION AND LISTING ADVISORY GROUP:

Question

Can the Minister list the relevant formal heritage/architectural qualifications of each of the current members of the Ministerial Registration and Listing Advisory Group?

Answer

In providing details about the qualifications of the current members of the Ministerial Registration and Listing Advisory Group (MRLAG) it is important to understand the context and process within which the group operates and to understand its role, relative to that of Jersey Heritage, who are the Minister's professional advisers in matters of registration and listing. This is set out below.

Role of Jersey Heritage

The assessment of a building or place's heritage value is carried out, on behalf of the Minister for Planning and Environment, by Jersey Heritage against a set of published criteria¹. The advice provided by Jersey Heritage is given mainly by the Head of Historic Buildings and the Curator of Archaeology at Jersey Heritage, depending on the nature of the building or place the subject of assessment, with further support provided by the Director, where necessary. The qualifications and experience of these individuals are set out below.

Roger Hills, Head of Historic Buildings, Jersey Heritage	Roger has a degree in archaeology and worked on a variety of archaeological projects, both in London and Europe, in the 1980s. He followed this with a Masters degree in museology, holds the RICS Diploma in Historic Building Conservation, and is a member of the Institute of Historic Building Conservation. Roger began working for Jersey Heritage in 1994, then held the position of Historic Buildings Officer at the Planning Department, States of Jersey from 1999 to 2004, before returning to Jersey Heritage in 2005. Roger has advised on listed building issues to the former Jersey Building Heritage Sub-Committee, Jersey Heritage Advisory Panel and MRLAG.
Olga Finch, Curator of Archaeology, Jersey Heritage	Olga is the Curator of Archaeology at Jersey Heritage. She has a degree in archaeology from University College Cork and a Diploma in Museum Studies from The University of Leicester. Since 1985 she has worked as Director, Assistant Director or Supervisor on numerous excavations in Ireland and in Jersey. Olga was first employed by Jersey Heritage as Archaeological Registrar in 1992 before being appointed as Curator in 1994. She has been an advisor on the former Archaeology Advisory Panel, Jersey Building Heritage Sub-Committee, Jersey Heritage Advisory Panel and MRLAG.
Jonathan Carter, Director, Jersey Heritage	Jon has been Director of Jersey Heritage since 2003 - working for the organisation since 1989. He has a degree in history, a Masters degree in museology, and is an Associate Member of the Museums Association. Through his work with Jersey Heritage, Jon has been involved in the repair and refurbishment of a number of historic properties including No.9 Pier Road, Mont Orgueil Castle and Hamptonne, as well as the nine properties brought into public use as part of the forts and towers project, and now has responsibility for the management of 18 of the Island's most important heritage sites. Jon was a member of the former Jersey Heritage Advisory Panel.

The engagement of Jersey Heritage in this role ensures that the Minister receives expert professional advice about the historical, architectural or archaeological interest of a building or place that is independent of and separate to the planning process.

¹ Supplementary Planning Guidance Note 9 (Nov 2008) [*Identification and designation of buildings and places of architectural, archaeological, historical or other interest*](#)

The provision of this service is governed by a Service Level Agreement between Jersey Heritage and the Planning and Environment Department, the costs of which are met by the Planning and Environment Department.

Role of Ministerial Registration and Listing Advisory Group (MRLAG)

As part of the process of assessment of a building or place's heritage value, Jersey Heritage also secures the view of a panel of local experts knowledgeable in aspects of Jersey's history, architecture and archaeology: these supplementary views are reported to the Minister as an integral part of Jersey Heritage's professional advice to the Minister. The qualifications and relevant experience of the current membership of the Group is set out below:

Charles Alluto Charles is currently Chief Executive of The National Trust for Jersey with day-to-day responsibility for the overall management of the Trust's landholdings and 20 historic buildings. Charles holds the RICS Diploma in Historic Building Conservation.

Chris Aubin Chris is a member of the Société Jersiaise, and previous Chairman of the Archaeology Section. He is also a member of the National Trust for Jersey and has been involved in excavations at Le Moulin de Tesson. He is qualified in archaeological sciences, and has drafted various archaeological site conservation statements for Jersey Heritage.

John Clarke John has been a member of MRLAG since 2007. He has held the position of Chairman of the Archaeology Section of the Société Jersiaise since 2007 with the objective of conservation of archaeological and historic structures. He has undertaken study in archaeology and been involved in various projects, including excavations.

Francis Corbet Francis has been involved in the original MRLAG and its predecessor since inception. He is past President of the Société Jersiaise and a member of the Waterfront Design Group.

Paul Craig Paul is a member of the Société Jersiaise. For many years, he has researched vernacular building methods and styles, and is particularly interested in the history and development of St Helier. Paul has worked with the Historic Buildings Section, Planning Department, States of Jersey as part of the team reviewing buildings for protection.

André Ferrari Andre was commissioned by Save Jersey's Heritage to produce two books charting some of the Island's architectural losses since the Liberation. Over the past years he has worked with the Historic Buildings Section, Planning Department, States of Jersey as part of the team reviewing buildings for protection, and is a member of the Waterfront Design Group.

Antony Gibb Antony has a background in history of art, archaeology and construction. Following post-graduate work at the Architectural Association, he has specialised in the repair of historic structures for the past 17 years and is a member of the

Institute of Historic Building Conservation.

- Paul Harding Paul is a qualified Chartered Architect and a corporate member of the Royal Institute of British Architects. Paul ran as Project Director for the development of the Jersey Archive, which received Civic Trust and Concrete Society Awards.
- Robert Le Mottée Bob is a Chartered Architectural Technologist with an interest in the protection and enhancement of the Island's architectural and archaeological heritage. He is a member of the National Trust for Jersey Properties Committee and has been architectural technologist/consultant for various National Trust projects, including Tesson Mill and Brook Farm.
- Richard Le Sueur Richard is a qualified Architect and a member of the Association of Jersey Architects, the National Trust for Jersey and the Société Jersiaise. Richard has been involved in the restoration of Le Rât Cottage and The Elms.
- Sarah O'Connor Sarah started her career working for the States of Jersey Planning Department co-ordinating the review of the Historic Buildings Register and preparing documentation for the designation of Sites of Special Interest. She has worked as a Conservation Officer for Oxford City Council and Camden Council. Sarah holds a postgraduate diploma in Building Surveying.
- Colin Tadier Colin is a structural engineer by profession, with 30 years of experience, and an interest in vernacular buildings. He holds a postgraduate diploma in Historic Building Conservation and an **MSc in Building Conservation**.
- Mike Waddington Mike is a Chartered Architect and current President of the Association of Jersey Architects. He was a member of the former Jersey Building Heritage Sub-Committee.
- John Williams John is a Chartered Member of the Royal Institute of British Architects and a Registered Architect in Jersey. He was architect for the Société Jersiaise on the restoration of Hamptonne Country Life Museum 1989–1996, and for Jersey Heritage on the restoration of Mont Orgueil.

The existing membership of MRLAG was appointed in May 2009. Appointment to membership of the group was undertaken by Jersey Heritage in accordance with best practice as set out by the Jersey Appointments Commission, following open public advert. The role of the group is governed by Terms of Reference and a Code of Conduct.

Members of MRLAG give their time and expertise on an entirely voluntary basis.

2. Oral Questions

2.1 Deputy M.R. Higgins of St. Helier of the Minister for Economic Development regarding the nature of an incident involving a Flybe airliner on 23rd February 2010:

Will the Minister inform Members of the nature of the incident involving a Flybe EMB-190 series airliner being ferried from Jersey to Exeter on 23rd February 2010 and advise whether any action was undertaken by Jersey Airport; if so, when and what lessons, if any, have been learned from this incident?

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

Firstly, I should point out that some of the information contained within the submitted question was factually incorrect, but I am pleased to be able to clarify the incident which did take place on 23rd February 2010. During a routine runway surface inspection pieces of debris were found on the runway and adjoining grass areas. The debris was soon identified as engine cowling from a Flybe Embraer-195 aircraft which had recently left Jersey and was being ferried to Birmingham, after being declared serviceable by Flybe, because it was needed for another flight which was to leave from Birmingham. There were no passengers on board. The debris was located before the aircraft landed at Birmingham and the air crew were duly informed. The runway was immediately closed while the debris was removed and subsequently swept. The Air Accident Investigation Branch was informed immediately and the incident is now the subject of an investigation by them. I would not like to speculate on such an investigation until the full results and any subsequent recommendations are known. In the meantime, a full investigation was carried out by Jersey Airport in accordance with our safety management system, which found that all procedures in place were correctly carried out. This has been confirmed by the Air Accident Investigation Branch who have stated that no further action is required of Jersey Airport at this time.

2.1.1 Deputy M.R. Higgins:

The Assistant Minister has been reported on media that he did not feel that the incident warranted any media report. As Concorde was brought down by a piece of metal approximately 1 inch by 8 inches on a runway, whereas the cowlings on the Embraer are 7 foot in height and also there were supposed to be somewhere upwards of 50 fragments on the runway, does the Assistant Minister not think that the incident warranted, in the public interest, even a statement saying that the incident had taken place and that the Air Accident Investigation Board and the Director of Civil Aviation were investigating it and a report would be published, which is the norm elsewhere?

Senator P.F. Routier:

I think it is rather unfortunate that the Deputy does try to bring some sort of comment about the Concorde accident because I have spoken with the Air Accident investigator and he said absolutely no comparison at all can be gained from trying to compare them. In fact, I have an email which states that: "There can be no comparison with the Concorde accident which was both extremely unusual and the only fatal accident known to have been caused by debris. Concorde was vulnerable to such an accident because of its design which is not replicated on any aircraft that we see in Jersey. Furthermore, the cowling was of composite fibre and while likely to have caused some damage had an aircraft hit it, probably would have just broken up on impact." The investigator was one of the Concorde investigation team and he is the one who is carrying out the investigation on this particular incident. With regard to the comments that we should have made it public; it has not been normal procedure. It is not normal procedure at other airports to make an announcement like that. The amount of debris that we do collect on the runway is a regular thing. It happens on a regular basis and it was not felt appropriate or needed to be a statement to be made.

[9:45]

2.1.2 Senator S.C. Ferguson:

Would the Assistant Minister tell us what time of day this was?

Senator P.F. Routier:

There are a lot of timelines being brought together at the current time ready to go to the Air Investigation people. It happened about 6.30 p.m. in the evening the plane left Jersey, and landed at Birmingham at about 7.30 pm.

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

Can the Minister inform the House when, after the incident, his department or himself became aware of the incident?

Senator P.F. Routier:

The department were aware of it as soon as the normal checking of the runway took place. They became aware of it ... this is the trouble with timelines. I do not want to give out information which is contrary to what is being given to the ... I have not got the full list in front of me. There is a timeline been put together ready to go to the investigation. I am not sure whether it is appropriate to be giving out times, but certainly they became aware of it before the plane landed in Birmingham, that is for sure. I first became aware of it - because it was not something that was needed to be reported to me - when I received the question from Deputy Higgins.

The Deputy Bailiff:

Can I say we have got numbers of questions to get through and not all Members are going to be able to ask their questions today. I have seen a number of lights flashing in relation to this matter, but we must move on. I am going to allow 2 more questions. The Deputy of St. Peter:

2.1.4 Deputy C.H. Egré of St. Peter:

Would the Assistant Minister accept the fact that the airport itself operated exactly as one would have expected but having said that, in hindsight, would he now make sure that in future if any incidents result in reporting to the A.A.I.B. (Air Accident Investigation Branch) it would be good policy to inform the media that that has occurred?

Senator P.F. Routier:

I thank the Deputy for highlighting the fact that the airport did carry out their duties efficiently and effectively. Perhaps once we have the results of the investigation and the recommendations from that, I will certainly ask the Accident Investigation people whether they think it is appropriate but I certainly take the point and this is a very, very rare occasion and if that is a desire, certainly I will consider that.

2.1.5 Connétable P.F. Hanning of St. Saviour:

Could the Assistant Minister let us know how many aircraft either took off or landed before this debris was discovered? If there were not any then I really do not see that there is a problem, but perhaps he could comment.

Senator P.F. Routier:

Yes there were 3 planes that took off and 4 that landed during that period before the debris was removed. Certainly that was the case, but they landed safely and took off safely.

2.1.6 Deputy M.R. Higgins:

Does the Assistant Minister, despite what he said about the Concorde incident... which I accept Concorde was a unique experience in terms of the design of the airplane and the fact that debris from the burst of the tyre went up through the fuel tank and the fuel spewed back where the afterburners were causing it to ignite; so that was a special case. But aircraft have been damaged by the ingestion of parts or debris on runways through engines, which have caused engine failure on take-off. So it is not correct to say that accidents are not caused by this. Does he not feel that it is of concern to the public because the aircraft that did depart immediately after that included a

bmibaby flight and also another airliner flight? So there were at least 2 or 3 airliner movements immediately after that incident occurred.

Senator P.F. Routier:

Certainly, these questions obviously have highlighted some concerns and they are being investigated. I just do urge Members to be cautious and to wait for the outcome of the investigation. I really should say that I want to reassure Members and the general public that the correct procedures were followed and Jersey Airport had and still have safety systems which are appropriate and especially in the particular regime of inspection of the runway. The minimum requirement is to have 2 inspections a day; we have, on average, 8 or 9 inspections a day. I am sure that the airline company themselves who caused the debris to land on the airfield will make a comment when the investigation is complete, as will Jersey Airport.

The Deputy Bailiff:

Can we bring this to a close please?

Senator P.F. Routier:

I would like to thank and congratulate the staff who found and removed the debris in an efficient and timely manner.

2.2. Deputy P.J. Rondel of St. John of the Minister for Economic Development regarding the attendance of Economic Development staff at the Enterprise Awards on 26th February 2010:

Would the Minister advise whether any Economic Development staff attended the Enterprise Awards on 26th February, and if so, how many, in what capacity, and at what cost to the department?

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

The Jersey Enterprise Awards is the Island's premier business event. The Jersey Enterprise team and their business partners should be congratulated on staging a truly world class event at Fort Regent last month. Jersey is open for business and we quite rightly use the Enterprise Awards to help local businesses to showcase themselves and to increase the international business profile of the Island. The event reflects the diversity of our economy and the entrepreneurial culture that is the mainstay of Jersey's commercial success. This year's event was attended [**Interruption**] by a record 850 people of which 15 were Economic Development staff who were hosting 53 guests. There was no cost to the department as all costs were covered by revenue received from ticket sales and generous commercial sponsorship.

2.2.1 The Deputy of St. John:

The Minister says there was no cost to the department. Given that the tickets were £75 per head, did that also include beverages and the wine, *et cetera*, and given that he is claiming there was no cost to the department, therefore the cost must have fallen on the event; is that acceptable in this day and age that 15 members of staff, including I presume that would have been 17 if the Minister and Assistant Minister attended, or 2 Assistant Ministers, maybe 18. I do not know if they all attended. The numbers in fact start escalating: is that acceptable in time of recession for this number of people to be going to a free bash?

Deputy A.J.H. Maclean:

Yes, it is acceptable, quite frankly. This is the premier business event of the year. It was a huge success. It is laid on to help support and develop local businesses. We had some fantastic guests there. There were networking opportunities for local businesses. We had people from national and

international representative organisations. I am afraid the Deputy is down in the weeds on this matter. He needs to accept that this event was a massive success and it is essential, at this time in particular, that these events are carried out. **[Approbation]**

2.2.2 The Deputy of St. John:

Can the Minister tell me what the 15 members of staff could add to the event please?

Deputy A.J.H. Maclean:

The members of staff from Economic Development develop relationships with clients, inward investment for example is a key part of the department's remit. We had the Chief Executive Officer of the U.K. (United Kingdom) Indian Business Council, a very important lady who in fact opened the Commonwealth Games. We had a U.K. representative of the Indian Angel networks. Access to finance is key at this time for local businesses. This event, I will repeat one more time, was a massive success and I suggest that the Deputy considers congratulations and supports local businesses.

The Deputy Bailiff:

Last question, Deputy.

2.2.3 The Deputy of St. John:

I have only been given 3 minutes, the previous question took over 10 minutes. Given that we had these high profile people I would have expected the Minister and his Assistant Minister to be entertaining them, not his staff. Can I please ask why it was not the Minister entertaining these high profile people?

Deputy A.J.H. Maclean:

I can reassure the Deputy that the Minister was entertaining on the night, as was his Assistant Ministers **[Laughter]** quite appropriately and I might add, that as the Deputy is showing such interest in our awards, we will ensure that he is invited next year and I am sure he can also entertain. **[Laughter]**

The Deputy of St. John:

I do not require freebies, thank you.

The Deputy Bailiff:

We come next to question number 3 by the Deputy of St. Martin of the Minister for Home Affairs. Perhaps I can just remind Members that a very similar question, at least in part similar, was in the written questions put by Senator Breckon, and is to be found at written question number 9; so that might assist in speeding up this part.

2.3 Deputy F.J. Hill of St. Martin of the Minister for Home Affairs regarding the suspension of 2 officers from the States of Jersey Police:

Would the Minister confirm that 2 suspended officers from the States of Jersey Police have recently been cleared of all allegations of assault? Will he give the cost and duration of the suspensions, the cost of the investigation and the cost of the disciplinary hearing, including any legal costs? Is he satisfied that the matter was handled correctly and, if not, what actions, if any, will he be taking?

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

I can confirm that the 2 officers were cleared of all disciplinary charges at a hearing on 23rd February. They were suspended each for a period of just less than 18 months. There is an indication in the written comment that there was a period of 7 months of delay caused by the

existence of the criminal charges and the time taken to make decisions on that, an additional 4 months delay caused by issues of them obtaining legal advice and the matter had been adjourned off and co-ordinating with the dates when an officer could come from another force to conduct the matter. During their suspensions they received their salaries. I am not going to give individual figures for the officers because that would in fact identify the grades and I want to preserve, as far as possible, the anonymity of the officers who have been cleared of disciplinary charges. But the total sums that they were paid during the period, including pension rights and other things, is £249,020. The total investigation costs came to £94,269. The major amount of that was, in fact, legal advice obtained in relation to the disciplinary proceedings as to whether they should be continued, and if so in what form after the criminal matters had been dropped. That was £60,438. They were other acting-up costs, overtime costs and costs of accommodation in the Island. Coming now to the major question. I am satisfied that correct and appropriate procedures were followed both in relation to the suspension. I have made detailed inquiries as to what principles were covered in relation to the suspension. I have already indicated to this House that I am perfectly satisfied with the system being followed by the police in Jersey, which mirrors that which happens in the U.K. in relation to such matters, and I am satisfied that correct procedures were followed, advice was appropriately obtained and there was appropriate oversight of the investigation at all stages.

2.3.1 The Deputy of St. Martin:

I am very thankful for a very full answer. Clearly another £400,000 has been used or spent on suspension issues. Given the fact that the Crown Officers decided almost 12 months ago that there was insufficient evidence to have criminal proceedings, could I ask the Minister whose decision was it to proceed with disciplinary charges, and maybe I will just put that question first? Whose decision was it to proceed with disciplinary charges and also why?

Senator B.I. Le Marquand:

As I already indicated, after the end of the criminal matter legal advice was obtained from lawyers in the private sector, which are different lawyers to the Law Officers, who said that it had to be, as I understand it, because one was a criminal matter and this was a different issue, and matters proceeded on that advice. I also need to inform the Assembly that the Police Complaints Authority current chairman was actively involved also in the process of matters. I have now forgotten what the last question was but I do not think I can answer it but if the Deputy could repeat it. Help me, I have forgotten what it is.

The Deputy of St. Martin:

I wanted to know who was responsible for continuing with the disciplinary proceedings after, in fact, a decision was taken that there be no criminal proceedings.

[10:00]

Senator B.I. Le Marquand:

After taking advice, I would assume that that was the acting leadership of the police force in relation to that. But the question I could not have answered was the reasons why because that would be unfair to the individual people involved who have been cleared.

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

Could I inquire please from the Minister for Home Affairs, as these officers have now been cleared will their costs from their lawyers be met by the public purse or are they set aside within the budget of the police force in some way?

Senator B.I. Le Marquand:

The answer to that question is no. They will pay their own legal costs.

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

I apologise that I did not quite catch what the Minister said. Could he clarify whether it is a fact that suspensions in terms of length with our police are completely out of kilter with anywhere in the U.K.?

Senator B.I. Le Marquand:

I have absolutely no way of knowing that. The answer to any individual case would depend upon the length of time taken in relation to criminal investigations. Now, I have no statistics from the U.K. with which to compare but I would imagine if there was a lengthy criminal investigation that that similarly would massively delay matters. There also is, as I said, where particular issues arose in relation to obtaining of legal advice which caused further delays and the co-ordination of dates for the hearing were difficult because of the need for an officer from away.

2.3.4 Senator J.L. Perchard:

Would the Minister say why it is that the States are so extraordinarily bad at dealing with disciplinary matters such as this in a timely fashion and what does he intend to do to ensure that this type of appalling waste of public money becomes a thing of the past?

Senator B.I. Le Marquand:

The Minister for Home Affairs has absolutely no control over the processes of the Law Officers' Department in relation to criminal investigations. As I have already indicated I am informed that there was a period of 7 months delay caused by that alone and another period of 4 months. I do not view - if we take off the 7 and the 4 - the remaining 7 months for this matter as being excessive.

2.3.5 The Deputy of St. Martin:

The Minister has said that the legal costs are going to have to be met by the 2 police officers concerned. Does the Minister not consider it totally unfair, as indeed as has happened also to the Chief Police Officer, where the States of Police employ or engage the services of a very senior lawyer to prosecute and therefore the officers who have to face the discipline charges have to pay their own legal costs? Does the Minister not feel that is rather unfair and surely, on this particular occasion, as the officers are found not to have been guilty, surely their costs will be met by the police and not by the 2 innocent officers?

Senator B.I. Le Marquand:

The current position is that the policy of States of Jersey generally, or at least the States Employment Board, as I understand it, is not to provide free legal aid for individuals who are facing disciplinary charges. Now, in relation to this particular matter I can reveal to the States that I was asked the question as to whether I would do so, and I considered that. I am well aware it is human rights principles in relation to this matter because of my long experience as a judge, but the principle is this; that if a person were facing a disciplinary charge and could not reasonably afford their own legal advice then there would be a duty to provide them with assistance. But if they can reasonably afford their own legal advice, as I took the view was the case in this case, there is no duty so to do. It would be a major departure from past practice if the States of Jersey were to start to pay the legal costs of people who are defending themselves and, indeed, that in itself would massively increase the costs of such disciplinary matters for which there is currently general criticism.

2.3.6 The Deputy of St. Martin:

I think the Minister has missed the point. The decision to prosecute against the 2 officers was taken by the Chief Officer of Police and they also engaged a very senior lawyer to prosecute therefore one can understand the 2 officers trying to get some legal aid themselves, so surely now the case has been found against, they have been found not guilty, in other words, they are innocent, surely their costs should be met by the States of Jersey, not by the 2 individuals.

Senator B.I. Le Marquand:

I do not know if the lawyers were involved in a prosecution role or not. I am afraid I have not asked that question. That information was not clear to me. I do not know if a lawyer appeared for, as it was, the complainant at the hearing or how that was handled, which puts me in a difficult position. I genuinely do not know the answer to that question. I know that legal advice was obtained and it was expensive but I do not know if that included conducting the presentation of matters.

The Deputy of St. Martin:

Can I just ask maybe the Minister will inform Members whether in fact those costs will be met by the 2 officers?

The Deputy Bailiff:

We have come to an end of this question thank you, Deputy; we must keep moving. Deputy Shona Pitman has a question to ask of the Minister for Housing.

2.4 Deputy S. Pitman of St. Helier of the Minister for Housing regarding flooding of houses at Nicholson Close:

In view of the heavy rainfall during the last weekend of February, would the Minister inform Members what action, if any, his department have taken to prevent the regular flooding of houses at Nicholson Close?

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

Contrary to the Deputy's allegations on BBC Radio this morning, houses at Nicholson Close do not flood regularly. Housing officers and the Transport and Technical Services Department have confirmed that the last record of flooding in the Grands Vaux area was over Christmas 1999 and on that occasion the flooding affected homes at Troy Court. Subsequent to that sewers in the area have been upgraded. A substantial amount of rain fell over the weekend of 27th and 28th February with almost 53 millimetres of rainfall being recorded at Maison St. Louis between 6.00 p.m. on Saturday and 9.00 a.m. on Sunday morning. The department has already asked Transport and Technical Services' drainage engineers to investigate the reasons for the flooding at Nicholson Close and will consider any recommendations they make to minimise the likelihood of any recurrence of flooding in the area.

2.4.1 Deputy S. Pitman:

If the Minister was to speak to these tenants he will know that in the last 15 years this occurrence of flooding has happened 4 times. Bearing in mind what I have just said regarding the constituents' word on the flooding 4 times in 15 years, could the Minister explain why these houses are earmarked for sale in the Housing Property Plan?

Senator T.J. Le Main.

There has been no evidence of any flooding 4 times in 15 years. If the Deputy would like to send on to me or to the department the names of those tenants she claims have been flooded over those period of years, then I am very happy to look at it. I still could not quite understand the last part of the question; is it why we are selling properties off?

Deputy S. Pitman:

Why are these properties being earmarked for sale under the Property Plan?

Senator T.J. Le Main.

There is no particular properties been earmarked for sale. The Property Plan indicated over a period of 10 years that those tenants who would wish to purchase their own homes *in situ* over a period of 10 years would have the ability to do so. So no particular homes are targeted, but if tenants are able and willing to purchase their home then there remains an availability. The other think I would like to say, the Acting Director of Waste Management Drainage Engineers, T.T.S. (Transport and Technical Services) duty officers are holding a meeting this Thursday to discuss any flooding problems in Grands Vaux and Vallée des Vaux areas and I would like to ask the Deputy to put in writing or give us names of those she claims have been flooded over a period of years because we have no evidence of that at all.

2.4.2 The Deputy of St. John:

Could the Minister inform Members whether or not tenants of his department are required within their rental agreements or leases to carry insurance for contents of their properties?

Senator T.J. Le Main.

No, they are not required. We offer the clients in their tenancy agreement a very good offer of household contents insurance but unfortunately we cannot force them to take that up. In this instance, I know of the 4 homes that were flooded, 2 were insured, one had not got round to getting any insurance and the other did not think they needed it. But we are looking at insurance. It has been something that has concerned me for a considerable time that tenants, somehow, we should be able to work with them to give them the kind of cover that they need.

2.4.3 Deputy T.A. Vallois of St. Saviour:

Could the Minister just confirm whether there has been a timeframe from T.T.S. as to how long it will take them to look into this flooding situation?

Senator T.J. Le Main.

I cannot speak for T.T.S. All I can say is that there will be a meeting this week to discuss the outcome of those 4 houses that were flooded and I can give an assurance to the Assembly that if it is anything to do with the Housing Department, the Housing Department will do all in their power to rectify if there are any problems. But the issue is that it is a difficult one. Nicholson Close is connected to a system that is affected by a number of factors which are outside the responsibility of the department, including the height of the tide, the height of the water in the Grand Vaux reservoir, and the amount of water running off fields and whether downstream the public drainage system is blocked. I can give an assurance to particularly the Deputies in St. Helier No. 2 that I will work with them if necessary, but make sure that any of our property tenants have the comfort of knowing that they will not get flooded if we can do anything to assist.

2.4.4 Deputy S. Pitman:

I would just like to clarify a couple of points. Firstly, that one of the tenants in Nicholson Close has been flooded twice. The Grands Vaux Community Centre was used about 15 years ago to put these people up who were flooded and one person did look to buy one of these properties so they are definitely earmarked for sale and in the Housing Property Plan. Will the Minister say whether he will be working with T.T.S. because it is my understanding that the problem is the drains around Nicholson Close, they are too small to take the water?

Senator T.J. Le Main.

I am not sure how the Deputy is such an expert on drains but I would have thought that perhaps you ought to ask the Deputy of St. John who is an expert on drains and toilets, he may be able to assist. I can assure the Deputy that I will be working... or the department do work hand in hand with T.T.S., we have got a very good working relationship between officers and we will do everything we can to make sure that this does not occur again. This was an extraordinary night of rain where many homes in Jersey were flooded and, as far as I am concerned, the advice given to me, is that

the drains are all up to date and were upgraded some years ago, but it was exceptional circumstances and I am not sure where the Deputy gets her advice from that the drains are not in order or otherwise.

The Deputy Bailiff:

I notice we have a new face in the Assembly and I would like to take the opportunity of congratulating Mr. Howard Sharp, the new Solicitor General. **[Approbation]** We welcome him to the Assembly.

2.5 Deputy C.F. Labey of Grouville of the Minister for Health and Social Services regarding the implementation of the recommendations contained within the Verita report:

Are Verita's services or another such body going to be used to help implement the recommendations contained in their report?

[10:15]

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

Since 2006 the department has made significant changes, which has led to tangible improvements in patient safety. The implementation of the recommendations made by Verita will be undertaken by the management of Health and Social Services, which will include the new Chief Executive Officer and their teams. Professor Aidan Halligan continues to provide advice to the department on patient safety. A group which includes the Clinical Director and the Chair of the Medical Staff Committee have been set up to oversee this task. This group has held discussions with Verita, which include details of the process that will be used to monitor performance prior to their return visit in 6 months' time. Members will know that I have asked Verita to report back to me, the Greffier of the States, the Deputy Viscount and the chairman of our Scrutiny Panel on that progress that my department have made during that period. I have also promised that I will publish the outcome of the progress report.

2.5.1 The Deputy of Grouville:

Could I ask the Minister why there are no patient safety officers or an officer appointed at the Jersey General Hospital?

The Deputy of Trinity:

At the moment, that comes under the Medical Director, and he retires next month. That is one of the things that Professor Aidan Halligan has talked to the department around, that there could perhaps be a patient safety officer, and that will be part, or one of the issues within the recommendations perhaps.

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

The Minister referred in her answer to the new Chief Officer for Health; has this person in fact been appointed and, if they have, when are they going to take up post?

The Deputy of Trinity:

I cannot answer that question now but I understand there is a question about the Chief Executive later on.

The Deputy Bailiff:

You can answer the question now.

The Deputy of Trinity:

One has been appointed and I will announce more details later on in the week.

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

In the Verita report it was a mix of many procedural recommendations and some very scathing remarks about management and cultures of almost fear and so forth. Could the Minister inform us, given their very broad-ranging comments on the management culture, what steps does she have in mind to rectify this situation, for example, strengthening whistle-blowing which, according to them, is still not working?

The Deputy of Trinity:

The Deputy brings up a very important point there and all these issues will be looked at. As I said, there is a group looking at all the recommendations and that includes right across the department and includes some other States departments, and I would not like to say here about the recommendations because I will publish that in the fullness of time.

2.5.4 Deputy R.G. Le Hérisier:

Would the Minister not accept that these comments, rightly or wrongly, reflect enormously on the previous management on the culture that was allowed to develop and can she say how is a fresh start going to be made if an existing group simply reviews themselves?

The Deputy of Trinity:

The recommendations, as I said, is not just the management. It goes right across all departments and there is a clinical director as well the chairman of the Medical Staff Committee. So it goes right across all the areas. But I stress that the Ministerial team is created to a culture of openness and that is very, very important. It must be fair and proportionate and holding them to account to produce a process of putting those recommendations into place.

2.5.5 The Deputy of St. Martin:

It appears that the lessons that were supposed to be learned have not been learned because it appears that those people who were responsible for causing the problems are still going to be there to try to put the problems right. On that point, could the Minister inform the House whether in actual fact she has spoken to the Chief Minister to ask the Chief Minister how soon the report into the suspension of the hospital gynaecologist is going to come to a conclusion? I understand the report has still not been completed and has not been sent to the Minister.

The Deputy of Trinity:

I speak to the Chief Minister quite regularly and I must say that has not been one of my points on the agenda. As I said, that is for the States Employment Board agenda, and I will leave it like that.

2.5.6 The Deputy of St. Martin:

I am rather disappointed that the Minister has not been speaking to the Chief Minister about this possible gynaecologist, bearing in mind only 2 weeks ago a question was asked and answered by one of her Assistant Ministers who said ... or did not answer the question actually, whether in actual fact the Minister had apologised to the gynaecologist for the lengthy suspension. Could I ask the Minister if she has now apologised to the gynaecologist for the lengthy and unnecessary suspension?

The Deputy of Trinity:

I know that this was mentioned in the last couple of weeks; I have nothing to apologise for. It was not under my watch, and also I welcome him back as I would do any staff member. Every staff member is important and especially if they have not been able to work for a period of time, or whatever, and come back to work.

2.5.7 The Deputy of Grouville:

As the Clinical Director and Chairman of the Staff Committee are still in place, who were, in essence, responsible for the sloppy and defective management, they are now going to oversee the changes that are meant to come about from the Verita report; how does the Minister feel that this will instil any confidence in the public in the hospital's management?

The Deputy of Trinity:

The hospital is a good safe place and I must reassure members of the public and this Assembly too. That was brought out in one of the questions that the Verita team mentioned when they were over here, that the hospital is a safe place. A terrible, terrible accident happened over 3 years ago. Lessons have been learned and some procedures have been changed. But there is always room for improvements, and this is where the 29 recommendations do come in, from Verita, otherwise there would be no point in having an investigation. We have got to learn by this. The management team across the whole hospital where there is corporate management, Medical Staff Committee, *et cetera*, are all there for patient safety and with putting the recommendations into place as soon as possible.

2.6 Deputy P.V.F. Le Claire of the Minister for Home Affairs regarding the strengthening of dangerous dogs importation legislation:

In order to be helpful I did ask some questions about dogs in the written question number 2, if it helps Members, but I would like to ask the Minister for Home Affairs this question. Following a dog attack in St. Aubin's Bay by a cross-bred Pit Bull which had been imported into Jersey from the United Kingdom, would the Minister undertake to strengthen legislation to ensure that dangerous dogs from other jurisdictions are not able to be imported into Jersey?

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

I am assuming that the dog attack referred to by Deputy Le Claire is the same one as was mentioned in questions back in December and not a new one. The position, as I have set out in the written answer, is that we already have a situation where under the Customs and Excise (Import and Export Control) (Jersey) Order 2006, a licence is required to import any one of the 4 very dangerous types of dogs and indeed any other type which appears to have been bred for fighting. In addition to that we have a variety of different statutes and regulations - the Dogs (Jersey) Law, among others - Policing of Beaches, and so on. At the moment I am satisfied with the package which is in existence. After the questions I answered in December I met with Deputy Power and indeed somebody from the Jersey Animal Shelter in order to discuss issues and, in fact, was able to assure the gentleman from the animal shelter that our legislation was in a better state than he thought it was in. There were some provisions in existence that he wanted that we already had. In short, my answer is, no, I do not think at this time it is necessary to make any changes because I think the overall package is okay and we do not, in fact, have the problem which they have in the U.K. of dangerous dogs which are attacking people.

2.6.1 Deputy P.V.F. Le Claire:

Notable in the written answer, some element of not being able to do this is attributed to the fact that the Minister has other pressing issues. I am partly to blame for that with the rear seatbelts and the other things that I have asked him to do, which is the wheel clamping, *et cetera*. Given that we have just heard this morning from the Deputy of St. Martin that there is money within the budgets to go out and employ private law firms to carry out disciplinary actions - quite lengthy disciplinary actions - against innocent police officers, surely there must be some money in the pot to ensure that dangerous dogs are prohibited from entering Jersey and are policed from entering Jersey and that adequate legislation or new legislation is introduced to Jersey perhaps at least for Members to debate whether or not certain breeds should be outlawed from Jersey.

Senator B.I. Le Marquand:

I think that Deputy Le Claire is comparing 2 quite unlike things. It is very much in the public interest and a requirement of public confidence in the police that if there are serious allegations against police officers that these are properly investigated and a proper process takes place. In this particular case, what I am saying is that my view is that the current legislation appears to be adequate for purpose. But even if it was not adequate for purpose and I felt some improvements were made, it would be low in my priority list.

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

This is quite topical because they are looking at the laws in the U.K. Would the Minister not consider with the Constables that when a dog is licensed that it must be automatically chipped in this day and age so that it can be easily identified and also who the owner is. This is where the U.K. is looking at and they are talking something about dog ASBOs (Anti-Social Behaviour Orders), but we probably do not even want to go there at the moment.

Senator B.I. Le Marquand:

Thanks to the excellent briefing I received this morning from my staff I have a paper on what they are thinking of doing in the U.K. They are thinking of doing lots of interesting things, such as forcing people to insure their dogs against attacking people. I am loath to blindly follow what they do in the U.K. I think we need to watch, see how things work out there and then follow subsequently. There is a requirement in existing law that a dog must have a collar and must have a name on that collar. If it does not, then it is a stray dog and it can be picked up in any event. So, I think that there are provisions which cover all issues.

2.6.3 The Deputy of St. John:

Possibly the Minister needs to speak to a number of postmen. Given that he mentions he does not believe there are dangerous dogs on the Island, can he, therefore, explain why I knocked on somebody's door 2 years ago and I was attacked by 2 Alsatians who were in the house? They came out through a dog flap and bit my rear, *et cetera*. **[Laughter]** So, he maintains there are not dangerous dogs. Could he please explain that?

Senator B.I. Le Marquand:

I cannot explain that, although one theory could be that it was mistaken identity. They thought he was a postman. **[Laughter]**

2.6.4 Deputy P.V.F. Le Claire:

While I do appreciate that we do need to have thorough regulations and processes in place for the police officers that are under suspension, I would like to ask the Minister to reflect on the point I was making in my earlier question, which is if there is a finite pool of resources, certainly they need to be considered. Raising this issue, as other people have done, it hopefully highlights the fact that there are people in Jersey that are concerned about the actual application of law when it comes to dangerous dogs. Will the Minister undertake at the very least to continue to review this while he moves forward with these other engagements?

Senator B.I. Le Marquand:

I am grateful to the Deputy for having raised the issue again, which keeps the Minister on his toes. As I say, I am awaiting correspondence from the gentleman from the animal shelter if he still considers there are issues that I should really be looking at. I am sure that Members of this House will continue to keep me on my toes with further questions in this area from time to time.

The Deputy Bailiff:

Can I just take the opportunity of reminding all Members of Standing Order 63(6)(b) which says: "The Presiding Officer shall rule a supplementary question out of order if the question is not concise." Deputy De Sousa has a question to ask of the Minister for Economic Development.

[10:30]

2.7 Deputy D.J. De Sousa of the Minister for Economic Development regarding 'gazumping' within the property market:

What action, if any, is the Assistant Minister and his department taking to combat 'gazumping' within the property market and will he be bringing proposals forward to regulate estate agents against this?

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

If I may, I will defer to my Assistant Minister. I have a conflict in this area.

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

Two questions there. Despite being contrary to the Jersey Estate Agents Code of Conduct there is no doubt 'gazumping', while not widespread, does happen as it does in other places, although to be fair in the current economic climate 'gazundering' is more prevalent at the moment. Sadly, to eliminate such behaviour from the market would require a complete overhaul of the property transaction legislation. The other question about regulation of estate agents; estate agents are, of course, to an extent regulated. They are required to comply with the anti-money laundering and 'know your client' requirements, but there is a case, I think, for some regulation of estate agents. Some 3 or 4 years ago, the Consumer Council did some excellent work in this area and the Minister and I have agreed and have, in fact, asked our officers to consult with the Consumer Council further to see if that work that they did 3 or 4 years ago can be updated, to consult further with the estate agents and their clients to see what appropriate regulation could be introduced to the benefit of the consumers.

2.7.1 Deputy D.J. De Sousa:

Yes, I was ready at hand with all the information that the Consumer Council did put together. Really, it is all ready to go forward. It has been ready for 4 or 5 years now. Will the department please look at bringing this forward? We are all aware of the case last year that was highlighted to us and it is not fair when people are losing thousands and thousands of pounds and they then cannot go on to buy other properties.

The Deputy Bailiff:

I am not sure how concise that was, Deputy. Assistant Minister?

The Connétable of St. Clement:

As I said, we have asked our officers to talk further with the Consumer Council, but regulation of estate agents will not impact on gazumping. Gazumping is because of the nature of our Property Transaction Law. I am sure the Deputy will realise that estate agents do have to act in the best interests of their client, and if they receive offers for properties they are obliged to inform their client, otherwise they in turn could be liable for not informing their client. At the end of the day, it is a matter for the client to decide which offer he or she accepts for a property.

2.7.2 Deputy T.A. Vallois:

Can I ask if the Assistant Minister will be taking the lead on this work and if the Minister for Economic Development will be kept out of the actual work that is ongoing due to his conflict?

The Connétable of St. Clement:

Yes.

2.8 Deputy T.M. Pitman of the Chief Minister regarding

Given any additional monies/severance payments outside of the contractual entitlement paid to the former Chief Officer of Health and Social Services would have been made from public funds, what justification can the Chief Minister give for not divulging the contents of the agreement to the Assembly in his written response on 23rd February, particularly in the interests of accountability and transparency as outlined in the Ministerial code of conduct?

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

The reason why I am not able to provide the Assembly with any details concerning the departure of the former Chief Officer of the Health and Social Services Department is because the terms of his departure were subject to a confidentiality agreement. There is nothing unusual about this. All of the individual employee agreements facilitated by the Jersey Advisory and Conciliation Service, for example, contain confidentiality clauses. This would also normally be the case in the private sector.

2.8.1 Deputy T.M. Pitman:

Bearing in mind that the former Chief Officer was criticised by Verita, if he had done it deliberately why must he receive additional payment; likewise if the former Chief Officer was asked to leave why did he receive additional payment with the monies from the public purse. Surely it should be in the public interest to have that revealed.

Senator T.A. Le Sueur:

The Deputy seems to be aware of payments which may or may not have been made. I am not sure where he gets his information from or how reliable it is. As I say, it is a confidentiality agreement with both parties and any comments of that nature are purely speculation.

2.8.2 Deputy R.G. Le Hérissier:

Would the Chief Minister not acknowledge that his previous statement was slightly disingenuous that the private sector does not reveal these facts? Would he not acknowledge that because of shareholder restlessness in places like the U.K. the terms upon which chief officers are appointed and the terms upon which they leave, if they do leave, are now known because shareholders insist that they be known?

Senator T.A. Le Sueur:

This will entirely depend on the nature of the agreement between the parties concerned. Where there is a confidentiality agreement, it would be a matter of interpretation whether that can be overridden by any other judgment or decision of shareholders. But normally a confidential agreement is just that.

2.8.3 Deputy R.G. Le Hérissier:

Would the Minister not acknowledge that he is hanging on to procedural ways out of this situation and that it would be much better, given the large sums we are paying people often linked to performance in their position... given those large sums it would make for much more credibility if we had some mature discussions about them instead of trying to always hide them?

Senator T.A. Le Sueur:

I disagree entirely. The Deputy makes comments about large sums. Frankly, if one is talking about a principle here whether the sum is large or small is immaterial. But really, this is not a procedural

way out. This is a matter of good employment relations and is consistent with Jersey Advisory and Conciliation Service practice.

2.8.4 Senator S.C. Ferguson:

Given the moves to disclose all the payments made to council executives and senior members in the U.K. and a general policy that is coming on of transparency and disclosure, does the Chief Minister not think it is perhaps time to review this and to modernise these arcane procedures?

Senator T.A. Le Sueur:

I point out to the Senator that details of salaries paid to chief officers are already published in the States financial statements. What the question is asking is about a severance payment or additional monies outside of the contractual entitlement. That is a different matter entirely.

2.8.5 Senator S.C. Ferguson:

I would perhaps ask the Chief Minister why, when in business these sums are disclosed and we are trying to run an efficient States organisation... surely we should be bringing these efficiencies and transparency into the States system.

Senator T.A. Le Sueur:

I am not sure what the Senator means by "these sums are disclosed". If she means sums paid for in the event of a cessation of employment that is not necessarily always disclosed and it will depend on the circumstances.

2.8.6 Deputy T.M. Pitman:

Having taken advice from Data Protection before I shaped my question, does the Minister not concede that it would be better to get the figures out in the open now rather than wait for people perhaps like Senator Ferguson who will be going through the accounts in a month's time with a fine toothcomb? Because we will get these answers eventually.

Senator T.A. Le Sueur:

This is not a matter for Data Protection. This is a matter of commercial contractual arrangements. As to what the Public Accounts Committee or any other committee may look for in the future, they I trust will also abide by and respect any confidentiality which may be overriding a general contract.

2.9 Senator B.E. Shenton of the Minister for Planning and Environment regarding the accountability for legal costs in planning matters:

Where the Minister or Planning Application Panel goes against the advice of planning officers and a legal action results in costs to the taxpayer, where does accountability lie?

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

The planning and regulatory regime is clearly political in nature as it governs the activities of individual land owners in the public interest. As the elected Members of the States of Jersey represent the public interest, then they should be the ones making planning and building decisions, at least those decisions that are significant in their effect or raise issues of public interest. Each application is required to be considered on its planning merits having regard to the Island Plan and other relevant considerations and, therefore, applications are assessed by the department's professional staff before recommendation is made either to the Planning Applications Panel or to the Minister. It will sometimes be the case that elected Members do not agree with the recommendation of the officers, and in these cases there is a cooling-off period to consider the

implications of a decision different from the recommendation. Where the politicians' decisions are subsequently confirmed, then clearly it is the Members making those decisions who are accountable both to the States and to the electorate. In the event of a successful appeal against a decision made in these circumstances, costs are likely to be awarded against the Minister. The payment of these costs cannot be budgeted for in advance, yet the clear accountability for the Planning and Environment Department's budget and expenditure lies with the Chief Officer as the department's accounting officer by virtue of financial direction 2.2. Mechanisms, however, do exist in those directions for the Chief Officer to make known his differing position in the matter to allow political decisions to be made.

2.9.1 Senator B.E. Shenton:

The department has lost 2 high-profile third party appeals and been heavily criticised by the Royal Court. How can it be in the public interest for the Minister to go against not only the planning officers' advice but also Crown Officers' advice resulting in a cost to the taxpayer of hundreds of thousands of pounds?

Deputy R.C. Duhamel:

As I said, it is a matter of political judgment and the weighing-up of what is in the public interest. The appeal procedures are a democratic function of any legislature and I certainly would be in agreement with the Minister to be telling this House that we both consider that a challenge to professional decisions from any direction and any quarter must be an acceptable part of democracy.

2.10 Connétable D.J. Murphy of Grouville of the Minister for Treasury and Resources regarding the proposed use of the proceeds from the sale of the former Jersey College for Girls site:

Will the Minister give Members an assurance that if the Jersey College for Girls site is sold the proceeds will not be used to defray the budget deficit but will be categorised into another project?

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

Yes, I can confirm that the proceeds will be put to the capital programme funding. Treasury Financial Direction 6.6 contains detailed guidance on the use of capital receipts, which I have the ability to direct. Where fixed asset disposals take place, the proceeds from disposal remain in the Consolidated Fund and are unavailable to spend unless the relevant approval is obtained, of course, from this Assembly.

2.10.1 The Connétable of Grouville:

Would the Minister please inform the House who will be deciding what is an acceptable bid and would he ensure that the appropriate Scrutiny Panel is consulted before the decision is made?

Senator P.F.C. Ozouf:

I propose to call in that decision myself because it is a substantial decision but upon the advice, of course, of my Assistant Minister, and I will take advice as to the extent to which I can involve the Scrutiny Panel.

2.11 Deputy G.P. Southern of St. Helier of the Minister for Social Security regarding the impact of the Comprehensive Spending Review on benefits administered by his department:

Given that the departmental budget consists overwhelmingly of benefit payments, will the Minister assure Members that in attempting to deliver the 10 per cent cuts required by the comprehensive

spending review by 2013, he will not reduce the index-linking or otherwise cut the levels of individual benefits administered by his department and, if not, will he state which benefits may be targeted?

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

Contributory social security benefits are automatically linked to the rise in the earnings index. Any changes to those benefit rates would require the States to approve amendments to primary legislation. Other States-funded benefits such as income support benefit rates can only be increased or reduced with States approval. It is too early to say what the comprehensive spending review might propose across any department. It is, however, important that the review is undertaken so that Ministers and this Assembly can make informed decisions.

2.11.1 Deputy G.P. Southern:

Could the Minister at this stage state what might be saved by each percentage point below normal operating across all benefits?

Deputy I.J. Gorst:

I struggled answering this question as an oral question anyway because I was being asked for information and I would like to have been able to go into each benefit and say how they are rated in the process or otherwise. I do not have that information on the top of my head and I think if the Deputy wants to know it then perhaps he should submit a written question and I will try and provide it for him next time.

[10:45]

Deputy G.P. Southern:

I will try a simpler supplementary if I may then. Would the Minister ... oh, it is gone.

The Deputy Bailiff:

Very well. Deputy Le Hérissier.

2.11.2 Deputy R.G. Le Hérissier:

Just to keep the fun going, would the Minister not acknowledge that a reduction of benefits will bring up the issue that what is politically unacceptable will collide with what appears to be the necessity to make cuts?

Deputy I.J. Gorst:

I do not believe ... well, I should put it the other way. I believe that the Minister for Treasury and Resources has been completely upfront and honest about the difficult decisions that we as an Assembly will have to make going forward, and they will be decisions for this Assembly. We can raise taxes; we can cut our operating costs. One suspects that ultimately being a consensus Assembly we will come down somewhere in the middle, but that will be a decision for this Assembly. What I can say we are looking at in my department is to see if we can extend things to encourage people back to work. So we currently have the pain clinic. If we can invest a little in that, extend it, then we can reduce our overall budget spend. There are smart ways that we can try and cut costs and I hope that that is what will be proposed to this Assembly and this Assembly will make decisions upon.

2.11.3 Deputy G.P. Southern:

Can the Minister state whether it is possible to achieve 10 per cent cuts without affecting the level of benefits he administers?

Deputy I.J. Gorst:

As I just answered, there are smart ways to try and achieve cuts across all departments. It is important that this review takes place and then that we together can make those difficult decisions about what sort of service we want to provide for this community going forward and whether we ultimately want to ask individuals to pay more for those services that we want to provide.

2.12 Deputy D.J.A. Wimberley of St. Mary of the Minister for Economic Development regarding the current status of the Tourism Development Fund:

Would the Minister inform the Assembly how much money is left in the Tourism Development Fund and whether he considers that this sum reflects the States' commitment to the tourism sector?

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

The Tourism Development Fund has a current unallocated sum of £466,333. The Tourism Development Fund is just one mechanism to support the tourism sector and, therefore, does not reflect the total commitment to the tourism industry. Tourism is vitally important to the Jersey economy, and I am sure that Members will join me in sending the tourism industry a clear message of support.

2.12.1 The Deputy of St. Mary:

Fine words butter no parsnips. The States once upon a time voted £10 million for the Tourism Development Fund, and I wonder if the Minister could tell the Assembly where it went.

Senator A.J.H. Maclean:

The £10 million was voted in 2002 as a promise by the Assembly to support tourism. To date, £2.2 million has been forwarded to the Tourism Development Fund and has been used for a range of very worthy projects. I can give a commitment to the Assembly that I would like to see more money in the Tourism Development Fund, and to that end I have already had discussions with my good friend the Minister for Treasury and Resources to see if I can persuade him to loosen the purse strings for this very worthy cause.

2.12.2 The Deputy of Grouville:

It was my predecessor who secured the £10 million for the Tourism Development Fund and it was my understanding it was certainly not a promise, it was a proposition to invest or hold in the Tourism Development Fund £10 million. Was this money ever transferred into that Fund and, if not, why not?

Senator A.J.H. Maclean:

As I say, my understanding from the proposition was that there was an undertaking given by this Assembly to support the tourism industry and to support the introduction of a Tourism Development Fund to the tune of £10 million. These funds, as far as I am aware, were not transferred. The only money that has come forward to the Fund was that which was originally in the Tourism Investment Fund itself, the original fund that operated between 1995 and 2000. In total the Tourism Development Fund has had allocated to it and distributed £2.2 million.

2.12.3 The Deputy of Grouville:

So, would the Minister agree that there is £8 million outstanding and that should be transferred into the Tourism Development Fund, or has the tourism industry still got access to those funds?

Senator A.J.H. Maclean:

As I said a moment ago, I would certainly like to see more money transferred into the Tourism Development Fund. £466,000 is not enough for what we need to do to support this important sector of our economy. I have had discussions with the Minister for Treasury and Resources and I

certainly am hopeful that we will get some additional funding into T.D.F. (Tourism Development Fund). I am also keen to bring forward to the Assembly plans to open up and widen the remit of the Tourism Development Fund. Currently, it deals with public and voluntary sectors. I would like to open it up to make it even more effective.

The Deputy of Grouville:

He did not answer my question. The Minister did not answer my question. Is the £8 million balance that was voted by this Assembly for tourism development in this Island available, yes or no?

Senator A.J.H. Maclean:

As far as I am aware, that sum was not voted and I think the Deputy of Grouville perhaps should direct the question to the Minister for Treasury and Resources if she wants some more details on the accounting of that particular funding and decision by the States Assembly.

2.12.4 Deputy S. Pitman:

The Minister has stated that he will be trying to get more money for this Fund. Will he be fighting for the full £10 million?

Senator A.J.H. Maclean:

I will be fighting to get as much as I possibly can for the Tourism Development Fund and, as I have already stated, bringing back to this Assembly the ability to widen the remit so it can become even more effective. I would like to get as much as I can for tourism. If I can get £8 million and if I can persuade the Minister for Treasury and Resources to fund that amount of money, then I would be delighted to do so. It is difficult times. It is not going to be easy. I will get what I can.

2.12.5 Deputy R.G. Le Hérissier:

Would the Minister not acknowledge that tourism needs a critical mass of accommodation if sufficient visitors are to be on the Island in order to keep the whole range of facilities such as Durrell and the war tunnels in business?

Senator A.J.H. Maclean:

Yes, I think we have something short of 12,000 beds currently at the moment. We have had significant private sector investment in tourism, which is a good thing. What I can say to the Deputy which is of particular relevance is that we are not reaching the capacity that we have at the moment. We have nearly 12,000 beds but we are not filling them. We are not filling them in shoulder months and we are barely filling them in the peak season. There is a great deal more work to do in a difficult market. Jersey is faring quite well but it is difficult out there. Hoteliers are finding it hard, as other members of the industry are.

2.12.6 Deputy D.J. De Sousa:

If £10 million was sort of promised to this pot to deal with tourism, why is it in 8 years only £2 million has been brought forward?

Senator A.J.H. Maclean:

I think we are repeating ourselves somewhat. The funds were promised under a proposition made to the States Assembly. The funding was never allocated or put into a separate fund. The money is not there. The Treasury would need to answer the details to give you more scope to the understanding of this issue.

2.12.7 The Deputy of St. Mary:

Can the Minister confirm that in summary what he is telling the House is that the commitment to the tourism industry and their offering needs the spend and it needs our commitment? Is he telling

us that the commitment to this House has gone down from £7.8 million to £466,000 in relation to the Tourism Development Fund? I accept there are other bits in the toolkit but in relation to the Fund, the commitment has gone from £7.8 million to £466,000?

Senator A.J.H. Maclean:

No. The funds were never put into the Tourism Development Fund. There was a proposition brought forward to this Assembly which made a promise to provide funding for £10 million for the Tourism Development Fund. That money was never actually allocated. All we have had is £2.2 million to date.

2.13 Deputy R.G. Le Hérisier of the Minister for Education, Sport and Culture regarding the introduction of a universal ticketing system for all arts locations which receive public funding:

What progress, if any, has been made with the introduction of a universal ticketing system for all arts locations which receive public funding?

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

Good progress is being made with the introduction of a single online ticketing system that will serve all the main arts locations which receive public funding, including the Opera House, the Arts Centre and Fort Regent. This project is due to commence deployment shortly and it is planned that the new service will be operational by June this year.

2.13.1 Deputy R.G. Le Hérisier:

Can the Minister in explaining the system tell the House whether the system was developed in-house, whether he went to tender, whether there will be, for example, the possibility of picking up tickets at Fort Regent, for example, of picking up tickets within the town area, and whether or not extensive redevelopment of software was necessary rather than buying an off-the-shelf facility?

The Deputy Bailiff:

Minister, you have an awful lot of questions there.

The Deputy of St. Ouen:

I might suggest that the Deputy might choose to see me afterwards if I miss out any parts to his question. However, the current arrangements with regard to the procurement and delivery of this particular project have the support of corporate procurement and comply with financial directions and procedures. The new service is being provided by the supplier as part of a range of I.T. (information technology) services to the department, not as an independent project, and there are cost savings and efficiencies arising from this approach. The new system will include a range of features to guarantee the security of data, including the encryption of data which means that credit card details will be secure. Access to the tickets will be, as one would expect, both online and at various locations throughout the Island.

2.13.2 Deputy R.G. Le Hérisier:

Just a follow-up: could the Minister answer was the project developed in-house or was it not? Why did they not look at the possibility of buying a totally complete project which answered all the questions and did not require enormously intensive in-house development?

The Deputy of St. Ouen:

As this is a relatively new development and one that I believe is a catalyst for further developments throughout the States service, it was deemed that it would be more prudent at this moment in time to utilise existing facilities available and currently installed at certain of the arts organisations and

develop and improve the information provided. That was why it was not decided at this moment in time to outsource this particular project. Over time, when we further understand the benefits that an online ticketing system can provide, we will then review the position and determine whether an outsourcing type system is a better approach.

2.13.3 Senator S.C. Ferguson:

According to the Comptroller and Auditor General, Jersey should not always be looking for bespoke solutions to problems. Will the Minister tell the Assembly why when considering his current course of action he did not require his officers to review up and running systems before deciding on this bespoke solution of upgrading an archaic system?

The Deputy of St. Ouen:

I appreciate that the Senator has her specific views on the subject and has indicated a preference for a particular supplier. However, it was deemed more appropriate at this moment in time that for a relatively small sum of money, which is approximately £48,000, we can provide a system that gives us complete control and we are not passing information over to a third party. If we are to understand the benefits that an online ticketing system can provide, both to the arts organisations and the wider audience, we need that information. As I have explained to the Senator before, at an appropriate time, once we better understand the opportunities and benefits to be derived from this system, then we will look properly at the outsourcing route.

[11:00]

I would underline that this project has had the complete support of the Procurement Department and other departments and meets all the financial directions and procedures that are required by the department to follow.

2.13.4 Senator S.C. Ferguson:

The project was originally intended to be up and running by the end of February. The Minister has now said it will be June. The original cost was said to be £48,000 but it is overrunning. Would the Minister tell us if it is definitely going to be running by June and what is the cost to date?

The Deputy of St. Ouen:

It is my knowledge that the project has not overrun and I do not know where the Senator gets her information from. I have already answered the question about when the service will be fully operational and that is aimed to be in June. I will say that because of the need to ensure that we comply fully with financial directions and all other procedures required by the department, it has slowed up the process. Equally, the complexity with the project is that it is a collaboration between a number of organisations and a single delay by one party can have an impact on the delivery date.

Senator S.C. Ferguson:

Is it not true ...

The Deputy Bailiff:

I am sorry, we need to keep moving, Senator. The Deputy of Grouville and then Deputy Le Hérissier's final supplementary.

2.13.5 The Deputy of Grouville:

Is it the intention of the Minister to extend the ticketing services to more remote areas in the Island such as the Parish Halls [Laughter] in Grouville and St. Ouen and possibly arrange for the facilities to be in the Parish Halls?

The Deputy of St. Ouen:

These I hope are developments that will be ongoing. As already stated, this project forms part of the web strategy deliverables for the Information Services Department and as such approval was sought so that this particular system could provide a standardised tickets events model which could be used throughout the States of Jersey without significant hardware and infrastructure investment. As such, we want to explore the opportunities, quite rightly, that online ticket purchasing can provide both this Island and the individual who is seeking to attend the events that we put on.

The Deputy Bailiff:

It is very reassuring to know that even the remotest parts of La Rocque may get it. [Laughter]

2.13.6 Senator S.C. Ferguson:

Would the Minister like to tell us at what stage he will be looking at extending this particular system to the rest of the Island?

The Deputy of St. Ouen:

I believe in one step at a time, and the first thing is that I want a fully operational ticket system that we can rely on and the public can benefit from. Once we have arrived at that position, then I think it will open up the door to many, many opportunities that can be provided. The ultimate goal for me is that it will ultimately form part of the website hosting strategy and it is to create a Jersey cultural events website showing all events on the Island and providing a seamless visual and booking experience without the need for potential patrons to look up many websites to review and book tickets as is currently the case.

Senator S.C. Ferguson:

Did the Minister not ...

The Deputy Bailiff:

I am sorry, Senator, we are not going to have a debate today about this. Final supplementary, Deputy Le Hérissier.

2.13.7 Deputy R.G. Le Hérissier:

First, could the Minister tell us expenditure to date and, secondly, could he say if one buys a ticket for Fort Regent, can it be collected from the Arts Centre or the Opera House?

The Deputy of St. Ouen:

The whole idea of the system is it will be user-friendly.

2.14 Deputy K.C. Lewis of St. Saviour of the Minister for Health and Social Services regarding the level and grade of medical staff required to bring the Renal Dialysis Unit up to the correct level:

Will the Minister inform Members of the level and grade of medical staff required to bring the Renal Dialysis Unit up to the correct level?

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

I will ask my Assistant Minister to answer this question.

Deputy J.A. Martin (Assistant Minister for Health and Social Services - rapporteur):

As this started a couple of weeks ago, the renal unit needs 2 full-time doctors, one at consultant level and the other middle grade. If both posts are filled and we have the nursing staff to match, we can meet the demand. Unfortunately, for about 3½ years the hospital has struggled to recruit the

middle grade and the consultant has had to work with a series of locums. We realise this is not ideal, as does the consultant, but it is better than reducing the service.

2.14.1 Deputy K.C. Lewis:

It is my information that the renal unit should have a consultant, middle grade doctor and a junior grade doctor, F1 or F2. That is foundation year 1 and 2. We just have one doctor doing the job of 3. Does the Assistant Minister not find this wholly unacceptable?

Deputy J.A. Martin:

As I just said, in an ideal world I have been told we need 2 full-times, one of those at a middle grade. Middle grade doctors across the whole of the U.K. are in shortage. U.K. trusts are recruiting middle grades to meet the European Working Time Directive and we are suffering. As I said, it is not ideal. We have just decided to give the unit more nursing staff and we would like to get this problem sorted out. We are looking at the pay structure and terms and conditions at this very moment. It has got to change. The demand for this unit is ongoing and will increase.

2.14.2 Deputy P.V.F. Le Claire:

The Minister for Health and Social Services said that the hospital was safe. Does the Assistant Minister consider the answer that Verita gave me that the position with locums has compromised and is compromising patient safety is one that can be continued?

Deputy J.A. Martin:

As I said in my reply to Deputy Lewis, locums are not ideal. Many, many locums have worked in Jersey General Hospital for many years and keep the hospital going. Due to our location and due to the economies of scale, we need them. But of course it is much better to have a full-time on-Island doctor of middle grade to do this post and that is what we are trying to do. As I have said to the Deputy, we will continue to do this.

2.14.3 Deputy D.J. De Sousa:

Bearing in mind that we cannot train doctors or locums on-Island, what steps is the department taking to encourage the relevant staff to move to Jersey, bearing in mind the high housing and cost of living?

Deputy J.A. Martin:

At the moment, we are looking to include the introduction of a new grade and salary scale for staff grades and associated specialists, similar to the agreement currently being implemented in the U.K. We have put a business case forward and it has been given high priority. We know we need to do this, otherwise we will not recruit. They will stay in the U.K. for the reasons that Deputy De Sousa has just stated.

2.14.4 Deputy A.E. Jeune:

While I appreciate that we are not part of Europe, would the 2 medical posts for this unit comply with the European Working Time Directive or would it require the 3, if the Assistant Minister could answer?

Deputy J.A. Martin:

I am not quite sure of that answer. I am told under our conditions that the 2 grades would be sufficient. Whether that would meet the European Working Time Directive I am not sure. I will find out for the Deputy, but it would probably not as far as I know the hours that the consultant works. I would say probably not.

2.14.5 Deputy R.G. Le Hérissier:

Has the Assistant Minister and the Ministry considered more Island-sharing, if that is possible, with Guernsey? Secondly, given this never-ending issue that has now appeared about the shortage of consultants, is she aware that there is a different model applied there where, as I understand it, in certain specialities they have contracted with a U.K.-based organisation to provide certain consulting services and they are provided automatically with none of this will-we-or-will-we-not recruit a certain staff member?

Deputy J.A. Martin:

To the first part of the question, we are really consulting well with Guernsey at the moment. To the second part, I do not know if the Deputy is inferring that we could - and this has been looked at - not have a permanent renal consultant on-Island but one - and it may not be the same one - that visits regularly to deal with the renal unit. This is something that will also have to be considered. This unit is growing. We know at least 5 to 10 patients need to go on the dialysis in hospital in the next 12 months, so all these things are being considered. I hope that is what the Deputy was asking.

2.14.6 Deputy G.P. Southern:

Does the Assistant Minister, and thereby her Minister, accept that the absence of a Working Time Directive agreement is causing serious problems with all grades in recruitment and retention?

Deputy J.A. Martin:

Yes. Obviously, we may be paying slightly more but if you then... as everybody now, including nurses are looking across the board at what it costs to live in Jersey, the hours that will need to be worked and the price of housing, obviously we are fishing in a much smaller pool and we really need to take all this into consideration. That is what the hospital is doing, but it will not be done cheaply. We really need to take this into consideration. We have got a business plan and it is high on our priorities. We will be looking at this.

2.14.7 Deputy G.P. Southern:

Could the Assistant Minister say in what timescale her department expects to do that consideration of adopting the European Working Time Directive so we can compete on a level playing field with the U.K. and others?

Deputy J.A. Martin:

I wish I could inform the Deputy of what timescale. As the Minister has said, we will be having a new chief officer. There is a lot to be done at the hospital and we know if we do not overcome this very soon it will be harder and harder to recruit. So, I hope it is as short as possible that we can get to the level playing field the Deputy requires, and so does the Minister.

2.14.8 The Deputy of St. John:

The Assistant Minister mentioned the small pool in which to get her staffing numbers up from. Will she give this House an assurance that within that small pool the staff are sufficiently qualified to the highest standard when choosing their staff and, if need be, they will go out to a larger pool? If it does mean that we have to pay more, then so be it. We need the best medical treatment for our people that money can afford.

Deputy J.A. Martin:

I totally agree and on meeting with the consultant 2 weeks ago, he has been going out and he is very, very conscious of the necessity for very highly skilled people. They are not there. They are not there to meet his requirements and if they are there they are getting better offers elsewhere. But to the Deputy's answer, no, we will not compromise the specialist we need. If we had have done, we would have recruited to this post many years ago.

2.14.9 Deputy K.C. Lewis:

The Assistant Minister took me a little by surprise there, stating we have just decided to increase the nursing staff. I just wonder why it needs questions in this House to get things moving. In 2007, Health and Social Services encouraged the purchase of 5 machines by the Kidney Patients Association on the promise that H.S.S. (Health and Social Services) would employ adequate nursing staff. The number of nursing staff has not increased since 2003. This situation is wholly unacceptable. Does the Minister not agree?

Deputy J.A. Martin:

Maybe I used the wrong word. I should have said recently reprioritised resources, and there are a few more nurses because the conditions on the ward were that the nurses were working too many shifts. The Deputy says that the nurses are ... sorry. I am told, and I have spoken to the consultant, the nurses there at the moment are sufficient for the present demand. It will need to be increased in the future and if the Deputy tells me it has not increased since 2003 with the amount of people that are being on dialysis, I am very surprised and I will look into this.

[11:15]

2.15 Senator B.E. Shenton of H.M. Attorney General regarding the total cost of providing legal advice to the Planning and Environment Department in 2009:

What was the total cost of providing legal advice to the Planning and Environment Department in 2009 based on average private sector charge-out rates?

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

I regret that I am not in a position to answer the question in these terms. The question asks about a whole range of legal advice provided to the department in question, which will encompass a range of legal advisory work and possibly court cases. As departments are not charged for the legal advice and services provided by the Law Officers' Department we do not have in place a mechanism for valuing in financial terms the entirety of the services provided. I could not for 2009, for example, give a complete answer in terms of time spent and, therefore, any answer about that component of the total cost assessment would be inaccurate. We do not keep records of the hourly charge-out rates in the private sector. To answer the question as asked would require us to ask firms of varying sizes in the private sector about the range of charges that they apply. It may be misleading to use the average of such figures to quantify a total cost as private sector charge-out rates vary depending upon the qualification and seniority of the individual carrying out the work and the type of work carried out. I regret accordingly I cannot answer the question in those terms.

2.15.1 Senator B.E. Shenton:

Can the Attorney General confirm that because no charge-out cost records are kept there is no way that the P.A.C. (Public Accounts Committee) will know the true cost of any department and especially a department that is heavily involved in litigation?

The Attorney General:

I am afraid I am not sure what sources of information are available to P.A.C. All I can do is to repeat the answer to the question that I have given. We are able to give indicative numbers of hours spent in respect of work on various departments. There are scales of charges for recoverable costs reported by the Judicial Greffe and kept by the Judicial Greffe. There are means, I think, in which assessments can be made, but in terms of the answer to the question that is put, I cannot give an answer to it.

2.16 The Deputy of St. Mary of the Minister for Economic Development regarding the level of bed stock below which the tourism industry would not be viable:

Will the Minister advise the Assembly if his department has calculated a level of bed stock below which the tourism industry would not be viable and, if so, will he advise how near we are to that situation and whether there is a commitment to avoid this situation arising, particularly with respect to threats to air and sea links?

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

While accepting the concerns of the Deputy of St. Mary, there is not and never can be a defined size for a minimum level of bed stock in Jersey. The 11,071 available beds on Jersey are almost entirely owned by the private sector, who operate their businesses according to market forces. Our role as government is twofold in that we stimulate demand by helping to promote the destination and have a responsibility to ensure through regulation that minimum standards are met. Air and sea services are also offered by the private sector, and they also operate their businesses according to market forces. We have seen the development of new routes and additional capacity already this year and I look forward to more good news stories like these in the months ahead.

2.16.1 The Deputy of St. Mary:

The Minister has in the same breath said that basically government has no role because it is all down to private enterprise, and then he says government has a role in stimulating demand. Can the Minister say whether he accepts the concept that if we go below a certain level of beds the air route starts to flake away and we are in serious trouble? Is there a floor - F-L-O-O-R - to his thinking?

Senator A.J.H. Maclean:

At some point I am sure there is a floor, but I think we need to concentrate on the fact that there has been significant investment in bed stock in the Island in recent years. There has been a drive towards improved facilities which is attracting visitors to the Island who are spending more. The productivity of the sector has been improving, and that is a good thing. But I do accept and I understand the concerns raised by the Deputy. It is impossible to give an absolute figure to him, which is what I think he is seeking.

2.16.2 The Deputy of St. John:

I am a bit concerned with the comments passed by the Minister given that in the 1990s we had something in the region of 24,000-plus beds in this Island and now he is telling us we have just on 11,000. That said, our air routes support our other industries, in particular the finance industry. Given the Minister's play earlier this morning on pushing other industries within the Island, how is he going to keep our air routes if we are in a diminishing market of tourism? I need to know from the Minister what he is doing to make sure that we keep our air routes, not opening the odd one that is only here for 6 months but that is here 12 months of the year for the next 5 years.

Senator A.J.H. Maclean:

The Deputy raises a very valid point. We have worked extremely hard in recent years to develop air routes. I think it is fair to say that for a jurisdiction of the size of Jersey we have an exceptional network of routes, both to the U.K. and also into Europe. We have invested heavily with relationships and, in fact, the Deputy asked the question earlier on about the Jersey Enterprise awards. We were entertaining 3 airlines at the Jersey Enterprise awards. It is part of the development process. We continue to invest in these relationships and we continue to invest in developing air routes. Bed stock is important. There has been a drive towards quality. That is a good thing and we will continue to work on it. I understand his concern.

2.16.3 The Deputy of St. John:

I noted the Minister's comment on the Enterprise awards, but that £1,375 that they spent on tickets might have been better spent in sitting around a boardroom table with those particular people, not having a jolly up at the Fort.

Senator A.J.H. Maclean:

It is clear that the Deputy does not understand the difference between business development and having a jolly. There was no case of having a jolly at the Enterprise Awards. We build relationships with key business partners. The airlines fall into that category. I have to say in recent years that has developed significantly. We now know in advance when an airline is considering pulling or reducing a route. That did not happen in the past. The reason we know is because we have invested at the airport with the right personnel to develop the right relationships. We do all we can to maintain the routes we have and build on it, and it has been very successful in recent years. It is a harder environment now but we are continuing to work on it.

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

As so many of our medium-priced hotels seem to be turning into flats, what are we going to do to try and protect the medium-priced market?

Senator A.J.H. Maclean:

Yes, the Deputy is right. Certainly, in terms of bed stocks there have been a lot of medium size... in fact there has been a lot of hotels in all categories, to be fair. But equally, what we have seen is an investment of others who have improved the quality of what they have to offer, and that again is very important. We needed to improve the quality of bed stock in all categories, not just 5-star and 4-star where there has been significant investment. There has also been investment further down in the 3-star and in other areas, and that is very important to get a good cross-section and attract as wide a variety of potential visitors to the Island as we can.

2.16.5 Deputy D.J. De Sousa:

Will the Minister not strive to target the budget for tourism more accurately bearing in mind that Havre des Pas holds the seaside festival and looking at the number of hotels that have closed there in the last couple of years? Will he strive to supply the House with the figures of the beds from 2000 to date?

Senator A.J.H. Maclean:

I am not entirely sure what the Deputy was asking. Is she asking for how the bed stock has changed between 2000 to date? Yes, I am more than happy to supply her with those figures.

2.16.6 Deputy G.P. Southern:

The Minister talks about investing in air routes. Can he state whether he is still subsidising airlines to come to the Island, as was previous practice, to the tune of millions of pounds or not? Has that practice ceased?

Senator A.J.H. Maclean:

No, that practice has not ceased, although subsidy is not a word that I choose to use in this regard. It is a very heavily and carefully calculated economic model that is used to assess the value of introducing and supporting airlines who bring people who spend money in hotels, restaurants and within the economy generally in the Island. We have to get a return on the investment and I believe it has been a successful strategy to date. If the right propositions come forward, we will continue to do so.

Deputy G.P. Southern:

A supplementary, if I may?

The Deputy Bailiff:

If it is a supplementary on subsidising airlines, that is not related to the subject matter of the question. It is very peripheral indeed. Deputy Le Claire.

2.16.7 Deputy P.V.F. Le Claire:

Given that the Minister has said he has far more foresight now from these events, is he able to tell us how many hotels are due to be going and how many are coming in.

Senator A.J.H. Maclean:

I think the foresight the Deputy was referring to was the development of work with the airlines, but equally we work closely with all businesses in the economy to try and get a better sense of where the stresses and strains are so that we can deliver the best support that we can possibly can contained within the difficult budgetary situation that we find ourselves in. Yes, we are usually made aware when hotels are considering closure for whatever reason; we do what we can to support but we are confined by the budget that we have.

2.16.8 The Deputy of St. Mary:

The Minister has slid-off the question to emphasise the drive to quality and it is an indication of confidence in the industry, I agree, that people are prepared to invest at the top end of the market but he has evaded the question of quantity. In fact he has ducked it and I just want him to answer once again the question. The question was, does he recognise that in order to prove commitment to the industry he has to accept the notion that if we do go below a certain level the whole shebang is at risk? He does not seem to grasp that and I wonder why.

Senator A.J.H. Maclean:

I said to the Deputy that I grasped the concept of what he was saying. What I also said to him was he was seeking an exact figure and I said I could not give him an exact figure because that is not possible to do so. As far as commitment is concerned, I do not believe there is any lack of commitment, in fact in 2009 as the global financial crisis unfolded we managed to invest an extra £800,000 into supporting the tourism sector. That was the right decision, it was a good decision and it was together with the industry themselves in the form of the Jersey Hospitality Association. I welcome that.

2.16.9 The Deputy of St. Mary:

With respect, I did not ask for the exact figure, I asked whether his department has calculated the level of bed stock below which it would be unwise to go. I did not ask for the figure, that might be confidential, I asked whether his department has calculated that figure.

Senator A.J.H. Maclean:

I thought I had clearly said that it was not possible to calculate an exact figure.

2.17 Deputy T.M. Pitman of the Minister for Treasury and Resources regarding 1(1)(k) tax status:

Would the Minister clarify under which aspect of Jersey's tax legislation individuals were deemed able to be legally granted 1(1)(k) status and thus negotiation their own tax contributions with the Comptroller of Income Tax prior to 2005, and advise whether 1(1)(k) status also means individual tax rates cannot be increased by government in line with the changing economic climate.

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

I should start by reminding the Deputy that 1(1)(k) status is granted by the Minister for Housing and previously the Housing Committee and not by Income Tax or the Minister for Treasury and

Resources. It is not a matter specifically of tax legislation and neither the current Comptroller of Tax nor his predecessors ever had the authority to grant 1(1)(k) status. The States have, of course, the ability to vary tax and 1(1)(k) arrangements too in the annual budget. I have said in my last year's budget statement that I am reviewing 1(1)(k) arrangements by conducting a review which I will do ahead of the budget. I must say that £13.5 million is currently collected from 1(1)(k)s - the 123 of them - and I would point out to the Deputy that they could go to other places which would tax them less; places like Switzerland. They significantly contribute to our Island and the prosperity and my review will aim to enhance that contribution further.

2.17.1 Deputy T.M. Pitman:

A supplementary. I am not sure if the Minister answered the second part of the question, could they be altered, increased, upgraded? Possibly I missed it, he was speaking very quickly. In 2008 we had 78 1(1)(k) residents paying less than the £100,000, 32 paying less than £20,000. Particularly if we cannot renegotiate, does the Minister agree that this simply cannot be viewed as consistent with our stated government aim of creating a more equal society when ordinary people are facing possible increases in taxation and even G.S.T. (Goods and Services Tax).

Senator P.F.C. Ozouf:

I think I did answer the question. The States does have the ability to vary tax rates and I am looking at the issue of the arrangements prior to 2005 and looking at those whole arrangements of which he is quite correct in saying that there are some 1(1)(k)s that pay less. But there are others that pay ... I do not know the individual information, of course, but there are others that pay very substantially more than those figures. The 1(1)(k) policy which my predecessor brought to the Assembly in 2005 has been a success in driving significant new revenue into the States coffers which pays for vital public services.

[11:30]

2.17.2 Deputy T.M. Pitman:

The Minister reminded us that 1(1)(k) residents could up-sticks and leave, does the Minister concede that not so very long ago Mr. Colin Powell, the former Economic Adviser, pointed out that there was absolutely no evidence to suggest that 1(1)(k) residents would leave if their tax was increased?

Senator P.F.C. Ozouf:

I would be very hesitant to take the former Chief Adviser's comments out of context. I think it is absolutely clear that if tax rates were raised for a variety of mobile individuals, they could leave in theory.

2.17.3 Deputy S. Pitman:

With the regard to the principles of equality in the Strategic Plan, during the last Imagine Jersey I was informed by a Treasury officer that 1(1)(k) residents come to the Government and they negotiate what tax they are paying. Would the Minister finally concede that is, indeed, what happens?

Senator P.F.C. Ozouf:

That is not what happens subsequently under the new arrangements that my predecessor brought to the Assembly in 2005. There is a clear statutory basis on which 1(1)(k)s are issued and they pay tax according to that structured rate of taxes. I would also remind the Deputy - because I do think there is a genuine misunderstanding in relation to this - that local sourced income is of course taxed in the same way that every other individual and resident of Jersey is taxed.

2.17.4 Deputy G.P. Southern:

Does the Minister not accept that the U.K. Her Majesty's Revenue and Customs have accepted that the 50 per cent rate imposed in the U.K. has produced no mass exodus of wealthy individuals from the U.K. and is there not a parallel with Jersey?

Senator P.F.C. Ozouf:

Deputy Southern and I occasionally agree on matters but we disagree on others. I think it is far too early to say whether or not the 50 per cent rate of tax will have an exodus of high value and high income earning in the U.K. Certainly I have no proposals or any thought in my mind for a 50 per cent rate of tax and hope he does not either.

2.17.5 Deputy I.J. Gorst:

While I welcome this review, I wonder if the Minister could confirm whether he, as part of this review, will be looking at control of international assets because these 2 issues are wound up intimately together, tax paid in a jurisdiction and control of assets elsewhere. I wonder if it will extend to consider that.

Senator P.F.C. Ozouf:

I am happy to do so but it has already probably been covered in the review itself.

2.17.6 Deputy T.M. Pitman:

I appreciate the Minister cannot do it now but would he be willing to forward to me to confirm or otherwise that we have a small number of 1(1)(k) paying less than £10,000 in tax? Could he forward that to me?

Senator P.F.C. Ozouf:

I do not need to forward anything to the Deputy because I have answered the written question 2 or 3 weeks ago in relation to the triaging of contributions of various 1(1)(k)s. The Comptroller is concerned, as I am, in relation to identifying individuals. There are a small number of 1(1)(k)s and I think that I have gone as far as I am willing to go in terms of segregating those 1(1)(k)s and giving the data which this Assembly needs in order to make 1(1)(k) tax policy. I am reviewing this matter. I understand the concern of Members and I will keep Members informed as I carry out the review on 1(1)(k)s ahead of the budget later on this year.

2.18 Deputy D.J. De Sousa of the Minister for Economic Development regarding the buy-out of Kleinwort Benson:

Can the Minister inform Members what steps, if any, are being taken by the Economic Development Department in addressing the buy-out of Kleinwort Benson in view of the fact that Jersey prides itself on only allowing the top 500 banks into the Island?

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

The Economic Development Department will not be taking any direct steps in relation to the proposed buy-out of Kleinwort Benson. The determination of the application for new ownership of this business, if and when received, will be made by the Jersey Financial Services Commission. However, I am able to reassure Members that the Commission is applying its usual rigor in this case in considering the matter against Jersey's long established and well publicised criteria for bank licensing. I am therefore confident that Jersey's high standards in this area, which stood us in good stead during last year's financial and banking crisis will not be compromised or diluted.

2.18.1 Deputy D.J. De Sousa:

Bearing in mind it has already been intimated that the owners of this bank now are not in the top 500, what steps are being taken to address this?

Senator A.J.H. Maclean:

I think I have said all I can. This is a matter for the Jersey Financial Services Commission. They are at the present time considering this particular matter and I am sure in due course an announcement will be made.

2.18.2 Deputy P.V.F. Le Claire:

Kleinwort Benson employ a significant number of highly educated and well-trained staff. Now if they are not given a licence those people may face the risk of losing their jobs. Is the Minister doing anything to talk to this group of highly needed people?

Senator A.J.H. Maclean:

At this stage an application, as I understand it, has not come forward but the Deputy is right, Kleinwort Benson does employ over 200, in fact in the banking aspect of the business I believe there are about 40 or so who are employed. So the numbers are less but nevertheless important. I am sure that the business themselves will be working in an appropriate fashion to deal with this matter as and when it comes forward and we will, of course, offer whatever support we can. I am sure my colleague, the Minister for Social Security, would do the same.

2.18.3 Deputy M.R. Higgins:

Just to clarify a point made by the Minister, he mentioned that he is waiting for the Financial Services Commission to make a decision on this. As the policy, the top 500 policy, is States policy and obviously the policy of the department, is he not involved in discussion on possible modifications of that in this particular case?

Senator A.J.H. Maclean:

Yes, indeed it was a guideline from the States but, nevertheless, we have the Jersey Financial Services Commission, they are independent and I do not think that it would be right to have a dog and bark yourself. They are a perfectly professional organisation and they are considering this matter with the set criteria that is laid down. I have every confidence in the Jersey Financial Services Commission.

2.18.4 Deputy D.J. De Sousa:

Bearing in mind the answer the Minister has just given, will he endeavour to let the House know as soon as possible what is happening with this licence?

Senator A.J.H. Maclean:

I am sure that the announcement, when made, will be public and so of course Members will be kept in touch with that information when it comes out.

2.19 The Deputy of St. John of the Minister for Planning and Environment regarding delays in connecting homes at La providence on the Beaumont/Sandybrook site to a mains pumping station:

Given that many homes at La Providence on the Beaumont/Sandybrook site have now been sold, could Members be told why there has been a delay in connecting this site to the main pumping station and when this work will be completed?

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

The Transport and Technical Services Department advises that a private foul sewage pumping station has been constructed at the site following consultations with the developer. The sewage is pumped in a southerly direction from there along a rising main to the 27 inch public gravity foul sewer adjacent to the sea wall. Connection to the public sewer was made with the agreement of the

Transport and Technical Services Department and it came into operation in June 2009. It is my understanding that any delays in making this connection were due to protracted discussions over the cost of acquiring drainage rights over public land.

2.19.1 The Deputy of St. John:

I am pleased to hear that the connection has now been made. Could we be told of the actual cost to the Island of the delay?

Deputy R.C. Duhamel:

I am told that there is no delay but if indeed that is still the Deputy of St. John's submission then I will endeavour to find a cost to be attributed to this deficiency.

The Deputy of St. John:

Given that my information tells me there was a considerable delay in this pumping station being put into the operation, hence with the cost of building and labour costs, there would be a cost and I would be delighted if the Assistant Minister could provide me with those figures in due course.

2.20 Deputy S. Pitman of the Minister for Economic Development regarding funding allocated to the tourism industry as part of the Economic Stimulus Package:

Would the Minister inform Members whether any funding has been allocated to the tourism industry as part of the Economic Stimulus Package and, if so, how much and what specific projects?

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

To date no direct stimulus funding has been allocated to the tourism industry. However, from Jersey Enterprise stimulus funding the Jersey Hospitality Association, in conjunction with Careers Jersey, has a service level agreement to train local unemployed young people with the intention of providing employment opportunities for them within the local hospitality and tourism sector. A further pilot project designed to increase the conversion of inquiries into bookings using a combination of hospitality sector sales training and testing of a call centre solution to make outbound telephone contacts to recent advertising respondents is currently also being developed. In total, these projects have a value of £50,000.

2.20.1 Deputy S. Pitman:

Could the Minister tell us if he knows how many applicants there have been from the industry for money from this package?

Senator A.J.H. Maclean:

I am not sure of the question. Is the Deputy asking how many companies have applied for stimulus funding or was she referring ...

The Deputy Bailiff:

I understood that to be the question.

Deputy S. Pitman:

I am asking how many applicants from the tourism industry have applied for money from the economic stimulus package?

Senator A.J.H. Maclean:

I am not aware of the exact numbers. I am aware, though, that representatives from the tourism industry did have meetings, for example, with the F.P.P. (Fiscal Policy Panel) and others to discuss

ways in which stimulus funding could be applicable to tourism. In many cases the advice was that the type of funding being sought was not applicable.

2.20.2 Deputy A.E. Jeune:

In respect of the example outlined by the Minister, does he consider ... as I understand it, 65 businesses have been involved and as a result so far 18 trainees who have gone through the programme have been offered a job. I think it has been going on over 6 months. Does he consider that that number of positions offered is acceptable?

Senator A.J.H. Maclean:

I think it is a wonderful initiative. I think we would like to see more people taking it up. Clearly this has to be a drive. There are young unemployed people in the Island, the young are those that have been most impacted by the current economic downturn. I would like to see more of them having an opportunity to get into tourism, to take advantage of this particular training and reduce the number of people that we need to import into the Island. I think it is a good thing and I welcome it.

The Deputy Bailiff:

We now come to the end of the 2 hours allocated for question time, oral questions with notice and we now come on to questions to Ministers without notice. The first period is for the Minister for Treasury and Resources. Deputy Le Claire.

3. Questions to Ministers without Notice - The Minister for Treasury and Resources

3.1 Deputy P.V.F. Le Claire:

Can the Minister tell us if the Chief Treasury Officer is out of his position and whether or not the Chief Officer of the States is carrying out any of his duties and functions?

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

I am not prepared to discuss personnel issues in relation to individuals in this Assembly and Members should neither take anything in that answer to be contrary or negative. I am not prepared to discuss personnel issues before the Assembly.

3.2 Deputy G.P. Southern:

In his reply to written question 5185 the Minister states that: "Evidence suggests that there is an ongoing deficit." Is that deficit not caused effectively by reduced growth and does he not accept that as soon as growth kicks in again the deficit will be reduced?

Senator P.F.C. Ozouf:

No, I am afraid the Deputy is wrong and I would ask him to review the documents already in the public domain in relation to the Business Plan and Budget where there is a structural deficit which is expected on the latest information that we have from income which is going to be recurring. That is a function of the fact that States spending has risen above that of which the income ... States spending has risen by 30 per cent over the last 5 years, 6.7 per cent in 2009, a further 6 per cent in 2010 and that level of expenditure is not caught up with by income and therefore we have a problem, and a structural deficit.

[11:45]

3.3 The Deputy of St. John:

I notice the response given to Deputy Le Claire from the Minister. Could the Minister inform the House whether or not a seconded member of some other Treasury Department from off-Island has

been moved into the Treasury in Jersey to help run the department at this moment and, if so, for what period of time that person is seconded to the Island for?

Senator P.F.C. Ozouf:

I do not wish in any way to be disrespectful to Deputy Le Claire or the Deputy of St. John or Members in relation to not discussing personnel issues. Members will understand that that is not appropriate. What I can say to the Deputy of St. John, which is a separate question, is that I announced last year that there would be a Treasury restructuring plan going forward in order to strengthen the financial management, something which the Comptroller and Auditor General, the P.A.C. and many other people have been calling for and I have been acting upon. I can say to the Deputy that an interim finance director has been recruited and who will be in post in order to carry out the Treasury restructuring at a number of levels, and departmental finance officer restructuring. That individual has been in post for 3 weeks and is in the process of going through the Finance Department in order to strengthen arrangements. That individual is also going to be, for a while certainly, discharging some of the functions of the Treasurer of the States.

3.4 Deputy D.J. De Sousa:

Can the Minister for Treasury and Resources please inform the House how many new civil servant positions have been created in the past 12-18 months?

Senator P.F.C. Ozouf:

I come to the Assembly pretty well briefed but I am not sure I have that number. But I am happy to provide that number to the Deputy after questions are over and I have researched it.

3.5 Deputy A.E. Jeune:

Could the Minister advise in respect of tendering exercises, tendering for the supply, service and management of print equipment, I understand, has been ongoing for over 2 years? Does the Minister consider that an appropriate length of time and does he believe it has been dealt with fairly and transparently and in accordance with good practice guidelines? How much has it cost to date in terms of staff, although I appreciate he probably would not have that with him, but if we could have it in respect of staff, advisers, *et cetera* to get where we are today and what savings could be envisaged were the original costs known? If not, how could they decide on a saving? Thank you.

The Deputy Bailiff:

Deputy, there are an awful lot of questions there to the Minister and I wonder whether some of them would not better be the subject of a written question?

Senator P.F.C. Ozouf:

I am always happy to answer the good Deputy's questions in detail. I also answer emails to Members about detailed matters and I am happy to answer questions. I think what I will say briefly on this issue is the issue of procurement is one of the number of very big transformations that we are working on at the Treasury in order to save money. Procurement is being targeted as an area where, in my view, there are millions of pounds worth of efficiencies and better buying across the whole organisation. Treasury has an important role to help departments in that. I am probably a little frustrated that the progress I think everybody would have wanted to make on procurement has not been made but under the very good stewardship of the new Deputy Chief Executive within the Chief Minister's Department, which Treasury share, there is a lot going on in procurement and millions of pounds are targeted to be saved.

3.6 Deputy S. Pitman:

Will the Minister be asking departments during the comprehensive spending review to inform the review as to what impact a 2 per cent cut will have on their service?

Senator P.F.C. Ozouf:

I am being quite clear that the States has a problem and that Members, I hope, are going to join me in working in order to find a solution to the problem. I would remind the Deputy that the 2 per cent cut which is being targeted next year needs to be in the context of very significant increases in spending in recent years. At the workshops planned on Friday and Monday that is the process where I want to engage with Members about how we are going to trim budgets but I am determined to deliver £50 million worth of savings off the bottom line of the States within 2 or 3 years and if I do not succeed in that this Assembly is going to be asked to put higher taxes than otherwise will already be necessary in order to balance our books.

3.6.1 Deputy S. Pitman:

Supplementary. Can the Minister answer the question: yes or no? Will he be asking departments during the comprehensive spending review to inform the review as to what impact a 2 per cent cut will have on their services?

Senator P.F.C. Ozouf:

Yes.

3.7 Deputy P.V.F. Le Claire:

Earlier I may have strayed into a personnel issue, I was not seeking to stray into personnel issues but I am seeking to understand whether the Chief Officer of the States is discharging any of the functions of the Treasurer of the States. Is this the case: yes or no?

Senator P.F.C. Ozouf:

The arrangements within the Treasury are a matter for me and the Chief Officer of the overall States of Jersey. I have said to Members that there are some issues which are being currently discharged by other individuals, not including the Treasurer of the States, and I am today considering a number of reorganisations in the light of the arrival of the interim finance director and know in the long term the Chief Officer of the States is not an accounting officer and could not be, in my view, Accounting Officer for Treasury and Resources. But there are sometimes the requirement of interim arrangements when people are not within the office.

3.7.1 Deputy P.V.F. Le Claire:

Supplementary, please. Does that mean that the Chief Officer then is taking on some of the roles of the Treasury Officer and is that not wholly unacceptable?

Senator P.F.C. Ozouf:

I have not made any formal designations in relation to the Accounting Officer. The Treasury Department and the Chief Minister's Department have a very good and a very close working relationship and there are some times, for example, when the Chief Officer of the Chief Minister's Department also assists the Treasury in running and supporting us in relation to comprehensive spending reviews and fiscal strategy reviews, and probably that is the area in which the Deputy is thinking that there may be a cross-over responsibility. He is the Chief Executive of the States of Jersey.

3.8 Senator J.L. Perchard:

Will the Treasury and Resources Minister advise the Assembly of the latest forecast structural deficit for 2011 and 2012? Will he reassure the Assembly that his fellow Ministers are united in their determination to share the responsibility for these deficits?

Senator P.F.C. Ozouf:

The published expected deficits for 2011 and 2012 as set out in the Business Plan were £68 million and £49 million. What I have been doing with Ministerial colleagues since the budget last year is

also testing those numbers in terms of the requirement of some additional spending which we know is required. I believe that the States should, for example, have an annual contingency available so that every time there is - and there always will be - some unforeseen expenditure I do not have to come to the Assembly with an Article 118 request in order to ask that. There should be contingencies within departments and so there is a greater deficit required in terms of some areas. There are other areas such as court and case costs which I am factoring-in, so the actual budget deficit that I am looking at in terms of 2011 and 2012 is greater than those figures but if the Senator attends the briefing I am holding on Friday he will have those figures in more detail.

3.8.1 Senator J.L. Perchard:

I did ask the Minister - and I thank him for the first part of his answer - will he confirm that his fellow Ministers are determined to share the responsibility for these deficits?

Senator P.F.C. Ozouf:

I apologise to the Senator for not answering that. I have no doubt that every Minister cares about public finances and balances the books. Ministers have a job of defending their territory and securing their budgets but I am pleased to report that there is a collaborative approach with all Ministers but there are some difficult discussions to be had with individual Ministers about how we cut the cake in terms of future spending and how we bring that to the Assembly in subsequent months.

3.9 Deputy G.P. Southern:

The Minister is committed to consulting with all levels of the public sector in his comprehensive spending review: is he aware that in the Education Department head teachers - managers - are being consulted but people at the chalkface are not being consulted of these issues?

Senator P.F.C. Ozouf:

There is going to be a great deal of consultation about the comprehensive spending review. In our unique system of government you need to consult, engage, discuss, debate with all levels of States Members, employees throughout the public sector. The comprehensive spending review has just started and is going to be running for a number of months. What I would say to the Deputy is that I hope that nobody is going to start concluding results of the comprehensive spending review at any level before decisions are made. The research has been carried out, that research is going to run for a number of months and I am going to be engaged with Members and the whole of the public sector, and indeed the public, about what they want in terms of public spending. Decisions will be made in the Business Plan.

3.10 Senator S.C. Ferguson:

Will the Minister for Treasury and Resources tell us when he is going to be bringing the amendment to the Public Finance (Jersey) Law to this House?

Senator P.F.C. Ozouf:

I am in discussions with the Treasury about changes to the Public Finances (Jersey) Law. I would hope that changes to the Public Finances (Jersey) Law will come within a number of months, although I cannot give the Senator today a definitive answer to that. There will be changes and proposals made for changing the Public Finances (Jersey) Law and that is at the heart of the Treasury restructuring which I referred to some moments ago.

3.10.1 Senator S.C. Ferguson:

Supplementary. Will he be incorporating the recommendations of the Comptroller and Auditor General?

Senator P.F.C. Ozouf:

Certainly those are part of the consideration of changes to the Public Finances (Jersey) Law of which I welcome the observations of the Comptroller and Auditor General which have been very helpful.

3.11 Deputy G.P. Southern:

Does the Minister not accept that massive cuts, such as 10 per cent budget cuts, cannot be made to services which are staff heavy like Health and Social Services without cuts in services and cuts in jobs?

Senator P.F.C. Ozouf:

It is inevitable that having increased public expenditure by 30 per cent, 6 per cent in 2009, more than 6 per cent in 2010, increasing the public sector spend and increasing the number of people in work and then reversing some of those increases by a 10 per cent cut will mean that there is going to be some service reductions and there are going to be some reorganisations and that will have an impact on manpower. I am not going to duck that issue, I need to find a solution for balancing the books and I hope the Deputy will support me in that requirement to avoid tax increases.

3.11.1 Deputy G.P. Southern:

If I may, a supplementary. Does the Minister also not accept that such redundancies will inevitably make the recession worse, not better?

Senator P.F.C. Ozouf:

No, I do not accept that. The proposals this year, when we are in the recession, are to increase very substantially public spending, not only with the spending I have mentioned but also, of course, with the £44 million fiscal stimulus funding. The contraction in spending will, I hope, coincide with the recovery of which my colleague, the Minister for Economic Development, and all Ministers are doing everything they can in order to do it. We do need to constrain public spending but we will do so when growth returns to the economy.

The Deputy Bailiff:

That brings an end to the first period of questions without notice. The second question period is for the Chief Minister.

4. Questions to Ministers without Notice - The Chief Minister

4.1 Deputy M.R. Higgins:

The Chief Minister has stated on numerous occasions in the past that he believes in inclusive government. I was going to say that he also believes in transparency but I think I am probably mistaken on that point. However, does the Chief Minister agree with the Economic Development Department's use of blanket confidentiality agreements to all the information it gives to the Economic Affairs Scrutiny Panel and in particular I am talking about the depositor compensation scheme as the first example, and last Friday on our sub-panel review on Harbours and Airports where they want the entire contents of the file to be kept confidential. The precise question is does he believe this is the way that we have open and transparent government?

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

I believe that open and transparent government has to work both ways and where confidential agreements are being given to a scrutiny panel or any third party it should be given under terms that panel respects that confidentiality. If the parties are prepared to abide by full confidentiality then it should be full openness.

4.1.1 Deputy M.R. Higgins:

A supplementary, if I may. The document concerned is the entire file, not particular documents. We have rejected it and sent it back to the department and said we wish to know the specific documents. We have also referred it to P.P.C. (Privileges and Procedures Committee) because we believe it is an obstruction of Scrutiny and it is trying to prevent proper accountability.

The Deputy Bailiff:

Is there a question there?

Deputy M.R. Higgins:

Does he feel that entire files should be confidential? We accept some items can be and we are quite prepared to work within that but entire files?

Senator T.A. Le Sueur:

I have no idea of the precise situation involved but it may well be that there are difficulties in trying to extract information from a detailed file and it could be better achieved in a better way. I would point out to the Deputy and to Members that if any Scrutiny Panel has concerns about the lack of information being provided by any Minister or any department there is a right of report to myself as Chief Minister built into the code of conduct which I am happy to abide by.

[12:00]

4.2 The Deputy of St. Martin:

Last September, rather than accept my proposal, the Chief Minister was able to persuade the States to appoint one of his own internal experts to review the suspension of the hospital gynaecologist. The review was supposed to be carried out within 4 to 6 weeks. Could the Minister explain why 6 months later the report has not been produced to the States and how much has that review cost to date?

Senator T.A. Le Sueur:

I share the Deputy's disappointment that that review has not been as forthcoming as quickly as I would like. I did inquire as late as a couple of hours ago of the current position but I was hoping it would come to the States Employment Board next week. I am advised there are still a few matters of legal detail to check-up in respect of the content of the report and it may not come to S.E.B. (States Employment Board) next week but it will come certainly within the following month. As to the costs to date, it is still within budget.

4.3 Deputy D.J. Sousa:

Can the Chief Minister inform the House how many new civil servant positions have been created by his department in the past 12-18 months?

Senator T.A. Le Sueur:

Off hand immediately the answer is no, but I would remind the Deputy that States manpower numbers are published twice a year, every 6 months in fact, giving details of every department's movements in terms of both temporary and permanent part-time and full-time staff. I refer the Deputy to those documents.

4.4 Deputy S. Pitman:

On 23rd February the Chief Minister informed the Assembly that he had implemented an internal investigation into recent allegations raised about actions of the States Chief Executive Officer. Will he clarify for the Assembly whether that investigation was carried out by one of the C.E.O.'s (Chief Executive Officer) subordinate employees and, if so, does the Chief Minister contend that such an investigation can have any creditability?

Senator T.A. Le Sueur:

I am not sure if the Deputy is talking about the original review, which was carried out by an officer in the States Personnel Department some 18 months ago or if she is talking about the review now to be carried out into procedure as agreed by the States when it debated Projet 9 last month. If it is the latter, that will be carried out by an external person who has been selected and is in the process of being appointed.

4.5 Deputy G.P. Southern:

The Chief Minister in his answer to question 5183 on estimated costs to States revenues produced by redundancies suggests that there is a gain of £719 over a 6-month period for supplementation not being paid. Is it not a fact that those made redundant now have their whole contribution made credited to the Social Security fund and this is therefore a cost?

Senator T.A. Le Sueur:

In the answer, which I tried to give as truthfully as I could, I was talking about the immediate financial implications of any such payments; credits which may be given in respect of Social Security contributions are not cash payments as such. They will have a possible effect on the overall state of the Social Security fund but I took it the Deputy's question related primarily to States expenditure.

4.5.1 Deputy G.P. Southern:

Is the Minister stating that those credits are not real money and that there is an impact on the Social Security fund thereby? Surely that is likely to damage the state of the Social Security fund.

Senator T.A. Le Sueur:

That is a question probably better asked of the Minister for Social Security but I do confirm that if we are talking about credits here, which are not actual cash payments at that time, it may affect the overall balances of funds and that will be a far longer-term issue than one of the immediate cash differences.

4.6 Deputy P.V.F. Le Claire:

Can the Chief Minister please explain why the Council of Ministers agenda is circulated so narrowly to certain Members in the States and the media and why it is continuing to be mainly made up of a Part B agenda?

Senator T.A. Le Sueur:

The agenda for the Council of Ministers is publicly available to any interested party. It is broken up into 2 parts and only the Part A agenda details are published, although there is generally an indication of what might be included in Part B. Items under Part B are there because they are simply in the course of development in most cases or come under other reasons within the code of confidentiality. But there is a standing arrangement at every Council of Ministers meeting, at the end of that meeting any B agenda items which can be transferred to the A agenda are so transferred.

4.7 Deputy A.E. Jeune:

Referring back to the question asked by the Deputy of St. Martin, does the Chief Minister believe that the review takes into account whether the surgeon was blocked or prevented from keeping his surgical skills updated?

Senator T.A. Le Sueur:

The review which is being carried out under my aegis refers to the procedures carried out by the Health Department rather than the medical activities. It is in that respect that the person will be reporting.

4.8 Deputy G.P. Southern:

In his document R.22/2010 referring to Public Employees' Contributory Retirement Scheme actuarial valuation the Minister in point 3 says: "Proposals for dealing with a deficiency need to be agreed between the C.O.M. (Committee of Management) and the States Employment Board before being submitted to the States." Then in paragraph 4 he says: "Negotiations between the States Employment Board and the Public Employee's Pension Joint Negotiating Group have so far been unsuccessful." Can the Minister clarify where agreement needs to be made before increases in the pensions are reduced, which is what he is proposing?

Senator T.A. Le Sueur:

The matter is governed by Regulation. Where the actuary, at the end of a review of the scheme, sees that there is a deficit which is not of a temporary nature but an ongoing deficit, there is an obligation on the scheme to rectify that deficit. The deficit can be varied in a number of ways and the options for the best way to remedy it is left in the hands of those who are members of that scheme, in other words the employees. That is done with the joint negotiating group of the Public Employees' Scheme in conjunction with their Committee of Management. Should that body fail within the stipulated period to come up with a solution, then the matter reverts to the States where the States have an automatic fall-back position of reducing benefits payable in the future. So it is only if no agreement is made by the employees concerned within this relevant period that the States would get involved directly in setting the amended benefits for the future.

4.8.1 Deputy G.P. Southern:

Supplementary? Can the Minister inform Members what exactly is the problem producing a stalemate after 6 months of negotiation?

Senator T.A. Le Sueur:

No, I cannot. It is simply that the employees have not yet come to a satisfactory conclusion among themselves.

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

In the contracts between the Government, the States and the community does the Chief Minister agree that there is a fine line between necessary confidentiality and unhelpful secrecy? In this time of recession where people are so quick to want someone to blame, will he do all he can to make sure as much information as possible is placed in the public domain so as to increase community confidence in this House.

Senator T.A. Le Sueur:

Yes, absolutely. I am perfectly willing and anxious that the public should be properly informed and fully informed. But one does, as the Dean rightly says, have to balance that against certain cases where there are confidentiality agreements which have to be respected. In balancing that respect with the obligation also to be helpful and transparent wherever possible that I will, wherever I can, err on the side of transparency.

4.10 Deputy M.R. Higgins:

I was asking a very similar question to the Dean but I will put it anyway. We have been told that comprehensive spending review will include a review of the terms and conditions of employment of States employees. Will the Chief Minister consider in the review a review of the proliferation of confidentiality agreements to exceptionally well paid senior officers which are unsatisfactory in an open and transparent society and certainly not conducive to public confidence in the States?

Senator T.A. Le Sueur:

Yes, there are 6 major reviews being carried in the context of the comprehensive spending review and each of those major reviews is intended to be totally broad-ranging covering every aspect of

terms and conditions of employment. So I imagine that, along with a variety of other matters, will be addressed and if it was felt that there are better arrangements to be made by varying those terms and conditions of employment then I am sure that they will be proposed and no doubt, if approved by the States, implemented.

4.11 Deputy G.P. Southern:

On the same theme, given that terms and conditions are to be brought to the States for implementation will the Chief Minister guarantee to Members that proposed changes in terms and conditions will be agreed with representatives of employees first and not imposed as the pay freeze was?

Senator T.A. Le Sueur:

One of the conditions of the latest pay offer to States employees of 2 per cent for this year and 2 per cent for next year - which as I said I believe is a very favourable offer in the current conditions - is one that they should participate fully in a review of those terms and conditions of employment. So I hope that they will indeed do so and we will take into account their comments.

4.11.1 Deputy G.P. Southern:

Is it not the case, does the Chief Minister not accept, that the mechanism is that any changes in terms and conditions will be brought to the States and not necessarily negotiated with the representatives?

Senator T.A. Le Sueur:

Detailed terms and conditions are normally a matter between the employer and the employee directly and not a matter for political discussion because it is this House who set policy for wages and employment conditions. Those policies will be discussed by the States, precise details will generally be a matter between the employer and the employee concerned.

4.12 The Deputy of St. Martin:

Could I ask the Chief Minister, did the Council of Ministers discuss P.9 - the suspension of the Chief Police Officer - before lodging its comments and, if so, when were the discussions held and will the Chief Minister make the minutes available to all States Members?

Senator T.A. Le Sueur:

I have already responded to the Deputy who previously questioned that by email but for the sake of other Members, the matter was discussed by the Council of Ministers, it was part of the B agenda items, it was not considered appropriate to transfer that one to the A agenda and so it remains a B agenda item. It was discussed last month before the debate was held on projet 9.

PUBLIC BUSINESS

5. Compulsory Wearing of Cycle Helmets (P.4/2010)

The Deputy Bailiff:

We now come to the end of the Chief Minister's question time. There are no statements under J, no statements under K and so we come on to matters of public business. The first is P.4 - Compulsory wearing of cycle helmets - in the name of Deputy Green and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to request the Minister for Transport and Technical Services to bring forward legislation to ensure that cyclists are required to wear a suitable

safety helmet while cycling in the case of (a) persons aged under the age of 18 years; and (b) persons aged 18 years and over.

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

Before I start I would just like to clear up one point. The Greffier advised that I ask you publicly whether the Deputy of St. Mary has a pecuniary interest in this debate given the employment that he declares on the Members' interests. I ask this not because I do not wish to debate the matter with the Deputy of St. Mary but it has been said to me by a number of different people and I want to clear it up once and for all so that we can get on with the business.

The Deputy Bailiff:

The Register of Interest says precisely what?

Deputy A.K.F. Green:

The Register of Interest says for the Deputy of St. Mary: "Self-employment, *et cetera*, section 2, D.W. Consulting mainly guided cycle tours very occasionally, occasionally one-off projects, nothing else. Nothing on at present."

The Deputy of St. Mary:

Could I clarify this, Sir? It was mentioned to me also by the Chairman of P.P.C. that I should clear this up before the debate. I sold the Jersey Cycle Tours business some years ago, so that is not relevant in case anyone was thinking that it might be, and in connection with D.W. Consulting I have not done anything about it for 2 years and I am in the process of closing down the accounts. As it says, I think Deputy Green quoted it correctly: "Have not done anything recently" or something. It is to all intents and purposes moribund because I am too busy in here.

[12:15]

The Deputy Bailiff:

Standing Order 106, I shall just read it: "A Member of the States who has or whose spousal cohabitee has an interest in the subject matter of a proposition must, if it is a direct financial interest, declare the interest and withdraw from the Chamber for the duration of the debate and any vote on the proposition. If it is not a direct financial interest but a financial interest which is general and direct or shared with a large class of persons declare the interest." The Standing Orders therefore distinguish between direct and indirect financial interests. In my judgment, the interests of the Deputy of St. Mary to the extent it exists, and that is a matter which he says is in some ways in doubt at the moment, but if it exists it is an indirect financial interest and it is right that he should declare it and he is not obliged to withdraw. Now, do you wish to propose the proposition?

Deputy A.K.F. Green:

In preparing for today's debate I was struck by the awesome responsibility that we all have as Members of this Assembly. Some of the issues we may debate may appear trivial and of little relevance to the lives of our citizens, others are in a different category, they are about - literally - life or death. They are about preventing long-time, lifelong disability and all that means for individuals and their families. Somewhere on this beautiful Island today there may be a citizen, it may be a young child, it may be one of our children, one of our grandchildren who will at some point fall from their bike. If we take the right decision at the end of this debate the outcome is likely they will be shaken but not hurt. If we take the wrong decision the results could be disastrous. We do have an awesome responsibility. We have the power to save people's lives. I have been a passionate proponent of protective headgear for cyclists since my son had a massive brain injury as a result of a minor head injury in a cycling accident when he was aged 9. Nothing can change that but we can help to reduce the risks for others and avoid years of emotional and financial costs for other individuals, their families and their supporters. What I will do today is to

set out why I think this measure, to wear a helmet while cycling in public places - and I stress cycling in public places - is sensible, morally correct, good governance and entirely supportable. When I refer to public places I mean roads, cycle tracks, parks and the like, I do not mean people's back gardens or private land. In many respects this proposal mirrors the motorcycle helmet law. I do not intend - I am sure the Assembly will be pleased to hear - to submit them to complicated statistical analysis today but I do want to make Members aware of the expert opinion on this issue. I want to make Members aware of the legislation throughout the world and I want us to consider the cost to the Jersey taxpayer of traumatic brain injury as well as the consequences to those that are injured and their families. Finally, having set out the case for legislation I will turn my attention to some of the myths that have been put about by those who have a different view. Members should note that this proposition is an enabling one and Members will have the chance, if accepted, to review the detail when the draft law comes before the Assembly at a later date. In that respect, if successfully accepted I will work to ensure that this will not become an anti-cycling legislation, I will work to ensure that it will not seek to criminalise cyclists and I will work to ensure that it will not make excessive demands on the scarce resources of our police. I was thinking when I was preparing my speech that many of us, indeed many members of the public, regularly carry a laptop from one place to another and I would wager when doing so we take great care not to damage it, to protect it, many of us using protective cases, *et cetera*. But you can replace your laptop for £400, possibly less; why therefore would you not take the same care with your own central processing unit? This is your brain, your irreparable, irreplaceable brain for which there are no spare parts. It is so easy to injury your brain. Almost 12 months ago the actress Natasha Richardson died when she slipped over on the ski slope and banged her head. She was not even skiing, she was walking down the nursery slope, her feet fell from under her, she banged her head and the doctor said then that a helmet would have saved her life. What are we waiting for? Are we waiting for another death? Are we waiting for another severely disabled child and, in fact, despite decreasing numbers of children cycling ... we had that answer from the Minister for Health and Social Services, question 8 showing clearly that the number of children cycling is decreasing year on year, decreasing. Despite that the number of children having accidents on their bikes and attending hospital is increasing. It was 105 in 2008 and in 2009 174 children attended Jersey's General Hospital Accident and Emergency, 51 of these with some level of brain injury; 51 with some level of brain injury at the same time as the number of children cycling is decreasing.

The Deputy of St. Mary:

Would the speaker give way?

Deputy A.K.F. Green:

No, I am not giving way. I am not giving way. Many, if not all, of these brain injuries would have been avoided if the person had been wearing a helmet. Sometimes what initially appears to be a relatively minor injury may result later in long-term disability. There are many cases of unemployment, breakdown in relationships, homelessness and social isolation following traumatic brain injury. It is a fact that cycling, as I said before, among children in Jersey is declining year on year. If Members wish to increase cycling, wish to get children cycling then support this proposition. Support the hundreds of parents, and I mean hundreds of parents, that have contacted me who want their children to cycle but will not allow them to do so because they cannot be sure that the child who leaves home with a helmet will continue to wear a helmet. I was hoping that the Minister for T.T.S. would as part of the draft Sustainable Transport Strategy at least bring forth a discussion on the wearing of protective headgear, helmets to you and me. However, I understand that we will be hearing from the Minister later on this issue and there is much to commend that draft strategy, including the desire to increase cycle use and walking, for the first time putting cycle power and human power before the internal combustion engine. The strategy talks of safer routes to school and getting more children to walk and cycle. I commend the Minister for the work that has been done on this strategy. What is missing though is the need to provide a safer environment,

to provide protection, protection for the brain, the most delicate organ in our body. This is not a situation where we must have safer routes or safety helmets, it is a situation where we must have both. So, what do the experts say about cycle helmets. Our own A. and E. (Accident and Emergency) consultants who deal with the avoidable injury sustained by cycles say we should introduce legislation. The British Medical Association, having reviewed all the available evidence say we should introduce legislation. Our former Chief Ambulance Officer, who has attended the scene of so many cycling accidents, says that we should introduce legislation. The neurologist at Southampton who treats people from Jersey who sustain serious head injuries at the Wessex Neurological Centre says we should introduce legislation. The Chief Executive of Jersey's Family Healthcare Nursing says we should introduce legislation. The Association of Paediatric Emergency Medicine says legislation should be introduced. I could go on but I think I have made the point. So should we disregard this expert opinion from professional people who have spent their working lives dealing with brain injury or should we listen instead to the likes of the anti-helmet warriors? Who are these people who oppose such commonsense measures? They are a small group of fanatics who always oppose helmet laws. They have set up an obscure organisation based in Anglesey in North Wales with the grand title of the Bicycle Helmet Research Foundation. This is a group of self-appointed, self-styled experts who oppose the introduction of legislation in the face of overwhelming evidence and expert opinion. The foundation is not a registered charity and has only 2 directors. You could describe it as an organisation of 2 men and a dog but I am reliably informed that the dog tenders his apologies regularly. My grandmother would have said, in a slightly cleaned-up version: "They are all fur coat and no underwear." **[Laughter]** I invite the Members to examine item 1 in the additional information they have just been given. This shows the accounts filed with the Companies House that lists the assets of the company as a website valued at £20. That is the size of this professional organisation that is opposing so strongly the legislation that we want to bring in to protect our society. It is not clear to me how the Bicycle Helmet Research Foundation is funded or what their motivation is. Despite being small in number, they are well-organised and make a great deal of noise and, as I say, they have a website to promote their minority view. Their most recent recruit seems to be the Deputy of St. Mary who repeatedly circulated their propaganda to States Members and all Members of the Assembly. They are the modern day equivalent of the Flat Earth Society **[Laughter]** and the sort of people that would try to convince you that the moon was cheese. The tactics of these people remind me of the tobacco industry. Despite the overwhelming evidence, they seek to create doubt. They are willing to rubbish the work of respected academics to further their cause. Who would you trust with the safety of your brain, the safety of your children and the safety of your grandchildren? The anti-helmet warriors or the real experts? Cycle helmet legislation has been approved in many countries around the world. New Zealand, most of Australia, parts of Canada; they all require cyclists to wear helmets. In Sweden and other parts of Canada and 21 states in the U.S.A. (United States of America) together with Washington DC require only children to wear helmets. Closer to home, moves are under way where the chairman of the All Party Road Safety Committee in the Northern Ireland Assembly, Pat Ramsey M.L.A. (Member of the Legislative Assembly), will be introducing similar initiatives after Easter. The question I ask Members to ask themselves is is the safety of Jersey cyclists less important than in New Zealand or than in Australia? Do not the children of Jersey deserve the same protection as the children of New Jersey? My proposition has provided colleagues with published scientific research which demonstrates the effectiveness of cycle helmets and the impact of cycle helmet legislation and I would like to draw particular attention to the study published by Thomas *et al* in the *Cochrane Review*. This study demonstrates that, by wearing a cycle helmet, you can reduce the risk of brain injury by up to 88 per cent. For those of you that are not familiar with *Cochrane*, let me explain. Cochrane reviews combine the world's best symptomatic research studies and are recognised as being the gold standard for evidence-based healthcare.

[12:30]

They are the gold standard. That is one of the key issues considered by the British Medical Association. The dreaded words: "I will return back to that later." Now let me move on to the economic and social impact of traumatic injury caused by cycling. As I explained in my report, a survey of brain injury survivors completed by the University of Exeter in conjunction with Headway, the Brain Injury Association, showed that returning to work after sustaining a brain injury is uncommon. Sixty-four per cent of respondents stated that they were unemployed and only 21 per cent in paid employment. In addition, 78 per cent of adults reported a breakdown in one or more relationships since their injury mainly losing friends and partners. Many, many accident victims never regain the quality of life they were enjoying before the accident and as many of these survivors have a normal life expectancy, the financial burden to Health and Social Services as well as Social Security continues to grow year on year. This is not theory. This is not speculation. This is fact. I know. I live with the problem every day. How I wish I could turn that clock back 22 years and put a helmet on my son's head. My son and others like him will never work, never live independently, never contribute to taxation and will need the support of the State once we can no longer continue to provide that 24/7 care and support that he needs. Regretfully, that will be sooner rather than later and, in his case, the State will be providing the funding of that care and that was a totally preventable situation. Many of those opposing my proposition say they feel sorry for me. I do not want their sympathy. I want this Assembly to prevent other families going through what my family and similar families have been through. In my report, I have given examples of real cases that illustrate the enormous economic cost of traumatic brain injury to the state running into many, many millions of pounds over the lifetime of a brain injury survivor. However, the emotional cost to the individual and their families is incalculable. I would like now to deal with some of the myths put about by those who take a different view. Myth number one; mandatory wearing of helmets leads to a fall in the number of people cycling, a deterioration in public health and an increase in the costs of health care. This is one of the arguments put forward by the Deputy of St. Mary. This was in fact the view of the B.M.A. (British Medical Association) until 2004 when, following a review of the evidence by the Scientific Committee, they reached the conclusion that the interests of public health were best served by making it compulsory to wear helmets. If you do not believe me, visit their website. Let me read parts of the letter sent to me from Professor Vivienne Nathanson of the B.M.A.: "Dear Deputy Green. [This is a letter dated 3rd March this year] I am writing to support your recent proposition to bring forward legislation to ensure that cyclists are required to wear suitable helmets while cycling. The B.M.A., as part of its policy to improve cycling, supports the compulsive wearing of cycle helmets when cycling for children and adults." I will not read the whole letter. If Members would like a copy, I will forward them one later: "There is extensive literature that reviews the case for and against the wearing of cycle helmets. Best evidence supports the use of cycle helmets. They have shown to reduce the risk of head injury and its severity should it occur. This does not apply to the most serious crashes which may well be fatal. You may be interested to know that the B.M.A.'s position on cycle helmets is shared by the following organisations: the Royal College of Surgeons in London, the Royal College of Paediatrics and Child Care, the Royal College of Nursing and Headway, the Brain Injury Association and, in addition, cycle helmets are now compulsory in all cases in the U.K. The International Cycle Union introduced this on 5th May 2003. I wish you well with your proposal and should you need any further information from us, please do not hesitate to contact me." As I say, that was Professor Vivienne Nathanson of the B.M.A. Myth number 2; making cycle helmets compulsory has not worked in Australia. Well, when the Deputy of St. Mary wanted to find out about the impact of cycle helmet legislation in Western Australia, he asked a bloke from Anglesey in North Wales. In contrast, I contacted the Minister of Transport in Western Australia, the Honourable Simon O'Brien. In his response, which is item 3 in the additional information, the Minister makes some crucial points including: "The balance of the more reputable research studies indicate support for the wearing of cycle helmets when riding." The Honourable Simon O'Brien relies on the research which I quoted in my original report to this Assembly by Thompson and Rivera quoting: "Bicycle safety helmets are highly effective at preventing head injury particularly

in children.” While, initially, there was a decline in the cycling trend in Australia, the trends have reverted to normal levels within a few years and it appears that the majority of Western Australians are not dissuaded from cycling by the requirement to wear a helmet. A report from the Australian Federal Government provides overwhelming evidence of support of helmets for preventing head injury and avoiding fatal injury. If anyone would like a copy of that report, it is about 40 pages long and I can forward it to you. The study quoted in my original report shows that following the introduction of law in the State of Victoria, the number of cyclists killed or admitted with head injuries fell by 37 to 51 per cent. If that is failure of legislation, then I am a monkey’s uncle. Myth number 3; cycle helmets are not effective. Another argument put forward by the Deputy of St. Mary. The comments from the Minister for Transport and Technical Services make it clear that the department here believes that helmets are effective. The Department of Transport in the U.K. conducted an independent critique of the evidence of the effectiveness of cycle helmets and came to the same conclusion. That is that bicycle helmets have been found to be effective at reducing the incident and severity of brain injury and upper facial injury for users of all ages but particularly children and, if that is not enough, recently they published a report the *Potential for Cycle Helmets to Prevent Injury* report PPR446 carried out by the Independent Transport Research Laboratory for the Department of Transport in England. Yes, for the Department of Transport in England and they concluded that cycle helmets would be expected to be effective in a range of conditions particularly the most common of accidents that do not involve the collision with another vehicle. They are often simple falls or tumbles over the handlebars. Yet, in his amendment, the Deputy of St. Mary suggested that the report says the evidence for helmet effectiveness is weak. What a lot of balderdash. He implied that I had misled the Assembly on this matter. I invite Members to look at this item 2 in the additional information. I invite you to decide what the conclusions are at section 7 of this report. Page 38 is in that additional information. It is a 100-page report including the appendices, so I have just put the conclusions in there but if Members would like a copy, I can forward it to them. What does it say? It says: “Helmets should be effective at reducing the risk of head injury.” It does not say: “Helmet effectiveness is weak.” It says: “Helmets should be effective at reducing the risk of head injury.” It says: “Ten to 16 per cent of fatalities could be prevented by cycle helmets.” It says: “Cycle helmets would be particularly effective for children.” It says: “No evidence was found for the increased risk of rotational head injury.” It is a fact that over 80 per cent of cycle accidents in Jersey do not involve another vehicle. Over 80 per cent do not involve another vehicle. They will be simple falls or tumbles over the handlebars. Myth number 4; wearing a helmet encourages cyclists to take more risks. There is not a shred of evidence to support or to substantiate this absurd claim. If anything, the evidence shows helmeted cyclists take fewer risks. This is an interesting one. Myth number 5; motorists are less careful when passing a cyclist wearing a helmet. What utter nonsense. I ask Members do you drive closer when you see someone wearing a helmet on a bike? Perhaps you had better not answer that. It might incriminate you. Of course you do not. This is really interesting. This idea comes from a study undertaken by researchers who rode a bicycle wearing, alternatively on each trip, either a helmet or a female wig in experiments to see how much clearance they were given by passing traffic. Is it any wonder if you saw a man riding on a bike with a female wig, would you not give him wider clearance? **[Laughter]** Well, what does this prove? What does this bit of research really prove? It proves that some researchers have more research money than commonsense. Incidentally, you might be interested to hear that the author of this daft report was knocked off his bike twice during the research. **[Laughter]** Myth number 6; helmet laws are an example of the Nanny State and constitute unnecessary Government interference. Well, I am old enough - and I have got it right this time - to remember the introduction of the motorbike helmet law. All the arguments why that should not have been introduced have been trotted out yet again and, indeed, we heard all the arguments in the safety belt debate front and rear and, in retrospect, be honest, would you go back? Would you change it now? Would you withdraw this? Look at the benefits that have accrued in terms of saving human life and prevention of disfigurement, the reductions to the cost to the Health Service and in the incalculable emotional costs that was and has been and

continues to be prevented. If you were honest, you would not say you had got it wrong. Of course you would not. In conclusion - and Members will be pleased that I am getting there - it is a fact that the number of children cycling in Jersey is reducing year on year. It is a fact that over 80 per cent of cycle accidents in Jersey do not involve another vehicle. It is a fact that 174 children attended A. and E. following cycle accidents in 2009 with 51 of them with some form of brain injury. It is a fact that cycle helmets prevent brain injury or at least reduce the severity in very serious cases. By approving (a) and (b) in the proposition, the Assembly has the opportunity to save lives and prevent lifelong disability. In addition, we can save the taxpayers of Jersey enormous and unnecessary expenditure on injuries which are, in the main, preventable. Jersey is in a unique position today. We could lead the way in preventing brain injury. Some Members - and I do not agree with this - may feel that adults are able to properly assess the risks and to make up their own mind about wearing a cycle helmet. While, as I said, I disagree with this viewpoint, I can understand their thinking. If they cannot support part (b), then at least do the right thing and give the children of Jersey the same protection as the children of New Jersey and protect the young cyclists by supporting part (a). This Assembly was the first in the British Isles to ban bull bars and the first to ban the use of mobile phones while driving. Let us lead the way again and protect our community, particularly our children, by agreeing to the compulsory wearing of cycle helmets. I make the proposition. **[Approbation]**

[12:45]

The Deputy Bailiff:

The proposition is made. Is it seconded? **[Seconded]**

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

We stand adjourned until 2.15 p.m.

LUNCHEON ADJOURNMENT

PUBLIC BUSINESS - resumption

5.2 Compulsory wearing of cycle helmets (P.4/2010): amendment (P.4/2010 Amd.)

The Bailiff:

Yes, we come now then to the amendment lodged by the Deputy of St. Mary and I will ask the Greffier to read the amendment.

The Deputy of St. Mary:

May I just ask ... it is already falling off the thing. I asked for whatever you call this thing - a lectern - and I think the usher is trying to find one but he said there might be a problem with one that is compatible and I will find it very difficult because I will be referring to documents and quoting. It will not be long but I will be referring to documents.

The Bailiff:

I understand that, Deputy. We will read the proposition anyway in the meantime.

The Greffier of the States:

Page 2. (1) After the words "Technical Services to" insert the words "set up a review into whether making cycle helmet wearing compulsory is feasible and desirable, the review to consider the positives and the negatives of compulsion, all relevant States policies and to consider also how to achieve the greatest possible gains in road safety, and to"; (2) After the words "bring forward" insert the words "in the event of the review concluding that compulsion is the best option"; (3)

After the words “(a) persons aged under the age of 18 years; (b) persons aged 18 years and over” insert the words “whatever categories or ages might be specified by the review.”

The Bailiff:

Well, Deputy, do you feel able to start without your lectern and then we will take a break when it comes in?

5.2.1 The Deputy of St. Mary:

I will do my best. They are all numbered, so it just may take a little while to find one or 2 of them but the main ones are there. I think it might be ...

The Deputy Bailiff:

It looks as if it has come in.

The Deputy of St. Mary:

I think it might be helpful if I started by reading out the amendment as it would be, or rather the proposition as it would be when amended, because that was fairly confusing because it was all little bits and pieces. So the proposition as amended would be the States are asked to decide whether they are of opinion to request the Minister for Transport and Technical Services to set up a review into whether making cycle helmet wearing compulsory is feasible and desirable, the review to consider the positives and the negatives of compulsion, all relevant States policies and to consider also how to achieve the greatest possible gains in road safety and to bring forward, in the event of the review concluding that compulsion is the best option, legislation to ensure that cyclists are required to wear a suitable safety helmet while cycling in the case of whatever categories or ages might be specified by the review. So as Members can see, I remove the specific ages and say that that will be subject to the result of the review because, clearly, there are categories of cycling that are riskier than other categories such as BMXing or downhill. I ask that there be a review, at all... because I do not think it is appropriate and Members will see why we should do this in one step and I ask for the review to look at the positives and the negatives because there are indeed both and I ask the review to look at all relevant States policies because this is a proposal with vast implications, although it does not, on the face of it, sound like it. I also specify the greatest possible gains in road safety. You will notice that I have not said “safety for cyclists.” I have said “road safety” because I do feel that one of the fundamental flaws with this proposal is that it isolates one group of road users from the others and somehow says that their safety is different. I am not sure that is the ... in fact, I am convinced that that is not the right approach and that is why the review would look at all aspects of road safety. I offered this amendment to the proposer of the proposition, Deputy Green, and he declined to accept it and in the newspaper, whether or not he was correctly reported, I cannot say, but he was reported as saying that this was a wrecking amendment. I find that puzzling because if this amendment which asks for a review into the pros and cons and into the impact on States policies and considering road safety, if that review does not inspire confidence in the Deputy and he thinks that, somehow, he cannot get his proposition through when it is reviewed, then I think that should make Members wonder what the solid basis is for his proposition if he will not accept an amendment which says: “Let us look at this a bit more closely.” So I just leave that consideration with Members because I think it is a bit puzzling and some time could have been saved by accepting the amendment clearly, but I think also it would have shown that the Deputy had faith in his own proposition. Now, this amendment is not about Deputy Wimberley the jolly green giant who likes to cycle in from St. Mary and it is not about Deputy Green too and, as he rightly said, we all feel sympathy with the situation he has. I do not know exactly what happened and I do not know even whether a helmet would have effectively prevented that but I do say in my report covering this sort of sensitive area that our job is to use reflection and perspective. It is an emotional subject, it is about injury but I would not go so far as it is about life and death. Road safety is about life and death and certainly helmets would not

prevent the sort of injuries that lead to death I do not think in most cases. But we are called as the Government to use reflection and perspective and I do urge Members to think about this in terms of what is right for the Island and not in terms of Deputy Green and Deputy Wimberley. I can see that Deputy Pitman's head is low enough to avoid the slings and arrows, so he will not get hurt. Well, he did mention he would bring his helmet to this debate. Unfortunately, this report falls short and it does not provide Members with a balanced view. Now, if you are bringing primary legislation in one go, you are asking the Members to vote for legislation to be put in train. I know the legislation is not there and Deputy Green said: "Well, we can look at it in detail when the time comes" but, in fact, that is not a sound argument. The fact is that if this goes through unamended, and then goes through finally, then the Minister for T.T.S. is charged with bringing forward a law. I would say that in order to do that you have to have a balanced view coming from the proposer and he has not provided that. He has provided a selective and one-sided report and I will just cover a few areas to justify that statement. Now, if you look at the science which he adduces in favour of his proposal, it is all from one side of the debate. He makes no bones about that. He does not pretend that there is any other science at all. No mention is made of the public health argument that cycling benefits health and that there are huge financial benefits as well as wellbeing benefits to be had by promoting cycling. There is no mention made of the fact that legislation depresses cycling rates in the report although he did mention it in his speech and the likely effect of that on government objectives and on our budgets and on our community and on our public health. The whole issue is considered in isolation as if it is all about whether or not helmets protect heads. There is no mention of the controversy over the effectiveness of helmets. To read his report, you would not know there was controversy but there is substantial controversy, and there is no mention of the flaws in the studies pointed out by many researchers and summarised by the Transport and Road Research Laboratory. It is interesting that he quotes them and their summary and he passed around their conclusions. It is as if that report was written by 2 different groups of people or 2 different researchers because I have read it and what you see is the actual science is quite dispassionate. They go through the various papers, many of which are in Deputy Green's composite report. They look at these as pieces of evidence and they also say what the critics of each paper have said. The summary of all their considerations, I quote in my report on page 23. If you listen carefully, this is after all - and Deputy Green was quite right, this was commissioned by the Government - that the Transport and Research Laboratory is the organisation for doing this kind of review and they did it thoroughly. It is just that something funny happened between the report and the conclusions but in the report the authors write - and I am on page 23 of my own report: "There are methodological shortcomings with many of the studies reviewed [and these are discussed in detail in appendix E]. These shortcomings make it impossible to definitively quantify the effectiveness or otherwise of cycle helmets." Impossible to definitively quantify the effectiveness or otherwise of cycle helmets based on the literature review and, as I say, their approach was thorough, they chose the papers they were going to look at, they had a process of filtering, they then looked at the papers and they then looked at the critics of the papers. They end up concluding that they cannot attribute one way or the other saving graces to helmets. It is a solid piece of work and it does not bear out what the good Deputy said. He also said about the T.R.L. (Transport Research Laboratory) that, in particular, helmets protect against minor accidents and that is quite correct, it is likely that this is what helmets do. I will refer to the additional information that the Deputy passed round this morning, it is not numbered but it is about the fourth page in item 2 and it is the conclusions of the T.R.L. report. You might read this and think: "Oh, my goodness" but if you look carefully: "Cycle helmets would be expected to be effective [would be expected, they are not saying they will or they are] in a range of accident conditions particularly the most common accidents that do not involve a collision with another vehicle." Often simple falls or tumbles over the handlebars. He quoted in his speech that in 100 police cyclist fatality reports it was predicted that between 10 and 16 per cent of the fatalities could have been prevented if they had worn an appropriate cycle helmet. That conclusion has been subjected to review by the C.T.C. (Cyclists' Touring Club) and they have said that it is an invalid conclusion. The point is not really who is right, the point is that there is a discussion around these

conclusions which is unresolved. In fact this is based on “no specific evidence”, that is their own words, no specific evidence behind that prediction and so it goes. Then near the bottom there is a very important bullet point: “No evidence was found.”

[14:30]

I dwell on the T.R.L. report because I am not going to tackle all the other stuff. It is a very, very major piece of work, I have got it here, it is quite substantial. One of their conclusions is: “No evidence was found for an increased risk of rotational head injury with a helmet compared to without a helmet” but that is in the conclusions. On page 99 we read a slightly different version of the same facts: “Most importantly not one study meets the criticism of examining the effect of helmet wearing on diffuse axonal injuries [which are the ones due to rotation] which are often offered as particularly relevant in the debate over cycle helmet effectiveness due to their serious nature and particularly the long-term impairment that may result from these injuries.” Not one study has examined D.A.I. (diffuse axonal injuries) and yet, in their conclusions, they say that there is no evidence for an increased risk of rotational head injury. There is no evidence full stop, we just do not know. There is research showing that there might be this effect but again not proven. We have a whole lot of science in one of the best documents that there has been recently and it is inconclusive. The other major plank, I suppose, of Deputy Green on the science, was the *Cochrane Review* and he refers to it as the gold standard in scientific review. Well it was before they went into the terrain of cycle helmets because what they do is they specialise in randomised trials and reports of randomised trials and there is a very specific method in reviews and therefore the reviews stand up on their own 2 feet and are fairly easy to check and disprove or prove. But when it comes to helmets you are looking at statistical analysis, trends analysis and the *Cochrane Review* documents are simply unsatisfactory. I refer Members to page 35 - obviously you do not have to go there - of my addendum I will just quote what Malcolm Wardlaw, who wrote that appendix on my behalf, said about the *Cochrane Review*. Obviously he spends 3 pages on it and his 3 pages show that the science is unreliable. It just does not merit the term gold standard. In the middle of page 35 he points out that in the biggest study that they review - and there were only 5 studies in this review - the data shows that apparently: “The protective effect of a helmet increases with increasing severity of injury.” The point is that is just not credible. How can the more serious it is the more protection the helmet gives? So fatalities are the most protected and severe brain injury slightly less and so on. It is extremely difficult to accept such a result and indeed it is the opposite of what is seen in population level studies which return the more sensible outcome of declining protection with increasing severity of injury. Of course that is what you would expect, if you fall over your handlebars you are protected against the scrapes and the knocks but if you hit a car at 50 then you are dead or seriously, seriously injured and with much less protection from the helmet. The study that shows the opposite has something else going on and the something else is bias. The studies on which these are dependent are not comparing like with like. They are liable to confuse the effects of wearing a helmet with the effect of being the sort of person who would choose to wear a helmet and that is not corrected for in most of these studies. This is from Robinson; Robinson has a footnote pretty well every 2 words. It is like every statement is justified and it is interesting that Deputy Green was casting aspersions on science when he had a laugh at Mr. Walker’s study of how close people go when they are overtaking cyclists. But the generality of the point is that science does matter and evidence does matter, provided it is sound science which brings us to another debate on global warming, but I will not go there. What they found: “Cyclists who choose to wear helmets commit fewer traffic violations, have higher socio-economic status and are more likely to wear high-visibility clothing and use lights at night. Helmeted children tend to ride with other cyclists in parks, playgrounds or on bicycle paths rather than on city streets and in the U.S. the white rather than other races. Helmeted cyclists in collision with motor vehicles had much less serious non-head injuries than non-helmeted cyclists.” The point is they are behaving differently. It is not the helmets, it is the behaviour and, tellingly, unless case-controlled studies record and

fully adjust for all these confounders their effects may incorrectly be attributed to helmets. That is why the statistics on the population studies and what the hospital-based studies tell us are completely in conflict. Not a word of all this in Deputy Green's proposition, not a word of these difficulties. He quotes jurisdictions. All he quotes is the jurisdictions which have brought in legislation but what about all the countries he does not mention, like most countries, all the European countries? The U.K. has just rejected cycle helmet legislation partly on the basis of this report and the phrase used was: "It is off the agenda." Why is it off the agenda? Because it does not make policy sense, that is why - and I can see Deputy Green disagreeing but there you go. The fact is that is why they have rejected it. The countries that have got legislation have the highest obesity levels and the lowest cycling rates and the highest injury rates. Is that where we want to go? I would suggest not. There is not a word in his document about why the countries that have rejected it, the many countries and states which have looked at legislation, even taken it to their parliaments and then rejected them, not a word about those and not a word about why. Mr. Wardlaw, in his appendix, talks about France and Poland, both of which he says have looked at legislation and been tempted, have gone there, have looked at it and then not taken it anywhere. Why, because they looked at the evidence. It is not clear-cut. That is the first main point that needs to be said and what we are presented with in this proposition is a selective and one-sided report. We see this most clearly where Deputy Green cites expert opinion and he cites in particular the B.M.A. and the World Health Organisation. The B.M.A. quote, as the T.T.S. report pointed out, was sliced in 2 and the Deputy omitted the fact that the B.M.A. are not actively doing anything about promoting this, pressurising government, because helmet-wearing rates are not high enough. That whole qualifier was simply dropped so you, Members, were left with the impression that the B.M.A. was solidly behind helmet compulsion. Well, no, there was a qualifier. The other thing about the B.M.A. is that it is very hotly contested within the B.M.A. It scraped through - it is being contested every year - the B.M.A. hierarchy are not even accepting those motions because they know that it is very, very close to 50/50 now and their own Public Health Committee is against compulsion. The B.M.A. is not united on this and just for your information, the A.R.M. (Annual Representative Meeting) which decides these things is 100 people, the B.M.A. has 140,000 members so 100 people decide on the basis of a recommendation from the Board of Science and Education. Deputy Green referred to their work as a thorough review. Well, no. If any Member has read my appendix 3 where I dissect what that Board of Education dared to say to the doctors who had to vote on this, they dared to put that in a scientific document and I challenge anyone to read appendix 3 and see how disgraceful that document was in defending the B.M.A. to vote in favour of compulsion, it was a disgrace. Then the World Health Organisation... this really is an interesting one from Deputy Green. He quotes the W.H.O. (World Health Organisation): "Millions of people use bicycles for transportation and for recreation. A needlessly large number of cyclists are killed or permanently disabled ... Regrettably many of these head injuries could have been prevented or their severity reduced through the use of a simple and inexpensive helmet." That quotation is headed "World Health Organisation". It was from the helmet initiative, as I say in my report, which was a tiny, tiny little programme run within the W.H.O. by one American adjunct professor who managed to get a little bit of funding and a desk. In my document I quote extensively from a W.H.O. report into health and transport with 5 authors based in Switzerland, a massive study of different health initiatives across Europe where the word "helmet" does not appear. It makes me fairly mad - I might as well be fairly mad - that the good Deputy quotes the W.H.O. and makes Members believe that the W.H.O. is in favour of this when they are not. They have no policy on this matter. The good Deputy described those who are against compulsion as "a small group of fanatics". That is quite amusing. I shall just give you some idea of who these fanatics are. There is the National Cycling Strategy Board who, as the name implies, run the national cycling strategy for the U.K. and they say: "In particular, campaigns seeking to present cycling as an inevitably dangerous or hazardous activity or which suggests that helmet wearing should be made compulsory risks prejudicing the delivery of those very benefits to health and environment which cycling can deliver." They are against compulsion. So too is the Parliamentary

Advisory Council for Transport Safety, which has been going for at least 30 years because I used to read their stuff long ago, and the Royal Society for the Prevention of Accidents. Ah, one of that small group of fanatics, Ro.S.P.A. (Royal Society for the Prevention of Accidents). I am sorry, we are being fed an extremely one-sided view of reality and it really does not do because what the Deputy is asking for is primary legislation in one go, in one step on the basis of evidence like that and I am sorry, it is not appropriate. Here are some more organisations - as Deputy Green had a nice long list - the C.T.C.; Sustrans, who I will be referring to later in that famous phrase **[Laughter]** because they did work in Jersey, so that is all right then; Cycling England and Cycling Scotland, whose job is slightly outside government to promote cycling across the board; the Bicycle Association who manufacture bicycles; the Association of Cycling Traders; and, because Deputy Green mentioned racing, British Cycling who are the official race promotion body - I think they are in charge of the British Olympic effort with all those wonderful names of people who go around very, very fast and win medals - and they all wear helmets. Yes, they do and so do Formula One drivers but that does not mean that you and I, in our Fiat Pandas, wear motoring helmets. This might be all right, this approach to reality, this slightly hazy one-sided approach if it was a minor matter that really did not matter much but in fact I can see that quite a lot of Members are sitting here. I suspect that there is a fair bit of interest out there. This is not a minor issue and the Deputy himself said so. This is an important debate which is why I have spent so much time on it because I do think it is really, really important in many ways. I am going to emphasise 2 aspects that Members should bear in mind and should focus on. The first is that this law forces people- it does not ask them - it forces people to do something on the grounds that it is good for their health.

[14:45]

If you look at J.A.S.S. (Jersey Annual Social Survey): “46 per cent of Jersey people cycle occasionally [46 per cent, half the population, cycle occasionally], 16 per cent ride once a week or more” directly affected, this proposal forces them to do something on the grounds of their health. I just want Members to register the fact that this is problematic, just in itself making a sixth of the population do something, regardless, for their own good, is problematic. Deputy Green says that he does not want to criminalise anybody but that is what he is doing. I notice when I look at the figures elsewhere after helmet laws, that helmet wearing goes up to round about 70 to 75 per cent. It never goes up to 100 per cent. So what are the 20 to 25 per cent of people doing? They are riding around illegally in Australia. I think New Zealand, because they were so draconian, the police must have spent a lot of time running around chasing cyclists in New Zealand, which must be quite energetic but anyway they got it up to, I think, 90 per cent the helmet wearing - 85 to 90 per cent, I forget the exact figure - but the point is 20 to 25 per cent in Australia were breaking the law. So what is going on? Are you just going to ignore those 20 to 25 per cent or are you going to whack tickets on the whole lot? There is evidence, one of the references to Wardlaw, reference 10 in appendix 1, is a letter written to a policeman in Canada by a New Zealander and he says that relationships between the police and the community have been damaged by this massive enforcement of a law that people do not want. I think that is just an issue, this is problematic. I would like Members to imagine themselves, back 6 months ago, when we were talking about pandemic flu. I remember that we had immunisation rates getting up to 50 per cent, something like that, and with children much higher. Why did the other 50 per cent not get immunised? Should we have forced them to be immunised? I remember seeing a letter in the papers saying we should do just that. Somebody said it was quite wrong for anyone to be not immunised and therefore a potential pocket of infection, immunise the lot, force people to be immunised. What would the consequences of that be? In Germany lots and lots of people just said: “I do not want it.” I think it was about 20 per cent immunisation rate. In Switzerland the country banned it, you were not allowed to be immunised in Switzerland but we could have gone down that route, could we not? It is an analogy and I think we have to be very careful and the case has to be watertight. Legislation is a big weapon but P.4 is not a dispassionate look at the evidence. It is completely one-sided and

selective. Deputy Green rightly pointed out that there are circumstances where we tell people what to do, motor cycle helmets being one, seat belts being another ...

The Bailiff:

Deputy, this is not a debate about whether there should or should not be compulsion. I do understand why you need to go into a certain amount of detail in order to make a point but I think you have got to strike a balance. It is whether there is enough doubt to have a review, that is really what you have got to ...

The Deputy of St. Mary:

There is enough doubt to have a review. Those other cases - my point was that there are plenty of them - do not make this case legitimate. Each case for legislation has to stand on its own merits. You cannot say that because we passed a law making people put seat belts on that we should therefore pass a law without proper review, without real consideration to make people put helmets on. My second point - the point that comes after the fact that it is a major step and it is problematic - is that this law is far-reaching. It does affect a lot of areas of public life and of States policy, for instance, the Sustainable Transport Policy. Are we really not going to look at the impact but just go ahead? The Sustainable Transport Policy wants 15 per cent fewer cars going into St. Helier in the rush hour and a percentage of those are going to be cyclists, according to the strategy, but the impact of helmet compulsion will be the opposite. Air quality strategy; we will lose that percentage of cyclists. Reducing congestion, which is a business cost; it affects the competitiveness of all our businesses. Congestion; that too will be affected. The policy and manpower implications for the police; not mentioned, not considered. Demand for car parking; that is another impact of compulsion. Making St. Helier a better place to live with fewer cars, more cyclists, more pedestrians; it is the direction we should go and tourism and reducing dependence on oil. It will have all these impacts whichever way we go. If we go for more cyclists then that will have a positive impact and if, as all the research shows, we go for helmet compulsion we will have fewer cyclists. That will affect all those States policy issues. It will affect life out there. It is an accepted fact. We are being asked to criminalise - and I do use that word advisedly - 16 per cent of people who cycle once a week or more and half the population who cycle occasionally and we are asked to have a massive effect on lots of policy areas, move into primary legislation on the basis of a single 24-page highly selective report. It is inappropriate government. Where are the checks and balances? Where is the proper process of looking at an issue correctly? I just want to illustrate; some Members have a business background, as indeed do I, and there are calls for the States to be more businesslike. Once upon a time I had to decide with my business whether to move it to St. Aubin, away from deliveries, to a fixed base. In order to take that decision, did I just think: "Ah, that is a good idea. I think I will do that"? No, I did not. I worked out exactly how many hires I would get from the St. Aubin catchment times the percentage of different nationalities who stayed in St. Aubin, times their cycle hire rate, times the bed occupancy, times the number of weeks and I worked out the trade I would get from St. Aubin. I then factored-in the trade beyond to the west - I do not know if there is anybody listening but all the secrets are coming out - and I came to within a couple of hundred of the hire days in my first year and that is just normal business planning, working things out properly, assessing the costs and the benefits, the ups and the downs. It would be suicidal in business to do anything else and yet we are proposing with this proposal unamended to do exactly that, not to assess, not to look into the future, not to look at the pluses and minuses but just to go ahead. As Senator Shenton, who unfortunately is not here, regularly reminds us, that is not the way to do business. That is not the way to run a government. Deputy Green is asking us to do exactly that. Deputy Green and his Minister for Education, they are doing 4 reviews I believe at the moment, of different aspects of education, quite big pieces of work, one on Post-16 - I am looking for confirmation - but I know there are major pieces of work going on within education and I hope they are not being done on the basis of one-sided 20-page reports. I hope they are being done on the basis of conducting careful evidenced reviews into the provision being made by their

department and how it could be made better. I hope that the Minister and the Assistant Minister are insisting that these reviews be thorough and properly balanced. With this proposal unamended we would be looking at putting through a law with no consultation with affected departments, no consideration of the pros and cons, no consideration of unintended consequences, of which there are many, and no consideration of alternatives. How better to achieve the positive goal of more cyclists, which Deputy Green said he wanted as well as me, and better road safety. Just a few specific points which are not in Deputy Green's report, the first one - probably the most important - is that cycle helmet compulsion will reduce cycling and he said that cycling levels recover in a few years; this is not so. Time is going on but I would just refer you to Robinson, page 5, which I did circulate, would agree and the papers, on which I relied, went to all Members. If you wanted to check it for yourself, then you could, rather than being offered it on the day. But, there you go; page 5, Robinson shows the declines in cycle use in Australia. She also points out that before the legislation it was rising rapidly in different states; rapidly, cycle use, then it was simply killed, stone dead, by cycle helmet compulsion and it has not recovered. That is what happens; or rather that is what happened in Australia. It is what happened in New Zealand, a 55 per cent drop in cycling, 55 per cent drop. We are already seeing the effect on our children here of endless talk about the dangers of cycling. This will impact on government policy. Air quality, I have estimated a saving, if cycling was promoted, of £0.7 million. In 1997 in a paper I wrote for the cycling group. That would now be £1.5 million and that is in my footnote on page 10 of my addendum, roughly £1.5 million if we were to double cycling, £1.5 million a year in air quality savings and that is based itself on other research. T.T.S. themselves tell us that the loss to the U.K. of helmet compulsion would be £400 million a year, £400 million in net cost - net cost. The benefits of cycle helmet compulsion against the loss in mortality, the premature deaths caused by discouraging cycling, £400 million a year. Scale that down to Jersey, you are looking at around about £750,000; that is just health costs, in fact, it is just mortality costs. The C.T.C. has estimated... they have done a cost benefit on the benefits of doubling cycling in the U.K., £3.5 billion net economic benefit. So, you are looking at congestion, you are looking at air quality, you are looking at health benefits, you are looking at every aspect. Scale that down to Jersey, £7 million a year in the light of what I said about air quality; that is probably about right, £7 million a year. Land saved, air quality, congestion, respiratory illness, inactivity illness, it sounds quite plausible to me. T.T.S. quotes, on their page 6, an estimate by the Health Department of £87 million a year for inactivity costs by 2050, £87 million a year. We cannot go there. We cannot go there without thinking very carefully about the pros and the cons. This is a serious matter. The second major point is safety numbers, this is universal. I cover it with lots of nice pictures in my addendum, Jacobsen's research is impeccable if you have had a look at the paper, it is really very fascinating, interesting. Where you have more cycling and more walking, it is safer for cyclists and walkers across all continents - well 3 continents, Australasia, North America and Europe. In case after case after case, and you can see it in Broad Street, as I wrote in my addendum, any day of the week you can just go out there, see the pedestrians interacting with the cars. The cars have to come around Conway Street corner slowly because there are so many pedestrians. If we bring in compulsion we will have fewer cyclists. If we have fewer cyclists they are in more danger. Is that where we want to go?

[15:00]

Do we want to put our cyclists in more danger? If you want confirmation of that, if you look on my page 14 at the chart at the bottom, you will see the fatality rate charted against the cycling rate, percentage trips by cycle and the more cycling there is, the lower the fatality rate. This is not in Deputy Green's proposition, that the fewer cyclists, the higher the fatality rate. What we got was assumptions; we did not get a balanced presentation. I am going to finish on children because it really, I suppose, is the nub of it, or rather they are a kind of template for what is happening in our society. In response to his written question this morning, and I am very glad that he asked it, we see this chart of the percentage of children cycling at least once a week and it is declining in every

age group, between 2002 and 2006, and that gets to me. It really gets to me. We are failing our children. We are failing them. Why that is happening, we do not know. I suppose we do not know, but we can guess. It should concern us and it is the opposite direction from where we want to go. We want to become a more active society. Cycling is a path to a more active lifestyle because children like doing it. The point to make about this is that Sustrans, who did the cycling, who did the study, the feasibility study into the Jersey cycle network. They did it for a third of the price that Jersey Tourism thought that we were going to have to pay them, which was rather amusing. Anyway, Sustrans did this brilliant study and bequeathed to us our cycle network. In appendix 6, I describe, or rather I just quote from Sustrans, what they achieved in Wales. I would ask Members to wonder whether this is not what we should not be aiming for here. Thousands of pupils in 24 schools across Conwy and Neath Port Talbot have been improved their health since becoming involved with Bike It. Bike It is a programme run by Sustrans. Only 13 per cent of children in Conwy and Neath Port Talbot cycle to school once a week, 13 per cent once a week. A year on, just one year, this has increased to 39 per cent. Sustrans tripled cycling use in a year and we are looking - year on year - at a decline which, as I say, gets to me. The number of children that never cycle to school has almost halved. They even cut into the “never cycle” brigade and turned half of them into occasional cyclists, which is the beginning of becoming a cyclist more often. Bike It officers work with pupils, parents and staff to help them overcome whatever it is that is preventing them from cycling to school by organising cycle training, bike maintenance, helping to install bike sheds, contributing the classroom work and providing information about safe routes to schools.

The Bailiff:

What has got to do with whether there should be a review or not?

The Deputy of St. Mary:

I know it has because this could happen in Jersey and if we go down the route of compulsion, it will not. No, the connection is that... that is half the connection, the other half is that in the Sustrans draft template for schools policy, which is appendix 5, the words “cycle helmet” are on the 13th bullet point. The whole point is that you do not headline cycle helmet, you do not tell children in the very first moment they walk into a proficiency class: “Put on your helmet”, because that is not the main aspect of cycle safety and it is not the main aspect of cycle promotion. Sustrans put it in context, as part of an overall strategy for improving ridership and excitement and fun among children. The second point I want to make about children is a mum in St. Mary, who I met when canvassing. She told me how worried she was for - and this is about our overall approach to road safety and it is about our overall approach to encouraging children to cycle - her son would ride 600 yards to meet a friend near St. Mary’s Church. Every time he went out the door to do this, her heart is in her mouth. She is worried for that boy’s safety. Whether or not he is wearing a helmet, it is immaterial because on those roads he is mixing it with Ronez cement lorries, and he is mixing it with the scaffolding people who live down my lane with great big scaffolding lorries, and he is mixing it with drivers who may decide to ignore the 20 m.p.h. (miles per hour) speed limit, or who may decide to have a lapse, of inattention. So, her heart is in her mouth. She is frightened for her son every time he goes to see his mate. Another parishioner told me that people routinely break that particular speed limit on the road where she lives. You see the real issues now, it is not about whether her boy has a helmet on his head, it is about whether, we, as politicians and *responsables* do something about creating an environment where that boy is safe and, in fact, helmets are a dangerous distraction from that. We need analysis, we need action and we need prevention. Road safety matters and if we really, really focused on road safety we would take to heart the experience of Hull, where, by introducing a 20 m.p.h. speed limits in all urban areas, they had a 90 per cent drop in killed and seriously injured over a 6-year period: a 90 per cent drop. That is what Deputy Green wants, that is what I want, that is what we all want; 90 per cent drop in K.S.I. (killed or seriously injured). So, do not anyone put, as if this side of the debate is not, about improving the

injury rates, improving the death rates. Deputy Green, I would turn his group of fanatics on its head. I do believe that this proposal is put forward by a well-intentioned lobby group, but they are proposing a law which would affect half of Islanders, effectively criminalising them on a scientific basis that is so weak, it is like a sandcastle. When you poke it, bits fall off. Incidentally, the B.H.R.F. (British Helmet Research Foundation) comments on research. There are hundreds of papers looking at different aspects of public health, safety in numbers, the benefits of cycling, the way that laws affect cycle use and whether or not cycle helmets are effective. It gives me cause for grave concern if this proposal is not properly evaluated. What is Deputy Green afraid of with this amendment? I urge Members to vote for the amendment.

The Bailiff:

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

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

While I am not in disagreement with the Deputy of St. Mary, and certainly respect the extensive research he has done and his bicycle experience of many years, I consider the amendment is really a duplication of existing work being undertaken. This is already part of my department's strategic plan, already part of the S.T.P. (Sustainable Transport Policy) and in fact part of the work which a cycling working group, which I agreed to set up at the last States sessions, would undertake. I have asked the Connétable of St. Lawrence, Deputy Fox and Deputy Le Claire to be involved. It was my understanding that these issues of concern would be covered. I also asked the Deputy of St. Mary, it was my understanding that his interest was in cycle routes, and as such, I would value his contribution. I think, in all practicality, my comment as issued, reflects my views and that of my department, who have spent much time researching Deputy Green's proposals. Notwithstanding the fact that the working group might advise otherwise, I would not anticipate any great changes. I think we would all lean towards the protection of children and I would suggest that one could be seduced by a proposition which recommended the wearing of helmets for, perhaps under 15 year-olds. However, there is a practical answer to this which, it would seem to me, appropriate for me to answer in the main proposition. The Deputy does, of course, have the option, in his role as a member of Scrutiny, to review any decisions made by my department. I would far rather he followed this route if he has concerns. I am afraid that contrary to the amendment that there will be a cost of an additional review and that officers of my department do have to be paid and this cannot be ignored. In summary, I would ask the Members to reject the amendment in that the work is already being addressed.

5.2.3 Deputy G.P. Southern:

May I say how disappointed I was by the response of the Constable of St. Brelade, just now. When I was asked last night how long this might go on, my first thought was it depends whether the Deputy of St. Mary stays under an hour, or goes over it. I think he did manage to do that and he did so with, once again, a deep understanding of the issues and, particularly, a deep understanding of the science and the research that goes on into this area, as with many. He also managed to dissect the case that was being put in a disinterested and unemotional way. Because my first answer about how long he was going to go on for was obviously dependent upon how long people speak. I was then asked: "How do you think the debate will go?" I said: "Well, Deputy Green usually presents a clean case, unemotionally, and if he does so he might well win." Unfortunately, during Deputy Green's speech I was almost overwhelmed by the depth of passion that he felt, but it was very emotional. Now, it is very easy to go along with that notion and with the intuition that, of course, cycle helmets must prevent injury, must improve things; that is the way, intuitively, people will think. However, the science and the research, as clearly demonstrated, is counter-intuitive. The obvious answers are not necessarily the ones you get and, as the Deputy of St. Mary said, what we have to do is go forward on the basis of understanding and doing the research to prove the case. We cannot bring legislation, complete, of itself, on the back of an emotional reaction. I do

understand that emotional reaction. It would be very easy for me to stand up here today and say: “I am voting with Deputy Green” on the basis that my son, who was involved in a serious accident a couple of years ago and damaged his head on a cycle. He was cycling and suffered a serious injury to his head. He sent me an email this morning, good on him, that said: “Vote for this amendment, a cycle helmet saved my life.” However, the evidence, it seems to me, is otherwise. Perhaps, I will talk about 2 incidents in my cycling career. One, when I was 12, cycling home as I did in Formby, near Southport, where the traffic was very light and we cycled everywhere, all of the time. I would set myself the task of getting home with only putting my feet on the ground a minimum number of times. Ideally, I would try and get home without touching the ground at all. This means, when in traffic, and on a roundabout in particular where the traffic is moving one way and you cannot quite get into the traffic, it means sitting there balancing. I am trying desperately not to get the foot on the ground.

[15:15]

As a result, of course, I overbalanced, caught a car on my head, was taken home [**Aside**] [**Laughter**] and though some may doubt it, no lasting damage was done. [**Laughter**] After an afternoon in bed and a good night’s sleep and a check for possible concussion, I was declared fit and able to make repairs to my bike. I was being silly. The risk was not helmet or no helmet, the risk was me being silly. Equally, when my son damaged his head seriously on a car while riding a bike, he too was being silly. He had decided to take a short cut through a “no entry” into traffic and did not see the car that was coming, the right way, into him. The issue was not, I believe, helmet or no helmet - I had no helmet, we did not wear helmets in those days - he had a helmet. He was still seriously injured. The issue was being silly on the road, errors of judgment. My son had no business going through that “no entry”. I had no business trying to get home without putting my feet on the ground once if I possibly could. So, it would be very easy for me to vote for Deputy Green’s proposition. However, and I had my doubts as he was speaking, because of the way in which he dismissed, rather foolishly I think, a whole chunk of research and said: “Of course, that is nonsense” without saying why any of it was nonsense. A couple of good laughs and an emotive presentation does not good legislation make. Despite his 15 minutes, which some still thought was too long, I know. What was presented by the Deputy of St. Mary was a consistent, logical, rational, reasoned argument for taking this steady and proposing an amendment in which we examine all the evidence, not part of the evidence, not one side of the evidence, but all of the evidence carefully before we decide how to proceed. I think the Deputy of St. Mary has made an excellent dispassionate case for his amendment and I will be supporting it.

5.2.4 Deputy J.A. Martin:

To bring the debate, hopefully, back to the amendment; I felt compelled to speak and move back to my seat because I listened to the opening speech of Deputy Green and then I listened to the Deputy of St. Mary propose his amendment and speak on the actual debate. I have read every single point in the report from the Deputy of St. Mary which is totally negative against wearing cycle helmets. He does not want a review; he is putting off the vote, if you like. I cannot see anything here that Deputy Southern says that there was not passion on both sides. There is a clear divide between the 2 Deputies and we have gone all the way around the world for enough evidence. I think, that all who have bothered to read what has been produced by both the Deputies, have read the reports of T.T.S., would know it is a matter for this House. Another review, as T.T.S. says... there is something going on, but this, if passed today, the review just would be duplicating so we should be going back to the debate. I am very sorry, I agree with Deputy Southern and I know both Deputies do their research. Both have come at this from completely different angles but I do, at least, think Deputy Green is being honest. As I say, even number 7 on the Deputy of St. Mary’s report says - and this is him looking at an independent review - on all the evidence: “I would add that it is my belief that this whole discussion around making cycle helmet wearing compulsory by law misses

the point and is rather a negative way of proceeding.” The Deputy of St. Mary has had his review. He does not believe there will be no time it does not matter, if you went to every country in the world, that you will convince the Deputy of St. Mary, and probably other Deputies in his House, that this is the right way to proceed. I will leave it there because I know you have let other people wander but I think this is a very narrow debate on the amendment. Do we have a review or not? I cannot support it. To me, the position is very clear where everybody has come from. The jury is still out but I do not think a review ... It is obvious if you are not wearing a helmet and you have an accident there are problems. Does it stop people? We do not know because children are not, at the moment made to wear them. So, as I say, I will keep... I am trying now, I am drifting... I will keep to the amendment. I cannot support a review. I will listen to the debate but I am probably inclined, because it is children, I will probably support the first half of Deputy Green’s. Without saying that I have already made my mind up but that is what we are here for and as Deputy Green said: “Would we go back? We would let a 16 year-old, 17 year-old get on a bike but when they go to a little pop-pop, we legislate they must have a helmet.” So, that is what we do. So a review, no. Thank you.

5.2.5 The Deputy of St. John:

This is quite an emotive subject but I think it needs to be dealt with in the whole. Over the last couple of weeks since this came on the table, I had tabled this morning a review of bicycle law, which I think we should be reviewing the entire bicycle law because currently we have laws that allow a cyclist to cycle against traffic, like in Oxford Road, cycle on pavements, laws which are not being policed where people can cycle without fluorescent vests or lights on their bicycles. There is a whole host of areas that need to be properly reviewed. I think the laws need to be updated. We have got a transport policy being looked at by Transport and Technical Services at the moment which should encompass the review of the cycle law, which goes back to the 1950s. It is 60 years old, it is out of date, we should also make sure that it is brought up-to-date because if we are going to bring in the transport policy, where we want more people to get out of their cars and on to pushbikes, or other means of transport, we need the bicycle law updating. We need some way of being able to identify cycles, where historically you had a permit and the like.

The Bailiff:

Deputy, I am sorry, but you are straying from the ... I do not think you need to say quite as much.

The Deputy St. John:

I know I am straying but we need to encompass... this needs to encompass whether or not youngsters up to the age of 16 wear cycle helmets, others up to the age of 15 ...

The Bailiff:

At the moment, the matter before the Assembly is not whether to have this full-ranged review; that will be for your debate but at the moment whether there has to be a review ...

The Deputy St. John:

At the moment it says persons up to age of 18, it is an (a) or (b), or 18 and over. So I am coming back to the debate in the amendment. At the moment it is in Deputy Green’s part and I know we are on the amendment, but we should be looking at the big picture. We should not be taking things piecemeal and there is nothing worse than doing something piecemeal in this Chamber, whether it is by way of the amendment to Deputy Green’s proposition, or not. We should look at the big picture and therefore I will not be supporting the amendment because I think we should be looking at the big picture. Therefore, I will look at possibly supporting Deputy Green, when the time comes, up to the age of 18 with a view to bringing an amendment to reducing that to 16, because when you get over 16 these youngsters are going to do their own thing anyway, as we all know. I think we need to have a much bigger review of the entire cycle law and not take this piecemeal.

5.2.6 The Deputy of St. Ouen:

I must admit over the hour that Deputy Wimberley has been speaking I was smiling to myself, because claims are made about Deputy Green providing a one-sided and highly selective view. Yet, that seems to be the forte of the Deputy of St. Mary in most cases. Deputy Wimberley also suggested that Deputy Green had misquoted the British Medical Association and then chose to only focus on part of the text himself. What he chose not to read - and I am quoting from the Minister for Transport and Technical Services comments - is that the B.M.A. goes on to say later in the same comment: "It appears to be that a good watershed level for when to progress from non-legislative interventions to mandatory legislation is around 40 per cent voluntary wearing." I then looked at the Deputy of St. Mary's comments linked to his amendment and on the first sentence the Deputy of St. Mary states that: "Deputy Green's proposition seeks to bring in a law which would directly affect 46 per cent of the population of Jersey." Now, in my view, that links quite well with the B.M.A.'s view that once it is over 40 per cent legislation then works. Equally, if people who have access to the comments of the Minister for Transport and Technical Services choose to turn to page 7 of that quite useful report, they will also find a table. The table above that particular comment shows that, in the cases where legislation was brought in and the pre-legislation levels of youth and the wearing of cycle helmets was on or around 39 per cent or above, post-legislation the percentage of people wearing helmets increased to between 72 and 95 per cent. I would think that is a remarkable result for a piece of legislation. Furthermore, Deputy of St. Mary then went on to suggest that the legislation will not deliver 100 per cent. Well I would ask the Deputy of St. Mary to point to any legislation that we have that delivers 100 per cent. How on earth can you use that as an argument? Finally, the suggestion was made that Deputy Green is aiming to somehow stop people from cycling. I would say absolute rubbish. The only point that Deputy Green seems to be making to me is that he is promoting safer cycling which is something, I hasten to add, that we at the department take very seriously. We encourage and, in fact, provide cycling helmets for our pre-school youngsters who have access to trikes and other mobile machines within the school grounds. We encourage all students to seek to take on cycling proficiency and again, at every available opportunity, we encourage the young people to use cycling helmets. We are actively promoting the need for safety and I believe that - and it is an issue - given that the Minister for Transport and Technical Services is able to bring forward appropriate legislation then I think that we can really achieve something that does protect our young people and the population as a whole. Thank you.

[15:30]

5.2.7 Deputy A.K.F. Green:

I will try and contain myself to the amendment, although there are a couple of inaccuracies I need to put right. This amendment is nothing more than an attempt to kick my proposal into the long grass. It is an attempt at strangulation by review. It is an attempt at death by committee. The Deputy of St. Mary contacted me when he was minded to bring this amendment, I must add, at the very last minute. He emailed me and asked me if I would accept the amendment. I emailed back replying: "No. In my view this is not an amendment, this is a new proposition." To which the reply was: "Ho Ho Ho." That is the sort of behaviour we have to put up with and I can provide the email if anyone would like to see it. We were elected to this Assembly to make decisions, not to sub-contract our responsibilities to officers. Which one of you - which one of us - said, at the time of our election: "Vote for me and I will ask someone else to determine the big issues of principle"? I do not recall that being in my manifest. I would just like to pick up a couple of points on Australia. I have been in direct contact with the Minister for Transport in Australia and some information that I was provided with today, I did not have before the debate, but it is just interesting. We are told that cycling levels are declining. That is the opposite to what the Minister for Transport and Disability - it is a strange title but that is his title - in Western Australia has. In 2001 in Western Australia they sold 775,000 cycles. There is a lot of information in between but I go to 2008, 1,000,204 cycles. So what are people doing with them if they are not riding on them?

Have they got them in glass cases in their lounge? People do not buy cycles just to look at them. That would suggest, as the Minister for Transport in Australia says, that the rates of cycle use is increasing. He also says that ... no, I am straying. I will keep out of that one for now. I have to pick up something that the Deputy of St. Mary said about the World Health Organisation. If anyone would like a copy I have the documentation from the World Health Organisation and they do say what I claim they say. It is interesting though, is it not? It is the people who disagree with the Deputy of St. Mary that are wrong. The Royal College of Surgeons, the Royal College of Nurses, the British Medical Association, even this report, the potential for cycle helmets to prevent injury. He does not like the conclusions so he twists the information in there. Sorry, I will come to the point.

The Bailiff:

An allegation that he twists information is unacceptable.

The Deputy of St. Mary:

I simply quoted different bits.

Deputy A.K.F. Green:

Sorry, he interprets it differently to me, is that sufficient? Thank you. Do you think that the elected members of Assemblies in Australia and Canada or the 22 U.S. States, or the legislators in New Zealand, Iceland or Sweden behaved in this fashion? Of course they did not. They took the decision in principle, just as I am asking you to do today and then we can look at the detail. The Deputy of St. John said he is minded, possibly, to support the proposition and bring an amendment in on the age. Fine, that is what democracy is about. Democracy is about the view of the majority, not the view of somebody who disagrees with what the majority want. If I am beaten today, that is democracy. So please, Members, do not allow the Deputy of St. Mary to bury you under a pile of one-sided research. Do not allow the Deputy to bamboozle the Members with pseudo-science. Do not allow the Deputy to stop Members from exercising their common sense and good judgment. That is precisely what Members were elected to do. I will leave Members with one stark thought, and I suppose I will be accused again of being emotional. What happens if during the period of the proposed review, a child sustains a brain injury? How will you explain that to their parents? How will Members look them in the eye and say that this decision was too complicated, too difficult, too hard to make. I oppose this amendment.

5.2.8 Deputy I.J. Gorst:

I hesitate to rise. I like to think that we, in this Assembly, try to analyse the facts before coming to a conclusion. Inevitably those on opposing sides of an argument suspect that the other side do not have the facts and they are being misled and they are not appropriately dispassionate when they come to their conclusions. I came in today not being certain of which way I was going to vote, either on the amendment or on the main proposition. It seems to me that we are being asked to support the introduction of legislation to ensure that cycle helmets are worn because we have been presented with evidence that says that cycling helmets reduce head injuries. I am not certain that we have got overwhelming evidence in that respect. On the opposing side, we have been told that there is evidence to say, yes, one can introduce cycle helmets and that might have an effect, although there has been doubts cast on that. But what you will do is reduce the element of cycling and therefore, we will have a more obese and unhealthy society because people will stop cycling. So that is a very difficult decision for Members of this Assembly to make on the evidence which is being presented today. Having said that, there does appear to be an element of logic in protecting one's head when going about activities other than walking. When we are in a car then we have certain protections, the car has inbuilt protections. When we are on a motorcycle or moped then we are expected to wear protection as well. So there does seem to be some logic in believing that wearing a helmet might protect us but it will stop some of us, ultimately, from cycling and living a

more healthy lifestyle. In light of that, I am minded to support the Deputy of St. Mary, of course, if his amendment is not accepted then I will have to consider my position at that point. But I believe that the decision being put before us is quite difficult. I do not really believe that we have been presented with satisfactory evidence on either side. I am not blaming either Member, but it does put us all in a very difficult position to try and make a dispassionate decision about what is appropriate. We are talking about the introduction of legislation. I do wonder whether the Minister for Transport and Technical Services - he said there is a working party looking at cycling together with the Sustainable Transport Policy - whether he could not, if the Deputy of St. Mary's amendment is rejected, make sure that work come forward at the same time that he would present legislation on making cycling helmet wearing compulsory should it be accepted. I think that might be a suitable - I hesitate to use the word compromise, but that is what it would be. A suitable way forward to enable us to make an informed and appropriate decision when we get to having to decide on the legislation in due course. Thank you.

5.2.9 Senator J.L. Perchard:

Just briefly, I am inspired to speak after that contribution from Deputy Gorst. If Deputy Gorst is seriously looking at a third party to answer this question for him so that he can then make a decision, I think he is naïve to expect a third party... a body appointed to review whether we should make it mandatory to wear helmets is unlikely to give a definitive answer to this House. We know the arguments are vague. As Deputy Gorst says, the logic would imply that to protect your head you are quite likely to save yourself some damage. But then you put that in the balance against the possibility that less people will cycle and as a consequence there will be other health issues. The Members will not get a definitive answer from a study group. This is a call that we have to make. This is why we are here and I suspect by delaying this it will do exactly as Deputy Green says, it will be pushing it into the long grass and so handing over the responsibility for this decision to somebody who, I assure Members, will come back without a definitive response and directive to this House. We need to make a decision. I implore Deputy Gorst to toughen-up and realise that it is his responsibility to make a decision and not ask another to ponder it and consider it. Let us make a decision whether we want to pursue and hand this over to a third party, or to decide to make it mandatory to wear helmets.

Deputy I.J. Gorst:

If I could just correct the last speaker, I did not at any point say that it should be a third party that we should hand this decision making process to. I merely said that we, as responsible Members of a legislature, which is what we are - we produce legislation, we agree it - should have evidence in fact before us before we make those decision.

5.2.10 Deputy S. Power of St. Brelade:

If we look at the report and proposition of Deputy Green and then the amendment of the Deputy of St. Mary, we all can quickly realise that we are focused on one specific thing and that is the physical risk and danger attached to cycling and how we deal with it. That is what we are dealing with. Deputy Green has given us a very emotive, and indeed personal, account of his own family experience and his motivation to be involved and the charity he is involved in and his reasoning and objectives in bringing this report and proposition to the Assembly. The Deputy of St. Mary - having listened to him for, I think it was 55 minutes, to give him credit - I never cease to be amazed about the depth of research that the Deputy of St. Mary can carry out and, in my view, I did find a lot of his arguments within the amendment debate to be fairly logical and fairly rational. I did feel that his amendment to the amendment was extraordinarily detailed and indeed the appendix at the back was extraordinary in the extreme for an amendment debate. But we are where we are and having said all that and having acknowledged Deputy Green's and the Deputy of St. Mary's individual approaches to this, coming at different directions, I am uncomfortable with parts of the amendment and I am uncomfortable with the proposition. For my own part I think we are erring

into the area of danger by - as the Deputy of St. Mary said - criminalising people who use a bike. I can see, if this were to be passed today and I am dealing with just one specific aspect to the proposition ...

The Bailiff:

Well, hopefully you are dealing with the amendment.

Deputy S. Power:

I am dealing with the amendment, but the comments of the Deputy of St. Mary in relation to his amendment to the proposition. If the Deputy of St. Mary is unsuccessful and Deputy Green is successful, I can see 100 conversations, or 1,000 conversations in 1,000 kitchens in the years to come saying: "Mummy, where is my helmet? Is it in Daddy's car? Is it at the gym? Is at the school? Or is at the youth club? Can I go to school?" That is a real problem.

The Bailiff:

Deputy, that is on the main proposition.

Deputy S. Power:

Okay, I have risked it and I have been corrected.

The Bailiff:

Please confine yourself to the amendment; should there be a review or not?

Deputy S. Power:

I will speak again then, but my view at the moment is I will wait to hear other people speak on the amendment and shut up.

5.2.11 Senator P.F.C. Ozouf:

I should just say politely to Members that the Chief Minister is now absent from the Assembly. He has left the Island on States Business and will be away for a couple of days. There is not a Council of Ministers line or Chief Minister's line on this so we all speak as independents. I have to say that a couple of weeks ago, when this debate started, I read in a newspaper a very interesting article and Deputy Green in his original proposition mentioned the issue of seatbelts. I think it was an article that was speaking about the 20 year anniversary of the bringing in of seat belt legislation and it recounted the history of seat belts. By today's standards, that debate would be curious. Seatbelts were - it is said by the people opposing it - a violation of people's rights in their car. Women found seatbelts intrusive for obvious reasons. **[Laughter]** There were some unbelievable campaigns about seatbelts.

[15:45]

Today, seatbelts are accepted. It is accepted that nobody would get in a car without a seatbelt, it is accepted that seatbelts save lives. I suspect in 2030 the same will be said about cycle helmets. I suspect that it will be law in most places, it will be unthinkable for people to get on a bike without a cycle helmet. I suspect that people will think back to the debates about cycle helmets almost with a complete lack of understanding to it. That is my view, it is a personal view, I do not think I need a review in order to make a decision. I think that I am clear about the Deputy of St. Mary's motives in relation to this. I think that he wants to certainly protract the debate, he does not agree with seatbelts. A review is not going to assist ... sorry, cycle helmets. It is not going to assist him in arguing for cycle helmets. Jersey is a small place. We can do things that other places cannot do. We can encourage people and we can legislate. I am clear, I do not want a review, I am going to be supporting Deputy Green but I am not going to be supporting the Deputy of St. Mary.

5.2.12 Deputy A.E. Jeune:

I am aware of people who cycle to keep healthy and those who cycle for pleasure who have said: "If you bring in that law I will not get on my bike again." I am going to support this amendment. Not because I necessarily want a review, but I cannot support the proposition as it stands at the moment. I do not agree with the nanny state. There is no law ...

The Bailiff:

Deputy, can I say this? This is just the point, if I may say so, if you disagree with the proposition of Deputy Green, vote against. But we are at the moment on an amendment as to whether there should be a review and that is a very different matter.

Deputy A.E. Jeune:

Right, I will be supporting the amendment.

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

Over the years I have sat on all sorts of reviews when I was a police officer. **[Approbation]** I have heard them all, I thought. But clearly, not quite. There is no one thing that finds a solution to a problem, there is a multitude of things that do it and I think today we have enough paperwork that covers all that and yet the last speaker has just really summed it up in a way, that if you are inclined not to vote for Deputy Green's at the moment, you can vote against it. But as far as the review is going, public services are already catering for some part of it, it probably will not have the amount of detail that the Deputy of St. Mary is having because I do not think anybody does the amount of detail other than the Deputy of St. Mary, and good for him for it. But what I will say is that I shall not be voting for this amendment because I have sufficient information and sufficient knowledge to know that we have come to the end of the road of needing further information. What we need to do is then make a decision and as I am not allowed to speak on the principal debate I shall wait until the next little bit and then I will give you the answer to why I will not go there. Thank you.

5.2.14 Deputy P.V.F. Le Claire:

I agree with Deputy Fox and also Senator Perchard's views that we have seen in the past the States have brought together various working parties and strategies and they have sat and gathered dust until it has come to the Chamber for a decision. That is exactly what we need to do today. We need to decide whether or not we wish to, for whatever reason, support or not support the main proposition. Addressing this amendment, I personally have felt frustration over the years having been put in charge of the smoking strategy and the alcohol strategy, watch it gather dust as it is kicked backwards and forwards from one consultation group to another. Much the same as the Sustainable Transport Policy has been doing for a number of years. We need to move forwards and, with the greatest of respect to the Deputy of St. Mary, I do not personally believe the issues that he has raised are about whether or not there are more cyclists to create a safer society. It is about whether or not there are more integrated cycle routes and more safe ways of cycling to and from A to B. We saw those in scrutiny when we went to Malmo, we saw the numbers of people cycling in Sweden and they certainly were very, very, very high. They were not very, very high because everything over there is flat, they were very, very high because the provision for cyclists was set into their planning process in a way that made cycling safe, comfortable and also extremely enjoyable. It is a healthy activity. Kicking around consultation is certainly not healthy so I will not be supporting the amendment and I will be supporting - and I will give those reasons later - the main proposition.

The Bailiff:

Does any other Member wish to speak on the amendment? Very well, I call upon the Deputy of St. Mary to reply.

5.2.15 The Deputy of St. Mary:

I will keep it brief. Yes, I must say that I am feeling quite depressed. I hope that this goes better than I imagine it might go. The review is simply to look at this properly. This is legislation that Deputy Green is putting forward and to abdicate and say: "Oh, well, we will just decide it. We will not bother to look at it properly." Now, Members may say: "Well, Deputy Wimberley did a long report so we do not need to look at anything else, that is enough." I think that is quite irresponsible. If you really think that Deputy Wimberley in 2 weeks can sort out bicycle legislation for Jersey and work out whether it is a good thing or not, that is nonsense and we should not be going there. We should not be doing this kind of legislation, basically on the back of 2 envelopes, mine and Deputy Green's. It is just not good enough. It is irresponsible. Somebody mentioned the word "courage", the courage is in looking at things properly. Deputy Le Claire said something interesting about the tobacco strategy, he said it gathered dust or gathered that stuff that comes off the end of cigarettes. But in fact, the tobacco strategy has been successful. We have a lower rate of smoking than in the U.K.. There is acceptance of all the measures of ...

Deputy P.V.F. Le Claire:

Will the speaker give way?

The Deputy of St. Mary:

I usually do.

Deputy P.V.F. Le Claire:

Using one of his tactics. The tobacco strategy ...

The Deputy of St. Mary:

It is not a tactic, by the way, I ask for information when I need it.

Deputy P.V.F. Le Claire:

Well, maybe I should withdraw that remark then. My point was, for clarification, that the tobacco strategy was a series of implementing things that we knew for a very long time were needed. It did not come to the Assembly, when it was finished it sat on the shelf for 13 months after it had been finished because it was not the appropriate political thing to bring; people did not have the will at the time. It was - this is my point - what we always knew was needed, a series of measures.

The Deputy of St. Mary:

Thank you for that clarification because it does bring out the difference between cycle helmets and tobacco. Everybody knew that tobacco killed and that was known for 40 years despite the best efforts of certain lobbies. For Jersey then to decide what to do about it was a process of implementation, as the Deputy said. It was not a process of thinking: "Is this the right thing to do? Does this have unintended consequences which will cost the Island a fortune? Does it have unintended consequences for people's quality of life and does it have unintended consequences for their health and for children's independence?" So, this is a very different situation from tobacco. I will just deal with the comments briefly in order, I think, probably. Constable of St. Brelade, speaking as a Minister, said that this would be a duplication of existing work and then said that it would cost extra money. I am sorry, if this work is already being done then all I am saying is let us formalise this part of the work which is the consideration of helmets, within road safety and within a general review to look at compulsion and how to promote cycling all in the round. So I really cannot take that point. There are staff looking at this. There should be staff trying to promote cycling and this would be an aspect of that. Somebody else mentioned - I think it was Deputy Martin and possibly another speaker - said that I was sort of dyed-in-the-wool anti-helmet. Now, what I am is I think that it is not the first priority either in promoting cycling or in dealing with road safety. There is clear evidence that speed kills. There is clear evidence that speed is the major factor in promoting road safety and yet none of these consultants have said a word about speed and we know from the whole experience and that is why I asked a written question, apparently we do

not know of other studies, but I am sure that the evidence will bear it out. That where you impose, particularly urban, speed limits of 20 miles an hour you will get massive reductions in accidents and injury and death. So what are we waiting for? That is part of any substantial review and to focus it all narrowly on helmets is, as I said in my report, to miss the point. The issue, as I have covered, the idea that review is somehow lacking in courage. In fact it takes a bit of courage to take the trouble to look at an issue properly. The Deputy of St. John wants a review into all matters of cycling law. That is fair enough. What I would wish to know from him, and it obviously is a matter for another debate, but is he fundamentally supporting cycling as he is doing so? I think he does. I think we all wish to see more cycling which is why that chart in the written question this morning was so disturbing, that we are seeing fewer and fewer child cyclists and that is a public health disaster. It is a disaster for their independence and their spirit and it is very, very sad, and we need to know that cycle helmet compulsion will not make that situation even worse. The evidence elsewhere is that it will, is that fewer children will cycle and we will carry on down the way we do not want to go. The Deputy of St. Ouen was quite amusing. He criticised me for being one-sided and selective. I was balancing-up the one-sided and selective - in my view and in fact I think objectively also - presentation of the case for helmet wearing, so obviously I had to redress the balance. The Deputy of St. Ouen got mixed up between the 40 per cent that the B.M.A. say should voluntarily wear helmets before one moves in the direction of compulsion with the 46 per cent of Islanders who occasionally ride a bike. I just wanted to clear that little confusion up. Deputy Green also accused me of saying that Deputy Green was trying to stop people cycling. I never said that Deputy Green was trying to stop cycling. He quite overtly said that he was not trying to stop people cycling but the problem is that the effect of his proposal - unamended so that we do not look at it properly, we just go straight, if we vote for it, to legislation, which seems to be where people are thinking of going - will be to discourage child cycling. That is what the evidence is. So, whatever he is trying to do, the evidence shows that it would not happen. I do not know whether to laugh or cry when the Minister for Education says that they are doing everything possible to encourage children to cycle. Admittedly that chart is old figures - 2002-2006 - but firstly, why are there not more recent figures? Secondly, I hope the Minister succeeds in reversing that trend and in having input into this review so that we can be positive about getting children on to their bikes and not putting an obstacle into their way. Deputy Green had a re-statement of the W.H.O position which again is simply not the case, but we would just back and run and run and run. He can hold up a bit of paper saying it represents the W.H.O.'s position, I will hold up another much fatter bit of paper, saying that it is not. So I think we will just have to disagree. That is the whole point, is it not? The Minister for Treasury and Resources and various other people have said: "Well, we just have to take a decision." I am sorry, but that is a step too fast. Not a step too far, a step too fast.

[16.00]

To take this sort of decision on the basis of the report of Deputy Green and my own critique of it, is not good enough. Deputy Green mentioned that he had had hundreds of phone calls on this matter. He mentioned in his speech that there were 51 brain injuries from children in Jersey in 2009, I think he was referring to, out of 174 cycle accidents. I am afraid it is simply untrue. This is a real problem with this debate. We cannot have legislation on the basis of statements that are not true. The 51 brain injuries: I could not believe it. I have the 2009 child accident statistics here from Child Accident Prevention Jersey. I knew that I had not seen 51 brain injuries here. I knew I had not seen the word "brain injury" in here at all. In fact it is 51 head injuries. "Cycle related injuries were seen in upper limbs; head injuries 29.5 per cent, and lower limbs." If you go 29.5 per cent times 174 you get 51. So there were 51 head injuries: little scrapes; grazes; cuts. None of those went beyond the first visit to A. and E. I see somebody shaking their head but that is just not the way to conduct this debate and I do beg Members first of all to recognise the importance of this issue, that it does affect half the population, a sixth really closely and half incidentally, and it does affect every area of States concerns and it does affect the public. Deputy Fox said he has done all

sorts of reviews and implied that Deputy Wimberley had done it already. It is just not true. It is not enough. This is not a case like tobacco. There are unintended consequences and I would like to see a better solution. I would like to see the benefits of more cycling coupled with fewer accidents, fewer deaths, fewer injuries. That is what Deputy Green has persuaded Members that we all want, and he is quite right, that is what we all do want. The question is whether we will get it by an instant solution that by putting a helmet on every cyclist's head in Jersey, we have done something to help road safety in Jersey when we have not. We have ducked. We have not done the real work. We do not have a road safety strategy. We have not reduced the hurt to our families, to our children and to all of us and I beg Members to agree that review is really needed in this area. Thank you.

Deputy A.K.F. Green:

May I just clarify a point? Fifty-one head injuries: I keep my brain in my head. I do not know where other people keep theirs. A lot of those people would have had minor knocks to the head that result in major, traumatic brain injury on occasions, later.

The Bailiff:

Is anyone calling for the appel? The appel is called for, then, in relation to the amendment of the Deputy of St. Mary. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 13	CONTRE: 35	ABSTAIN: 0
Senator A. Breckon	Senator P.F. Routier	
Connétable of St. Helier	Senator P.F.C. Ozouf	
Connétable of St. Lawrence	Senator T.J. Le Main	
Deputy of St. Martin	Senator B.E. Shenton	
Deputy R.G. Le Hérisier (S)	Senator J.L. Perchard	
Deputy G.P. Southern (H)	Senator A.J.D. Maclean	
Deputy of Grouville	Senator B.I. Le Marquand	
Deputy S.S.P.A. Power (B)	Connétable of St. Ouen	
Deputy I.J. Gorst (C)	Connétable of Trinity	
Deputy A.E. Jeune (B)	Connétable of Grouville	
Deputy of St. Mary	Connétable of St. Brelade	
Deputy T.M. Pitman (H)	Connétable of St. Martin	
Deputy M.R. Higgins (H)	Connétable of St. John	
	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 J.A. Martin (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. Pitman (H)	
	Deputy K.C. Lewis (S)	
	Deputy of St. John	
	Deputy A.T. Dupré (C)	
	Deputy E.J. Noel (L)	
	Deputy T.A. Vallois (S)	
	Deputy A.K.F. Green (H)	

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

5.3 Compulsory Wearing of Cycle Helmets (P.4/2010) - resumption

The Bailiff:

We return then to the debate on the main proposition. Does anyone else wish to speak?

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

I was not going to support the Deputy of St. Mary but regarding the quoted statistic of 51 brain injuries resulting from cycle injuries in a given year, I must say when I heard that figure I was surprised but I did not move. I thought the Deputy of St. Mary was absolutely right to illustrate how some of the information that we are being given, probably on both sides, can be quite misleading. I want to start off by saying how surprised I am. Deputy Green is leading this proposition so it is right that he should get a big mail bag. However, I must say that most of the lobbying I have received, apart from the letters which have been sent to all States Members, have come from individuals who are concerned about the activities of road cyclists. I am often surprised, whenever the subject of cycling comes up, how many people want me to deal with cyclists on the pavement. To some extent I am quite pleased that the Deputy of St. John is proposing to tackle that among other issues in the proposition he is bringing forward although it would be preferable perhaps if the Minister for Transport and Technical Services were to tackle it in the transport policy as part of a holistic look at cycling. Certainly I have not had many people urging me to support Deputy Green's proposition. There is far more concern about the danger that cyclists, whether they are wearing helmets or not, pose to members of the public when they come shooting down the pavements, often in the dark. I encountered one the other night when I was cycling home, wearing my helmet, with my lights on, not, unfortunately wearing a fluorescent tabard as one Deputy seems to think we should make compulsory. However, I was pretty well kitted out, I was legal, and a cyclist came shooting down the pavement, on his mobile phone, in the dark, with no lights. Now it seems to me that there is a real danger ...

The Bailiff:

Connétable, I am sorry, but if every Member speaks about everything that they think is wrong with cycling generally, this debate will go on all week. The issue is whether there should be helmets. Even if other things are wrong, that is the matter for the proposition the Deputy will put forward.

The Connétable of St. Helier:

I accept your judgment. The point I am trying to make is that it is a matter of proportion and it does seem to me that there is something disproportionate about what we are being asked to do by Deputy Green. I did a little bit of analysis myself and I want to draw Members' attention to the fact that most of the head injuries that we deal with as a community do not relate to people not wearing cycle helmets when they are out and about. Most of the injuries relate to the abuse of alcohol. Members will not need me to tell them that. Every other day, it seems, we read in the papers about how people have suffered brain injuries as a result of being kicked in the head by people who have drunk too much alcohol. I really do think that is where this legislature should be focusing, on how we can tackle the amount of brain injury that is resulting from alcohol abuse. I am only talking there about random assaults. There are, of course, all sorts of other forms of brain injury that result from the abuse of alcohol. I am also aware of some recent accidents involving skateboarders, roller-bladers and the like, who were not wearing cycle helmets. I feel that it is wrong to single out one particular group of road users and to leave aside those ones, which are much more dangerous than cycling. I am also aware of the fact that we now have the Town Criterium cycle race. We are having our second race this spring. I was quite struck last year when the first town cycle race took place and of course every cyclist in that race was wearing a helmet. Why? Because they have codes of practice which require them to do so. I am also aware that as someone who more or less

has to wear a cycle helmet because if I do not, I get shouted at by people who think I am setting a bad example, that more and more people are wearing helmets anyway because the message is getting across. Education has already been mentioned. Wearing a helmet is a sensible choice if you care about your health. Again, I think if that is happening through education, then does this Assembly really need to pass a law to help it on its way. I am concerned about enforcement. I do not really accept the argument of Deputy Green that this is something that the Honorary Police and States police can simply absorb into their current policing load. All I hear from constituents is that police have told them that they are not dealing with illegal parking any more; they are not dealing with dangerous parking any more; there are not enough people to look after the speed controls that we want. There are a lot of very serious matters relating to road safety which are not being dealt with by the police. Yet we are going to ask them to effectively chase and apprehend anybody on a bicycle who is not wearing a helmet. I think there are issues there about enforcement and about the capacity of police to prioritise this particular matter over and above other issues. I am concerned about the impact on touring cyclists who come off our ferries and discover they are not equipped to cycle in Jersey unless they hastily buy a cycle helmet. Finally, and I will be brief, I was on my way yesterday to the late Senator Lakeman's funeral: I was running late. I realised I had left my cycle helmet at home. I only had a woolly hat. I took a conscious decision. I was either going to be late or I was going to cycle to the funeral. I cycled without my hat. I must say I felt bad about it, partly because I might be recognised. However, more: I felt quite vulnerable. If anything, it taught me a lesson. I must always remember to keep my helmet because I do not like cycling without a helmet but I do not need the law to tell me that. That is something I now know as a cyclist and I believe that is the message we should be putting forward today. We do not need legislation. We simply need to continue to do what we are doing to encourage safe cycling and to focus our legislative powers on those priorities such as alcohol abuse; such as dangerous driving; such as speeding motorists; such as rogue cyclists. Let us focus our legislative energy on things like that and let us leave cycle helmets for education and common good sense.

5.3.2 The Deputy of St. John:

Firstly can I declare an interest as being a cyclist who cycles probably 2 miles a day. That 2 miles would be after I have sat on my static bicycle, which I would possibly have to have a helmet for, as well. Let us get this into perspective. We have horse riders who do not have to have a helmet. We have skateboarders for whom it is not compulsory to have a helmet. We have rock climbers who do not have to have a helmet. Sir, you are fellow sailor: same as myself. It is not compulsory for us to wear a life jacket, although it is common sense to do so, or a harness when it is really rough weather, when we are on the decks. It is all down to common sense. It is all down, in fact, to education, not legislation. As far as I am concerned, we see elderly people in these small electric wheelchairs which can be a bit unstable if they come off the pavement and, in fact, would turn over, depending where it was: they do not have to wear a helmet. There is a whole host of areas where people could be told to wear a helmet. They do or they do not: it is their choice at the end of the day. Education, not legislation. We have seen this in a whole host of areas. Getting back to the maritime section, we have been for many, many years teaching people how to navigate, through education, not through legislation - other places do it through legislation - and in fact that has been working well. I see youngsters on push bikes, 7, 8, 9, 10 year-olds, my grandchildren, for instance, and they do wear helmets: through education. Us old timers: it is probably too difficult to try and educate us, but we make sure that our children and our grandchildren do wear helmets. I have just come back from skiing. All the youngsters in our party wore ski helmets. The old timers do not but the youngsters do. Their parents make sure: "You will wear your ski helmet." As they got older, and they go from a whole range, you see those who for the last 7 or 8 years have been skiing, when they come in their teens, they keep on wearing a helmet. It becomes the way to ski and it will be the same with push bikes as things move forward. The youngsters of today become the adults of tomorrow and those adults will be wearing these crash helmets.

[16.15]

I cycle quite a bit when I go on holiday. When I go to France I always have a push bike on the back of my boat and off I go and I might do 15 miles a day, or whatever, to wherever I am going: sometimes 20. I do carry a helmet, if I remember to put it on. I feel vulnerable when I am away, more so than here, because when you are going along the edge of some of the French motorways, you do feel vulnerable with vehicles going past at a high speed. However, yet again, it is education that you require, not legislation. I do not think we need to be a nanny state. We need to educate our youngsters. If you go to the new skate park that was built a year or so ago on the docks, I see the youngsters on their bicycles in that skate park. They have their skateboards and their bicycles in there. Generally the youngsters have helmets on. Whether this tall or that tall, they have their helmets on because that is extreme sport and you would expect that. Nobody has told them. Obviously their parents have told them they have to wear helmets but there is nothing within the law that says you have to wear a helmet when you go in the skate park.

Deputy A.K.F. Green:

There is nothing within the law on that but it is a condition of use of that skate park, one of the conditions that the E.S.C. (Education, Sport and Culture) put on the use of the skate park.

The Deputy of St. John:

Thank you for those comments. I stand corrected in that respect but you see them on the road and in the car parks adjacent. Apart from that we also see 16 year-old youngsters driving tractors on L-plates, huge machines of a size that 20 years ago we never saw, and they are driving these on the roads. They are supposed to be responsible young people and they have few accidents, so we are told by a certain farmer from St. Ouen. Really it is education. These young people, obviously before they get on that machine are told: "Be very careful. You have a powerful machine here." We have 2 wheels under us when we are cycling. We do get the rogue cyclists. We get plenty of those where they will cycle without lights, *et cetera*. I do think that this one is possibly a bridge too far, in particular as you want to introduce it up to 18 year-old youngsters under part (a). Although I have been wavering whether or not to support it, I am still 100 per cent sure because I think to make something compulsory to an 18 year-old, it may not work. We have been told by the Connétable of St. Helier - and I saw the chairman of the Connétables nodding his head when he was speaking - that we probably will not be able to police this. That is another worry: we are putting legislation in place that we cannot police. We are just wasting the legislature's time, all the time involved in putting this law together. Unless we are going to be able to police it ... I am looking to the Minister for Home affairs here and I would like him to speak and let us know if it will be policed or otherwise, then I would not be able to support it if we cannot get it policed because it would be a waste of time and energy on everybody's part. I will wait and hear the rest of the debate but it will be particularly interesting to hear the Minister for Home Affairs on this particular question, and the Committee of Constables chairman.

5.3.3 Deputy J.A. Martin:

It is interesting to follow the Deputy of St. John. He was talking about children, his grandchildren. I think he mentioned the ages of 7, 8, 9 and 10 and I remember when my 3 were at that age, and lovely and obeying, and they all had their bikes and they were great. They loved their bikes and they cycled everywhere. Then they were going to secondary school and they said to me: "Can we ride to school?" I said: "Well, you have to take your Cycle Proficiency Test and you have to wear a helmet" and they said: "No." First my middle son, at 12, said: "No." Now it became a battle of the wills. Now, he needed a new bike and he said: "That is fine, but I will not wear a helmet." I said: "That is fine: you will not get a new bike." He is now 17 and I have never purchased him a bike because he is adamant that he will not wear a helmet. It was not cool. He would want to wear a baseball cap or ... he is a Spurs football supporter and he would wear one of those caps. It would

not help his head. So me, as a mother, as the Deputy of St. John said, being a responsible, in my eyes, parent, refused to buy him a bike. Not all parents are as responsible and maybe do not see the dangers. Maybe I put too much of an emphasis on them both wearing helmets, but they have not had a bike. Now, I say to the Deputy of St. Mary, maybe there are a lot of mothers out there like me and that would explain why, at the age of 12, in the last 8 or 9 years, and because bikes now seem to go faster ... maybe I am going slower but they do tear along now and it has been promoted. It was fantastically promoted in the Olympics and things like that. We saw everybody wearing helmets. So I think: "Do we make it compulsory?" The Deputy of St. John argued against his own case. With respect, if you have good children and grandchildren, they normally do what you ask up to a certain age before they start kicking against authority. He said that the ones he has grown up with still wear the helmets. Now if that is made compulsory, I imagine that would follow through to all parts of their life. They would still wear the helmets. I was at the Deputy of St. Mary's meeting yesterday and it was expressed that the majority of head injuries on bikes are off-road. Well, that is fine. You say we cannot legislate but once children, or anybody, are used to wearing the helmet at all times, why would they want to take them off if they were riding up hills and doing turns and doing whatever they do on the BMX? Why would they want to take them off? They would not. Then they think: "Well, I have got the helmet anyway. I have got to ride home in it or I will be in trouble." Going to the policing, we are told we cannot police. Well, we still pull people over. My eldest son, not long ago, he did not have a seat belt on. He had a van. He was straight down the Parish Hall. It was a set fine. Mobiles: my friend was seen with a mobile. She never now puts her bag in the front seat where she can touch it. She has been done once and that was once too much: a £40-£50 fine and the embarrassment of going down to the Parish Hall. We will get there eventually. I mean, I do not know if anyone is like me. I sit at lights and I see someone next to me sitting there on their mobile phone, I bang on the window. Sometimes I get some very nice signs back **[Laughter]** but I am doing my bit. At the end of the day, these are dangerous things. I think cycle helmets, especially where we are now, for the children, it is sensible. I have read T.T.S.'s comments and in the conclusions, and I am paraphrasing and I am probably just choosing to use 2 bits. In 4.1 it says: "It is accepted that cycle helmets do reduce the likelihood of cyclists incurring a serious head injury if involved in a cycle accident, particularly children." The second bit says: "The balance of evidence indicates that introducing compulsory use of cycle helmets does lead to a significant increase in compliance among cyclists." Well, that is what we want. I totally agree with the Deputy of St. Mary. We want to see more and more people on their bikes but this is one step in getting them cycling safely. Senator Ozouf had it in one in the previous amendment debate. Twenty to 30 years ago, you all remember the Clunk-Click seatbelt campaign: Jimmy Saville. Well I cannot now start my car ... it is weird. I think I was driving before then. I am trying to work it out. Yes, just about. But I cannot take off without knowing that my seat belt is on me because as I lean forward, I do not feel that restraint around my parts. **[Laughter]** It reminds me. It is just there. I am in the car. I put the seat belt on. I tell my passengers, front and back: "Belt up." **[Laughter]** Off we go. My middle son's friends are 18, 19. They do not like it. I say: "We do not go anywhere until you put that belt on." I am sorry. Then it is forgotten; the belt is on and off we go. So, where are we? It is not going to be policed. Well, as somebody has already said, we would not have any legislation if everything is not going to be policed. Of course it is going to be policed. Most people who know there is a law will abide by it. It will give parents the edge to say: "Look, if you are not going to put your helmet on, you could hurt yourself, firstly. Secondly, I am going to get a fine. That is going to come out of your pocket money for the next 6 months, if I have got to pay it." It might be a small fine. It might just be a warning first of all. This is all in principle and it all has to be worked out. I think I have probably said enough. We are all presuming that most people will encourage safe cycling. We are not sure about that. The conclusions speak for themselves. As the Deputy said: "It is all about education." But I want to know whose job it is to educate because the message just does not seem to be going out there. Extreme sports, the people are wearing the helmets. The Deputy of St. Mary is adamant that there are other things that should be done. I do not disagree. I think we should be looking at everything.

The speed on some of our roads is very bad: 30 miles an hour in the green lanes. I know we have a 15 miles per hour limit in the green lanes but 30 m.p.h. and more is much, much too fast and you cannot see. I am very pleased to support this. I think it is just one measure. I will definitely support part (a). I do not know ... I am not quite convinced yet about part (b). I think if we can find a way to support part (a), we will at least be encouraging, and with education in all the schools, we will be promoting healthy cycling. Cycling is healthy for all different reasons. I would be one of those people, 10 years ago, who would be saying to my children and they would be doing it. It is not that: "Oh, I am not cool. You look stupid in that hat. Why are you wearing that helmet?" We all know what children are like when they get to a certain age. If you do not go with the flow, you are even bullied. That is ridiculous. That is where we are. So I think it is very sensible and I will support it.

5.3.4 Deputy J.B. Fox:

I am pleased to be following the last speaker because there are things that have been said by Deputy Martin that I was going to cover so I will not need to cover those. As far as this particular proposition is concerned, I know it is one of these very what-if syndromes, *et cetera*, and policing, *et cetera*, but the one thing I can tell you is that having been on the front line, especially in the 1970s when I was on police motorbikes, I was the one that used to have to go to the house and tell the family. I reckon that in the course of a year, I used to do that about 20 times each year. Some people were very seriously injured, not necessarily through cycles, and some were killed. It is not a very pleasant thing to have to do. Most times it is avoidable. However it is avoidable not necessarily by an individual, but avoidable by society and the way that society behaves.

[16.30]

Now a question was just raised: the Constable of St. Helier, for argument's sake, does not need a law to tell him that. He is not here at the moment. He has gone again. Disappears all the time. It is quite right. He does not need a law to tell him that. But a lot of people do need a law to tell them that. We have heard from a previous speaker about phones. We have heard about the previous speaker's children. We have heard from the previous speaker about seat belts. It is all a combination of things that make things work and make things effective. Believe you me, after you have been to someone's house and they have had a tragedy, they tell their friends who tell other friends and they learn very quickly that whoever it was that I went to give the bad news on, might not have had the bad news if someone had done that before. Sometimes we need legislation. What about education, who does the education? Now, 30 years ago, in fact more than that, 40 years ago when I first started as a policeman nobody was going to do anything, it was their prerogative whether they did this or they did not do that, or whatever. But the quality of life was sometimes a lot shorter because of this freedom because freedom did not always relate as a responsibility and responsibility is extremely important. Now, we talk about education; we started Cycling Proficiency and at 9 years old you could go and get your Cycling Proficiency and you could not ride to school until you had it, *et cetera*, and it started to bring responsibility. It also gave power to the parents and power to the people at school to make sure that the children were safe or, at least, as safe as they could make them and so forth. Then we had campaigns that were brought in. We had checks on bicycles done by States Police and Honorary Police in spot checks to make sure that the bicycles were roadworthy and that they were properly maintained. But they all got advice and, likewise, when it came to the next education, the campaigns when you had members of a small community or a larger community, whether it is the Youth Service or whether it was in the community and the Parishes, all arranging to have community events and races and all sorts of other things. But part of that was also education and making sure that our children were safe and going through the motions and eventually it becomes fashionable for the kids. It becomes cool as opposed to not cool because they are used to seeing the other youngsters around them all wearing it and there is a bit of fashion in it, let us not forget this, there is a bit of fashion nowadays, it is cool

because it is whatever type of make or whatever it is, so there is a bit of that. The combination of which is that we go along for a long period of time. It takes a decade or more to get people to behave, if you like, in a responsible way but, more to the point, they become the police as well, as we heard from the previous speaker. But they cannot tell people that this is a bad habit or this is dangerous if it is against the law because the chances are someone is going to tell them to mind their own business and a few other words which are unparliamentary, so I will not use them. But if it is within the law then people will tend to say: "That is dangerous what you are doing; you should have your helmet on", or whatever. I mean, it is the same when ... the Constable of St. Helier has all sorts of different rules in St. Helier to make cycle routes go up against one-way streets. Young people and foreigners do not understand that because a one-way street you come to a junction, you have designed it that the car goes right and all of a sudden you have got pedal bikes going left hurtling down the street. That is why people nearly get knocked over or why there are always complaints about the behaviour of people. As far as policing goes, no, there is not the amount of policemen on the streets nowadays; it is probably because there are responsibilities for all sorts of other things, from Financial Branch to Special Branch to Anti-Terrorism to *et cetera*, and policemen now get paid a living wage, which they did not do when I joined, which means you get less of them for your money but hopefully you get better quality, although [Laughter] ... but having said that, the old-time policeman you never argued with him, did you, because they had the right of the flick on the ear. Nowadays they get charged with that and they cannot do the flick on the ear. But there are the unintended consequences; the Deputy of St. Mary is perfectly right and one of them has already mentioned about people coming to visit to the Island when they have got their pedal cycles on the back. It is not insurmountable. We used to have people coming with their mobilets from Europe and France which had no number plates on and we found ways to overcome that. I am sure we can do the same and we can have a small leeway of tolerance. The other side of the argument which has passed my ears on many a time - well you do not have to make something compulsory if it is not necessary, just make sure that they have got a hefty insurance so every time that they are the cause of the accident or they are involved in an accident that the hospital can claim the full amount for the rest of their lives so it does not cost the Jersey public. I agree it is a way of dealing with things but I suspect you will probably have to have several million pounds worth of policy to be able to cover that and maybe with the world shortage of finance that we have in the next few years that might be something that someone has already considering or dreaming up. I shall vote for this. I expect that there will be more sympathy for bringing in the proposition for under the age of 18 but I am going to give it a try for the people over the age of 18. I know several people that would not be here today that were over 18 if it was not for the crash helmet that they were wearing. Unfortunately I cannot reel out a whole load of names because it is not the thing to do but, believe you me, the people know who they are and I am hoping that as a result of this debate they will remind people they know around them and that will add another impetus to prevention. Sometimes we need some legislation; no, we do not necessarily have the police to enforce it. But if it is there like safety belts are ... I do not see people riding horses that do not have their lifejackets on ... [Laughter] their helmets on. I was thinking about the Deputy of St. John there talking about having not got his lifejacket on but I suspect his body also provides some buoyancy as well as, indeed, does mine.

5.3.5 Deputy P.V.F. Le Claire:

I could hear the Constable of Grouville saying: "Oh, no!" again. I like the speech of Deputy Fox. It spoke about a combination of things that are needed to make this work. If I can, first of all, I would like to congratulate Deputy Green in bringing this proposition because obviously it is something that has touched his life and his family's life in a very, very significant way. He does not want our sympathy today and I can understand that because he does not want us to feel sorry for him today. What he is asking from us today is a fighting chance that legislation can be tabled in this Assembly that can be amended when it is debated and those amendments can flesh out the difference of opinion about whether or not there should be more emphasis on education, for

example, or legislation. I do not know if the Constable of St. Helier - I think he did, I stand to be corrected - supported Deputy Power's proposition on not increasing impôts duties recently but that certainly was part of an alcohol strategy that has cost the Exchequer £4 million. Now we are looking to save money across the board there is something that Members could have got behind that would have given us resources to fund police officers to introduce legislation. So when Members talk about a holistic approach I would like to keep going back to the first point I made, which was I really liked Deputy Fox's speech because he spoke about a combination of measures. Going back to what Senator Perchard said earlier, this is a time when we get an opportunity to decide something, we get to decide that we need a proper debate that allows us to legislate, or otherwise, in particular around these circumstances. Supporting Deputy Green today is not giving him sympathy it is giving him a fighting chance to go home and look his family in the eye and say to them: "I have given us a fighting chance." I am going to ask Members to put aside some of their preconceptions about whether or not they believe this should be or should not be the right thing. Let us look at ice hockey, for example. When I was in Canada some ice hockey players were still not wearing helmets in ice hockey because it had not gravitated through the ranks of ice hockey players that it was a sensible thing to do. Now it is taken as granted. All of the children coming up through the various ice hockey schools all wear helmets, they all see the advantage in it, they all wear helmets. Most, if not every single professional ice hockey player has to wear a helmet and a faceguard. The Constable of St. Helier talks about tourists coming off. Well, you have heard this morning there is a decreasing number of tourists coming off anyway but if they do come off the boat with their bicycles and they do not have helmets how difficult is it to arrange with Economic Development or Harbours who sits next to the Harbours Assistant Minister there? We could ask him to make an arrangement. As Deputy Fox said, it is not beyond the wherewithal to make arrangements for cycle helmets to be made available to people as they come off the boats. What do they do when they hire a bike, for goodness sake? It is only appropriate. The Constable of St. Helier wears a cycle helmet and I share his view much the same as was coming from Deputy Martin when she spoke about her restrained parts. Once you have worn a helmet and you have taken that helmet off you suddenly realise how vulnerable you are. I rode through the tunnel last week without a helmet on and there was a big truck behind me and for the first time in my life - I was thinking about this debate obviously - I was considerably worried, first of all, about the state of my health because am I fit enough to keep in front of the line in the first place and second, the worry I had in falling underneath the lorry or being knocked from the lorry and what could possibly happen to me because I was not wearing a helmet. So, personally I feel safer now wearing a helmet. Do I feel more fashionable? No. Do I feel more cool? No. I saw 3 children this weekend on the Railway Walk. I was with my son and my wife, we were riding his little bike down the Railway Walk, he had his little helmet on. They came careering down, the 3 of them together, the one in the centre wore the helmet, the 2 on the outsides were not wearing helmets. I stopped for a moment being concerned about my little boy when they passed me and started to become concerned as they approached the road about the welfare of the 2 without the helmets on. My worry and concern was then for children I did not know who were on bikes travelling quite rapidly downhill by the Elephant Park about to traverse the road. The one of them wearing a helmet I was not concerned about, but the 2 that were not I was concerned about. So the gut instinct tells you that there is a concern; there is a safety issue in relation to helmets. Now, is it cool for us as a legislature to implement a decision upon the public that may go against the grain, in many respects, against the way we did things? Well, let us look back to the rear seatbelt law, let us look back to the seatbelt law, let us look back to the alcohol strategy, how did they police themselves in the many respects? The tobacco strategy, if we take that one, for example, all I heard all the way through the consultation was it was not going to be policeable. It polices itself. It polices itself and where it does not police itself you put in mechanisms whereby it can be acted upon. Is it beyond the grain of man? People talk about reintroducing numbers on bicycles so that they can be tracked when they come careering through town. There are issues about whether or not you can photograph people or whether or not you can say that that vehicle that is being operated was the

owner's vehicle. Is it beyond the wherewithal of man to say you must wear your helmet and on your helmet must be an identifying number so that they know that may not be your bike but that certainly is your helmet and that you can enforce uncontrollable and irresponsible bicycle riders that career through the Parish of St. Helier and other areas? It is not just about protecting the individual on the bike; it is about protecting the other people around the bike. Putting bicycle helmets on people, which is what Deputy Green is asking, is going to help us achieve that. That is my lot.

[16:45]

5.3.6 Deputy K.C. Lewis:

Today I find myself strangely agreeing with both Deputy of St. John and Deputy Martin so that has to be a first. I do not subscribe to the belief that cycle helmets are dangerous and should not be worn. I think that flies in the face of common sense. I do believe that, especially among children, cycle helmets can prevent serious head injuries, especially at low speeds. The problem being that at present we seem unable to stop people riding without lights, on the pavement, in pedestrian precincts and the wrong way up one-way streets, so the compulsory wearing of cycle helmets would be very difficult to enforce. Like the Deputy of St. Martin, I have been driving many, many years and I have been privileged to drive friends' cars that are not equipped with seatbelts, old vintage cars, and I must say that I feel very exposed when doing so and I am not happy with it at all. It is creating this habit among youngsters that we need to go for. I would much prefer encouraging younger people to wear a helmet and hopefully the habit will stay with them for life. I would like schools to say to children, those that do not already do not do so: "If you ride your bike to school you will wear a helmet or you do not bring your bike to school." As Assistant Minister for T.T.S. with responsibility for Driving and Vehicle Standards we have a ring-fenced safety fund from the sale of number plates and I will shortly be signing an order to provide bicycle lights and reflective sashes to children to keep them safe. Subject to a review, I am also in talks with the Minister as to whether it would be possible to provide cycle helmets for all school children throughout Jersey as a reward for participating in a cycle proficiency test. In closing, I would support 100 per cent the wearing of cycle helmets but I remain to be convinced as to whether they should be compulsory.

5.3.7 The Connétable of St. Brelade:

In common with Deputy Southern I stand here as a victim of having fallen off my bike at the age on 10 at the slip at Ouaisné and sustaining 3 stitches in my head as a result. I leave Members to deduce the long-term effect this has had on me for themselves. But in comparison to others I think I was lucky. My comments are laid out in the paper which has been put to Members so I will not repeat them unnecessarily. Speaking as the head of the Parish Honorary Police I am fully aware that the proposed legislation would be quite impossible to police and, quite frankly, I would not wish to criminalise youngsters for failing to comply. Regulations mandating the compulsory wearing of cycle helmets really would be resource intensive and if introduced at an early stage could bring, I feel, the law into some disrepute. Much has been made of responsible parenthood and it is always an easy thing to say and I know that Members who have children will realise it is not as easy to do as to say. Children are all different and have their own minds and have a certain reaction to authority at certain ages. Having said that, my gut feeling is that were the Deputy's proposal to have suggested mandatory wearing of helmets for the under-15s, I think that could be supported. Really the reason for that is that I think that in physical terms it would be far easier for a policeman to deduce a 15 year-old to an 18 year-old and make a fairly swift judgment as to whether the child needed words of advice or not. I am going to refer to a couple of points which were sent to me by a parishioner late last night, which I think are particularly pertinent to the debate in that this parishioner refers to the fact that he is not a cycling extremist, he owns no lycra and believes everyone should be able to cycle in ordinary clothes. He cycles most days but often gets the bus or

drives with his wife and youngest child; never raced, never gone mountain biking, avoids cycling on the roads as much as possible, uses the railway path and cycle tracks, takes extra care where pedestrians share the cycle way but he does wear a cycle helmet almost all the time but the point is that he does not wear it absolutely all the time. He sees no justification for being criminalised on the few occasions when he might make an adult decision not to wear it for some part of the journey, in particular conditions or simply, as has been suggested by the Connétable of St. Helier, should he have forgotten it. He goes on to say that the cycle helmet issue seems to be another case of the classic health and safety fallacies that there must be a problem that should be dealt with by excessive rules and I do not think that “might reduce the problem” is automatically justifiable, irrespective of other effects. People make assumptions that anything that looks dangerous must be dangerous. He also suggests that there is an assumption that any such apparent degree of risk is a justification from imposing any degree of inconvenience, even if invoking the full majesty of a criminal law. “If someone steals my cycle helmet should I really be unable to cycle home without being classed as a criminal?” he says. I would also suggest that I can appreciate that an injury can affect a family’s life as well as the injured individual and that families of injured people may feel bound to campaign to reduce incidences of these injuries, but I do not think those cases can excuse others from the need to take an objective look at whether particular protective measures are really justifiable. I conclude by saying that really, as I indicated before, my department takes this on board within our existing S.T.P. We need to take, as has been suggested, a holistic look at the whole safety issue regarding bicycles and their prioritisation over perhaps motor vehicles and review also the wearing of cycle helmets for the younger element of our society. I am quite happy to do that and take that forward if Members should feel unable to support the Deputy’s proposition.

5.3.8 Deputy A.E. Jeune:

As things currently stand there is no law preventing folk from wearing a cycle helmet. It is personal choice. People get knocked down in the street, what do we need them to wear to prevent injury? As the Deputy of St. John and others have said, how do we police it? We do not seem able to police the use of seatbelts or the use of mobile phones while driving, for example. I believe parents who care about their children ensure they wear their helmets. It is predominantly common sense. But who do we prosecute when a child does not wear a helmet when the parents sent them out with one on their head when, as Deputy Martin has said, they consider it is not cool? Also, one can wear a helmet which is about as much use as an ice cream cone because it has previously had knocks or has been dropped or it is old. Helmets usually have a life. How do we know how old the helmet is that is on one’s head? People think that because they have a helmet on they are safe all the time. Not true. When Deputy Le Claire was speaking he explained how he chose not to wear his helmet. That was freedom of choice. The fact that made him feel uncomfortable meant the next time he went out he put his helmet on, but that again was his choice. I believe educate rather than legislate and I urge Members to seriously consider the comments that were issued by the Minister of T.T.S. I will not be supporting this proposition.

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

Like Deputy Green I would like to see everyone have the common sense to wear a helmet when they are cycling. I am probably quite uniquely placed to understand Deputy Green’s enthusiasm and genuine concern of this topic because we have been next-door neighbours for some 30 years. So I am aware of the position very well. I have to say that I came here this morning intending not to support this proposition. I came here with that view because of the fact that I did not believe it was policeable. I think I remember in the past former Deputy Dorey telling this House that if a law was not policeable then it should not be enacted. But I have, over the day, changed my mind. I have looked at the proposition again and the proposition will give the opportunity to the Minister for Transport and Technical Services to design a law which can accommodate the policing of this particular part of the law. I think if this is passed that a number of Members are concerned about the 18 years of age and if the Minister comes back with such a law there is always the opportunity

for Members to amend that if that is the way they wish to go. Now, why have I changed my mind? I would say to Members I have only changed my mind for one reason and that is if by putting this law in one young life can be changed, one young person can be saved a head injury then I think it is well worth doing and I would implore Members to take that on board. As I said, I was worried about the policing of it. The Connétable of St. Helier has said how he met a cyclist on the pavement and he could do nothing about it because he could not identify him or her. I think that if we accept this today the Minister for Transport and Technical Services must go away and must realise that that is a problem and must realise and come forward with a way to identify a cyclist. It will not only help with this particular law but it will also help with a lot of other problems which exist, certainly in the town area, with cyclists. Once again I think I will just repeat myself once and that is if by accepting this today we can save the injury to one person we will have done the Island proud.

5.3.10 Senator B.I. Le Marquand:

I want first to explain the position, or perhaps “positions” would be more accurate, of the States of Jersey Police and then to go on and explain my own position and finally to make a confession.

Deputy P.V.F. Le Claire:

Do we need the Dean back? [Laughter]

Senator B.I. Le Marquand:

The States Police have mixed views. The Road Safety Officer strongly supports the proposition and this upon the basis of the medical evidence and opinions. My own view is that the medical evidence and opinions are absolutely overwhelming on the issue that the wearing of a helmet will significantly reduce the risk of brain injury. But the enforcement side of the police are concerned as to their ability to effectively enforce a law. This lunchtime I met with the acting leadership of the police force. They are currently 14 officers down on the level which they were at at the best of times, 17 in theory down on the establishment, although they have never had their establishment and the next group of officers will not start being trained until September of this year and will, therefore, not be operational until 12 months’ time, by which we will be much further down. The reasons for this are to do with the need for financial control and restraint but also to do with the effect which increments is having on the police force at the moment. I am doing my very best and working with my colleagues to try to reduce the effects of this. But there it is.

[17:00]

Deputy Fox quite accurately identified the pressures which the modern police force faces, the areas of growth and pressure in terms of financial crimes, in terms of public protection, in terms of anti-terrorism, *et cetera*. I wanted to say that it is helpful that Deputy Green during his speech said 2 things: firstly, he indicated that his intention, notwithstanding the wider wording of the proposition, that it should only apply in relation to roads or other public places. That is implied in the very fact that he is asking the Minister for Transport and Technical Services to look at this - who has responsibility in that area and not myself. If he had been asking for a wider remit he would have asked myself. Secondly, it is also helpful that he sees that a soft touch approach should be taken to enforcement with a view to changing attitudes by virtue of the law. Philosophically my own view as a lawyer, and former various different things including magistrate, is that the criminal law is ultimately about changing behaviour, it is not ultimately about hitting people - perhaps that is a bad metaphor in this case - over the head with blunt instruments, it is about changing behaviour. So I do not have the concerns that some people may have about the ability to fully enforce the law. There are lots of laws that we cannot fully enforce. We cannot catch every person who parks illegally, we cannot catch every person who speeds on a road, we cannot catch every person who uses a mobile phone when the vehicle is moving, *et cetera*. I am quite relaxed about an approach which if a youngster is seen without a helmet means that a policeman or some other responsible

person can stop them and say: “Look, you should have a helmet, what is happening here? We are going to take you home and talk to your parents”, or whatever. A soft touch approach is perfectly acceptable. Now I come to my own view. I think that the primary issue here is a classic tension between the freedom of the individual argument, espoused by Deputy Jeune today, against the good of the overall community argument. My own view on this will vary from time to time. Sometimes this Assembly will find me taking quite a libertarian view and at other times this Assembly will find me taking the good of the community view. I move from time to time. It is a value judgment based upon the particular circumstances and so on. My general view is this: that the State has accepted the responsibility for the care of individuals via income support, via health provisions, these sorts of things. So if something goes disastrously wrong the State ultimately will provide a base level of care for individuals. The State having done that it seems to me that it is not unreasonable as a corollary of that for the State to insist that its citizens take reasonable precautions for their own safety and for that of their children. The issue is also raised by the Deputy of St. Mary in relation to whether legislation of this nature is likely to reduce the amount of cycling that goes on. I am very sceptical about this as an argument. It seems to me that the issue raised by Deputy Le Claire earlier on about the nature of our roads, about whether we have made a particular provision in terms of cycle paths, safety, *et cetera*. The fact is that many of the roads of Jersey are very narrow and although I am not a cyclist and have never been a cyclist I think I would have some trepidation in cycling among the rush traffic, or whatever. I think factors like that are far more significant in terms of whether parents are going to send their children out or not or whether adults will make a decision to cycle and when they will cycle. I really struggle with this concept that people who have spent money to buy a bicycle and buy equipment for it will somehow balk at some additional cost in terms of paying a little bit more in order to buy a piece of safety equipment which will have a beneficial effect in terms of risk. I really struggle with that. If you want to take that sort of argument to its extreme you might as well say we will require people to have brakes on their bikes on the basis that they were going to be cheaper. Perhaps that is not a good example but perhaps it is. In fact, it is not a terribly good example because it overstates the point but, nevertheless, it makes the point. So, where does the balance lie? Inevitably I am influenced by experience and principally by the experience of Deputy Green. I am also influenced by my own experience because one of my daughters came off her bicycle when young when I had trusted her to ride along a safe road a little distance to the shop and indeed she did not have a cycle helmet on and my trust, sadly, was a mistake, and this is my confession. I confess to you I was a bad parent in allowing my child to go out that day. I made a mistake, a genuine mistake. My daughter came off her bike and she struck her head on some object, I know not what, whether it was a vehicle or the road, and she split her head right open. It looked almost like an onion thing with the sort of split wider at the point of outside and getting narrower. But she did not suffer brain injury and for that I am eternally grateful. I am eternally grateful for that. I made a mistake and it did not have the dire consequences that it could have done. But here is my point, if there had been a law indicating that she should wear a cycle helmet then she would have had one because I am, generally speaking, a law-abiding citizen. **[Laughter]** I have absolutely no ambition in any other areas and that is my point, this is about changing behaviour and about changing attitudes. This is not about a big stick to beat parents or children with. So, for those reasons I stand today with Deputy Green. We need to set the appropriate standards that people will then follow and we will have a great improvement in terms of the risk in this area.

Deputy I.J. Gorst:

I wonder, was that the Minister’s confession?

Senator B.I. Le Marquand:

My confession was that I was not a good parent on this occasion because I sent my daughter out without a helmet when she was too young. I made a mistake.

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

I think Members have probably already made up their mind and I do not intend to repeat what others have said. I do have a couple of questions which I would like Deputy Green to respond to when he sums up because I distinctly heard him say that he would work against this becoming anti-cycling legislation. He said that a couple of times. I believe he said he would work towards people not being criminalised and I think he needs to explain that further because one person who is charged under this legislation, if introduced, and found guilty will then have a criminal record. So, I believe he needs to explain how it will not criminalise people found guilty of an offence. I also think I heard him say that he would work towards it being policed without using police resources. Again, he did not go into detail on that and I would like him to go into that detail when summing up. How do you police something without using police resources? I will be interested in his addressing that. I think Deputy Jeune said most of what I wanted to say and I regret her going before me in the order of being called to speak. However, I wanted just to touch briefly on the comments issued by the Minister for Transport and Technical Services referred to by Deputy Martin. I think it is pertinent to remind Members that the comments have been drafted in consultation with the Ministers for Health and Social Services and Home Affairs and the Minister for Home Affairs did touch upon that. It is quite clear that in these comments the 3 Ministers do not support the proposition. That is my understanding of reading the comments provided here. I think one of the main reasons in their conclusions - and there are a number of conclusions that they have reached - is that education would be a better way of dealing with this rather than legislation. I do not intend to read all the points in here, Members can do that for themselves, but it is interesting to note under Resource Implications that it is felt that the savings resulting from a healthier population are potentially significantly greater than any indicative saving outlined in the report and proposition. So if we are looking at this from a financial perspective the comments from the 3 Ministers are that; that the savings resulting are potentially significantly greater than that indicated by Deputy Green. I will finish there but I really think I must say that my belief is that this debate will hinge very much on 3 significant words. They have been mentioned this afternoon but I would repeat them again, those words are "freedom of choice" and I believe that we are seemingly battling against a constant removal within our daily life of our freedom of choice and I will not be supporting the proposition.

5.3.12 The Deputy of Trinity:

I find myself in a very difficult position as I have had different advice from numbers of health professionals within my department, including the A. and E. consultants who have had and will continue to have first-hand experience of the effects of this and are the friends of any change. They have highlighted that this proposition is controversial and it is not one clear-cut issue. I wish to make it clear that wearing helmets is a very good thing and, indeed, which has been quoted many times in the conclusions of the comments of the Minister for T.T.S. It is accepted that cycle helmets do reduce the likelihood of cyclists incurring a serious head injury and should be encouraged. As many Members are concerned with the health of our population, with obesity being an important issue but, as Deputy Green has pointed out, the number of children cycling has reduced over the years and as with all these points there is not one clear reason why. That is why, to look at one reason, to get them on their bicycles. This must be a multi-agency approach which must include parents and children themselves. Indeed, a great deal of good work has been done through Eco-Active and, as I said, it is not one easy solution. As I understand, children cycling to school are encouraged to wear helmets but we all know that they may have started off, as Deputy Martin said, and left home wearing cycling helmets but for one reason or another they do not arrive at school wearing it. As has been said, it is in their bag - definitely not cool. But what my concern is that we encourage children to wear helmets going to school and if they are doing their cycling proficiency test they have to wear them. I just hope that if this proposition is not approved then it will not be seen that cycle helmets are a waste of time. Cycle helmets can save lives and prevent disabilities for life. Children's skulls are very fragile and if by wearing a helmet it can save one

child from that disability then it must be a good thing. As we all know, having a child or anyone with a brain injury is particularly tough and it affects all the family. Education is vital and perhaps we need to put more effort into community-based promotion and to encourage the priority of cyclists rather than cars. A lot has been said in the debate and I came here with very much an open mind.

[17:15]

As I said, I have had different advice from different professionals. Listening to the debate I shall definitely be supporting Deputy Green with part (a) and I am still to make up my mind regarding part (b). I just want to finish on one similar quote and one quote from the consultant in the A. and E. Department and I hope he will not mind me quoting him: "One simple relatively inexpensive piece of equipment can make such a huge difference to the lives of so many people."

5.3.13 Senator P.F.C. Ozouf:

One of the joys of this Assembly is that one individual Back-Bencher without partisan political lobbying, as that happens in other places, can make a difference and win a debate on his or her feet. It is one of the things that I will remember for a long time when I hear the Constable of St. Ouen saying that he was persuaded by what he heard in this Assembly. That is what makes this Assembly different and that is what makes us special. I think that Deputy Green deserves that change of mind by the Constable of St. Ouen and I hope that other people that came here with their minds not made up. I also think that Deputy Martin gave a memorable speech and a commonsense speech for a number of different reasons, but she made the points. I want to say 3 things on this issue: firstly, on the issue of civil liberties and the right to choose and responding to the very understandable concerns that the Constable of St. Lawrence made, I understand and I would like to believe that I am somewhat of a libertarian. I think there are strong reasons, like my friend the Minister for Home Affairs, for people to choose but I think the clinching arguments about this are that it is family and friends and society but it is the family and friends who deal with the devastating consequences of people with brain injuries. It is all very well for the individual to say: "I have got a right to choose", but it is the family that deals with the consequences and we can avoid those devastating consequences, not only for the individual but for the people that look after those that have been injured, and we can avoid injuries; we can avoid brain injuries. The other issue which again I understand and am very sympathetic to is this issue of policing, criminalisation by the heavy hand of the States. Unfortunately there is not an easy solution here. You cannot make something kind of compulsory; you have to have legal effect. The Minister for Home Affairs, I think, spoke of the ability to find solutions for this. I believe that we can find a suitable light touch way of dealing with this issue. We are Jersey, we are a small community, we can find solutions with our Honorary Police, with our law enforcement agencies, we can find a sensible compromise. I will conclude by saying that I really believe today we look back with amazement on the issue of seatbelts. It is unconscionable for us to not get into our cars and not wear a seatbelt. We look back with amazement that smoking was permitted in cinemas, that smoking was even tolerated in pubs. There are all sorts of things that evolve with society and this is one of these issues. I believe that we will look back in 30 years and say: "Were we really allowed to ride on roads without cycle helmets?" Finally, on the issue of children, if this issue goes through, which I hope it will because I think that Deputy Green has effectively put the arguments and won the debate and I hope a majority of Members think that, and if we agree with children, just as with seatbelts - and I think that in some places seatbelts for children came in first in the back seat for children, *et cetera* - it is inevitable that we will then move to full cycle helmets for everybody. It is only a matter of time. You only ever go forward you never go back in relation to these issues. So I think that if we are going to make the decision I think it is a decision for compulsory cycle helmets for everyone and, as we have heard by Deputy Green, as we have led the way in other ways I believe that we will send a message to other places within the British Isles, and other places, that they can find solutions

too and they can make a difference and they can make a difference for individuals and their families. I congratulate Deputy Green for bringing this to the Assembly; this is one of the joys of our system. I hope he gets the proposition through and I hope that Members will support him.

3.5.14 Senator P.F. Routier:

I follow the previous speaker who has probably covered a number of the points I would have made so there are only just 2 things, perhaps 3 things to add. Just to expand on the issue about freedom of choice. I can understand people's feelings on freedom of choice about the rights and wrongs of enforcing people to do things but we as a community would not have the freedom of choice and the family would not have the freedom of choice of having to pick up the pieces afterwards if there was a serious accident. The Health Service would need to support a person who has been injured and I think we have a duty not only to the families who are involved closely but also we need to think about the services that we as a State would need to be providing to support somebody to live within the community. Moving on, I think in the earlier debate the Deputy of St. Mary commented about the good work that Sustrans does and I think they do some tremendous work in bringing forward various options and possibilities and encouraging people to get on to their bikes with safe routes around the town and around various places within the country. But even within their recommendations they do mention cycle helmets - it is on there, the Deputy had written it himself. "Cycle helmets" are among the bullet points which they do recommend. It is not the top of the list but it is there. So, I would suggest that even a good organisation like Sustrans do support the use of cycle helmets. I think the points with regard to policing have been covered very, very well. Although in the earlier part of the debate there was some question about whether it was possible to police this, I think if it is brought back with a law which is a light touch and which does enable the police to monitor the use of helmets that is the way to go with this legislation. Finally, with regard to the issue about supporting (a) and (b), my position has changed over the last week or so, certainly supporting (a) for children and having had discussions with people over the weekend, they said it was illogical if it did not support over 18 as well. Think about a family with the children going out wearing their cycle helmets, the father has an accident and bangs his head, who is going to look after the children? So it just does not stack up at all not to support both (a) and (b).

3.5.15 Deputy G.P. Southern:

I think it is important that we concentrate our minds this time on the central arguments that have been presented. The arguments are not about the merits and demerits of cycle helmets, the argument is about the compulsory use of cycle helmets. We cannot get away from the fact it is easy to say we will find a solution - a Jersey solution - to the fact that we will be criminalising some of young people and/or some of our young people's families in many cases. We cannot get away from the fact that this, like it or not, will take up who knows how much time of every C.O. (Constable's Officer) and every Centenier and every policeman on the Island monitoring for the use of cycle helmets and it is idle to pretend that we can. What we are talking about here today is, are we increasing the safety of cyclists by starting here with this proposition over cycle helmets? I think the answer, as we have seen clearly demonstrated by the Deputy of St. Mary, is no. There are any number of ways that we might make cycling a safer activity in the Island, not the least of which is increasing the numbers of cyclists on the road and providing facilities to enable more cyclists to get out on the road and get the numbers up. That is the way to bring safety up, that is the essential move and certainly the evidence points to that. There are any number of things we could be doing and should be doing first before we turn to this, what is really a simplistic argument. It is easy for some Members, the Minister for Treasury and Resources... Senator Ozouf, was just talking as if the debate was done and dusted and we were already sitting on cycle helmets. Now, that is not the case, it is not the case, because I think I speak for several in the House when I say that the evidence produced by Deputy Green was not a clinching argument. It was partial; it was one-sided and did not make the case clearly that if we want to increase the safety of our cyclists this is where we should start. I was particularly galled, I really was, at what amounted to shroud-waving by saying:

“Imagine what would happen if we turn down this proposition today and tomorrow there is a serious accident with a cyclist who gets a serious brain injury.” That is not the argument to use if we are going to be rational, if we are going to do things properly. It is the argument to use if you want to effectively blackmail people into voting your way and I think that is an unfair tactic and I am disappointed that Deputy Green chose to use it. When you add that to his statement of 51 brain injuries, which is an outrageous thing to say when what you mean is 51 head injuries, light, heavy or otherwise, in which, as far as we know, no serious brain damage was done, is again an outrageous manipulation of people’s emotion to win an argument. I urge Members to put their emotion to one side and the obvious answers to one side and look at the evidence and the facts and the evidence, I believe, says you would not start here and you would not do this, you would not make cycle helmets compulsory. Please vote this proposition down.

The Deputy of St. Martin:

Can I call for the adjournment, Sir?

The Bailiff:

Yes. I do not, in fact, have any other Member wishing to speak but I dare say there may be some. Yes, at least 2 have indicated they would wish to speak. Very well, the adjournment is proposed and the Assembly will adjourn until 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:29]