

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 31st MARCH 2009

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

QUESTIONS

1. Written Questions

1.1 SENATOR B.E. SHENTON OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE CONTROL OF STATES EXPENDITURE:

Question

What tools, if any, does the Treasurer of the States have at his disposal to control overall States Expenditure?

Answer

The control and approval of States' expenditure is, in the main, governed by the Public Finances (Jersey) Law 2005.

The prime tools available to the Treasurer to control States expenditure are Article 34 of the Public Finances Law, the power to issue financial directions, and Article 36, to request the Chief Internal Auditor to undertake audits of departments.

1.2 THE DEPUTY OF ST. MARY OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE MONITORING AND REGULATION OF THE CONSTRUCTION OF THE ENERGY FROM WASTE PLANT AND ALL THE OTHER ACTIVITIES AT LA COLLETTE:

Question

Can the Minister inform the Assembly exactly how the monitoring and regulation of the construction of the Energy from Waste plant and of all the other activities at La Collette is being carried out?

Could the Minister advise the Assembly of the checklist of areas of violations of working practices that inspectors look for, by whom and when this list was drawn up, and the scale of penalties for non-compliance?

Answer

The monitoring and regulation of construction at the La Collette Energy from Waste facility is carried out by the following agencies:

CSBC (Jersey) Limited

The Contractor has primary responsibility on site for the monitoring and regulation of all activities relating to the construction of the Energy from Waste facility in accordance with Jersey Health and Safety at Work law and regulations, the Planning Consent and, in addition as a contractual requirement, due to the size and complexity of the project, the UK Construction and Design Management 2007 regulations are being utilised to monitor this project.

Fichtner Consulting Engineers Limited

The Department has contracted Fichtner Consulting Engineers Limited to project manage the delivery of the Energy from Waste Facility in accordance with the agreed Contract which follows the Institute of Chemical Engineers red book standard form of contract. This requires the Project Manager to monitor and oversee the management of construction on site in accordance with the Contract. As such, Fichtner have a presence on site during the construction period.

Transport and Technical Services

The Department' Waste Strategy Team carry out monitoring of the construction on site and have recourse to a Construction Design and Management Coordinator to ensure that coordination of health and safety activities is carried out by the Contractor in accordance with the requirements of the Construction Design and Management Regulations 2007.

Planning and Environment Department

The Development Control section will monitor and regulate the implementation of the Conditions associated with the granting of the Planning Permission for the Energy from Waste Facility including the Construction Management Plan.

The Building Control section will monitor and regulate the Building Control Permission from application to building completion and consent for occupation.

The Environmental Regulator will monitor and regulate the implementation of the Construction Management Plan and other areas of the Planning Permission and specific activities requiring consent from that Department during construction, for example Discharge Consents, Waste Management Licences and other pollution control measures required in relation to the development.

Health Protection Service

The Health Protection service will monitor and regulate the implementation of the Construction Management Plan and Air Quality Monitoring programme for the construction. The Department ensure that no Statutory Nuisance occurs in contravention of the Statutory Nuisances (Jersey) Law 1999.

Health and Safety Service

The contractor is required under Jersey law to work in accordance with the Health and Safety at Work (Jersey) law and associated regulations which are enforced by the Health and Safety Inspectorate from the Employment and Social Security Department.

The above regulators (Planning and Environment, Health Protection and the Health and Safety Service) all perform similar roles in relation to regulating activities at the La Colette site.

The regulators are making regular visits to the site to determine compliance with the construction management plans and to ensure that the conditions of any permit or consent are being adhered to. The inspectors will work with the contractor to ensure that any breaches of practices are corrected. The penalties for breaching consent or permit conditions are set out in the relevant legislation, they could include two years imprisonment or a fine. It is not, however, expected that breaches significant enough to warrant enforcement action will arise.

1.3 THE DEPUTY OF GROUVILLE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE WITHDRAWAL OF THE RECIPROCAL HEALTH AGREEMENT WITH THE UNITED KINGDOM:

Question

Following the expiry of the Health agreement with the United Kingdom on 1st April 2009, would the Minister explain -

- a) how the decision that the agreement should not be renewed was arrived at, and the consequence that Jersey residents should in future take out their own health insurance before travelling to the United Kingdom (UK)?

Answer

On 15th May 2008, Senior Health and Social Services Officers travelled to the Department of Health and were informed that providing free emergency healthcare for UK visitors to the Channel Islands was no longer the policy of the UK government and have given notice to that effect. This notice is operative from 1st April 2009 for Jersey and Guernsey and 2010 for the Isle of Man. It is the policy of the UK Government that all its citizens who fall ill or sustain an injury whilst travelling overseas, should take out appropriate travel insurance which should include medical evacuation.

Importantly, the final letter from Rt Hon Dawn Primarolo dated 25th February clearly states that the reciprocal agreement is "to terminate on 31st March 2009". Obviously it is now impossible for Jersey to have a reciprocal agreement where the UK does not wish to reciprocate.

Question

- b) what steps, if any, the Minister has taken to research and introduce an All Island Collective Travel Policy for Islanders which would cover costs of treatment and admission in UK hospitals and repatriation where necessary and, if not, why not?

Answer

As Minister for Health and Social Services my primary task is to ensure high quality health and social care for islanders within available resources. The Health and Social Services Department does not have the expertise, nor can it envisage the circumstances whereby it possess the expertise, to manage a travel insurance business which involves commercial risk taking, underwriting and knowledge of the local and global insurance market. For this reason, Jersey is adopting the same approach as the Isle of Man and Guernsey which is to allow the travel insurance market to create cost effective and competitive policies for Jersey residents.

Question

- c) whether family members, who were born and brought up in Jersey and come back to the Island to visit their relatives, are entitled to free treatment in Jersey's hospital?

Answer

If an individual is ordinarily resident in the United Kingdom, by definition they cannot be considered ordinarily resident in Jersey as well. By defining themselves as ordinarily resident in the UK they enjoy the benefits of "free" healthcare via the National Health Service rather than free healthcare via Jersey Health and Social Services. In the circumstances described, individuals born and brought up in Jersey, who then choose to

reside overseas but then come back to the Island to holiday or visit their relatives will not be entitled to free healthcare as they are not ordinarily resident in Jersey.

Question

- d) what provisions, if any, are being made by the Health and Social Services Department for those persons over 80 years old, if insurance companies do not cover them?

Answer

No provisions are being made by the Health and Social Services Department for those persons over 80 years old regarding travel insurance.

Question

- e) what would happen if a Jersey person was taken ill in the UK, repatriated to Jersey and then had to be sent back to the UK by Jersey General Hospital for treatment that was not available here?

Answer

A Jersey person, falling ill in the UK would receive free care in the Accident & Emergency department of the UK hospital but would then be liable for further treatment costs up to and including repatriation to Jersey. In the unlikely event that they were then required to be sent back to the UK for further specialist treatment, this would be free to the individual as Health and Social Services pay for treatment at specialist UK centres where the patient has been referred by a Health and Social Services consultant.

1.4 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR HOUSING REGARDING THE DEMOLITION OF ANN COURT:

Question

Would the Minister advise whether the tender to demolish Ann Court has been accepted, how the process was advertised and whether he has been contacted since its acceptance, with a considerably lower offer to do this work and if so, by how much?

Will the Minister advise whether all the debris from the demolition will be taken to La Collette for recycling in controlled conditions, and, if not, why not?

Answer

The Minister for Housing approved the demolition of Ann Court on 4th March 2009, subject to approval by the Minister for Treasury and Resources, which is awaited. The Minister has, on the basis of advice from the Project Management team at Transport and Technical Services, accepted a tender in the amount of £349,540 for the demolition from D B Cummins Ltd.

The tender process for the demolition contract was undertaken by Transport and Technical Services and was conducted in accordance with the procedures set out in Financial Direction 5.6. A notice for expressions of interest was published in the Gazette on 6th, 7th and 8th November and expressions of interest were subsequently received from four demolition and building contractors. All of these interested parties were invited to tender. Three tenderers submitted prices. The tender from D B Cummins Limited was the lowest tender.

An e-mail from a demolition contractor was received by the Minister for Housing on 19th March advising that they had submitted a price for the demolition works as a subcontractor to one of the unsuccessful tenderers. The e-mail did include information about the sum which the subcontractor had submitted to the unsuccessful tenderer. Details of unsuccessful tender figures are confidential and as such cannot be released prior to the signing of formal contracts with the successful tenderer. However, I would be more than happy to release details of all the tenders received once contracts have been signed.

The demolition debris will not be taken to La Collette for recycling. The successful tender recommended for acceptance by Transport and Technical Services provides for recycling demolition debris on site. The tender and evaluated method statements include meeting all environmental protection standards set by the regulators.

1.5 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR HOME AFFAIRS REGARDING THE IMPORTATION OF TASAR STUN-GUNS FOR USE IN JERSEY:

Question

Would the Minister advise the Assembly whether talks with the United Kingdom on importing TASAR stun guns for use in Jersey have stalled and, if so, why?

Given that the Isle of Man Police now have this equipment, does the Minister consider that the use of TASARs in Jersey is appropriate?

Answer

Talks with the United Kingdom on importing Tasar stun guns for use in Jersey have not stalled; the matter is still actively being pursued.

Without Tasar in its armoury, the States of Jersey Police has a tactical shortfall with regards to less lethal technology that leaves the organisation (and its officers) vulnerable to both moral and legal challenge, should the Force ever have to take the life of, or seriously injure a subject.

The Conflict Management Model, contained within the ACPO Personal Safety Manual of Guidance sets out the process by which a measured and appropriate response can be made to any situation involving conflict.

The acquisition and deployment of such a technology is therefore vitally important in order to provide all available 'use of force' options for front line operational officers.

ACPO policy highlights that TASAR is not a replacement for existing personal safety tactical options, but is a technology that should be considered alongside all other considerations i.e. Negotiation, use of baton, C.S spray and dogs. These options do not constitute a hierarchy of lawful force however should be viewed as a range of approved options from which the most proportionate and appropriate should be selected, according to circumstances, and in accordance with the conflict management model that sets out the process by which a measured and appropriate response can be made to any situation involving conflict.

Tasars have been recommended to the States of Jersey Police by HM Inspectorate of Constabulary in order to meet their obligations under the European Convention on Human Rights (Article 2 - right to life).

1.6 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING TALKS BETWEEN THE RED ENSIGN GROUP AND UNITED KINGDOM AUTHORITIES:

Question

Would the Minister advise whether members of the Red Ensign Group have been meeting with United Kingdom Authorities in recent times and, if so, would he outline the nature of the talks and where the Island stands on any negotiations?

Answer

Yes – members of the Red Ensign Group have met on a number of occasions in recent times, as follows:

1. Wednesday 1st October 2008 – meeting concerning legislation applicable to serious crimes committed in British ships. This took place in Southampton and was attended by UK officials as well as representatives from a number of the Red Ensign Group -

Bermuda, BVI, Cayman Islands, Gibraltar, Isle of Man , Guernsey and Jersey.

2. Thursday 2nd October 2008 - meeting of the Red Ensign Group Technical Forum. This also took place in Southampton and was attended by UK officials as well as the same representatives from the Red Ensign Group. The Forum firstly dealt with the terms of reference of the group before addressing technical matters such as lifting gear in ships, passenger ship stability, radar performance standards and procedures for notification of alternative design arrangements.
3. Thursday 30th January 2009 – meeting of the British Certification Committee concerning small commercial vessels. The focus of the meeting was between certifying authorities, district councils, the UK ship registry and its Maritime and Coastguard Agency. As a member of the Red Ensign Group Jersey was invited and its surveyors, MECAL (Jersey) Ltd, attended on its behalf. Matters covered included progress towards a harmonised safety code for small craft and a voluntary code of conduct for operators of rigid inflatable craft.
4. Regarding negotiations, Jersey is an equal member of the group of 12 jurisdictions and all try to secure the best standards for British shipping worldwide. The word ‘negotiations’ is not perhaps quite appropriate.

1.7 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE ENERGY FROM WASTE PLANT CONTRACT:

Question

Given that the Treasury were aware of funding for the Energy from Waste Plant would be required in Euros in July 2008, would the Minister explain why the pre-purchase of euro funds was not put in place at an early stage?

Answer

This matter has been considered and reported on in some detail by the Comptroller and Auditor General in his recent report. As I have already reported to members, a disciplinary process is underway concerning matters arising from the Comptroller and Auditor General's report and I can not comment further at this stage.

1.8 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING STATUTORY NOTICE PAYMENTS TO EX-WOOLWORTHS EMPLOYEES:

Question

Will the Minister give a further update on, and explanation for, the figures he gave to the Assembly in a written response to a question asked by Deputy S. Pitman on 10th March regarding Statutory notice payments to ex-Woolworth employees, and, in particular, will he state why only 43 employees out of 84 were eligible to claim?

Answer

As at Friday 27th March, of the 43 former Woolworth's employees who were entitled to statutory notice, the employment data and notice payment entitlements of 38 former employees have been validated and confirmed.

Of those 38 employees, 32 individuals have assigned their right to the States. Cheques representing statutory notice pay due have been posted to 30 of those individuals totalling £116,306, which represents more than three quarters of the total amount due.

The two further assignments were signed very recently. When the Department receives those assignments, the payments will be authorised as quickly as possible.

Payments have so far been sent to the former employees within one to two days of the Social Security Department receiving each employee's signed assignment.

Assignments have been prepared for a further six individuals who have not yet come forward to sign their assignments, despite being notified by their legal representative. Cheques representing statutory notice pay will not be issued until individuals have assigned their right to the States.

The Department is awaiting further documentation to validate continuity of employment for the remaining five individuals. The employees' legal representative has requested the required information from those employees.

Deputy Southern's Propostion "Woolworths employees: redundancy payments" (P.2/2009) notes that, "*There are some 84 staff in total {34 full-time (32 – 45 hours per week) 10 part-time (8 – 30 hours) and 40 Saturday staff}*"

When validated, the employee data provided by Woolworths confirmed that 41 of the 84 employees were contracted to work less than 8 hours a week so were not entitled to a statutory minimum period of notice, or pay in lieu of that notice, under the Employment (Jersey) Law 2003. Most of these 41 employees were young Saturday staff.

I would like to take this opportunity to advise Members that plans will shortly be publicised setting out the criteria that will be applied in cases where employers have become insolvent and have not given employees' their statutory period of notice on termination of employment, as required by the Employment (Jersey) Law 2003.

As I stated during the debate of P.34/2009, the system will be very closely based on the UK's insolvency scheme, and to that effect, the payments in lieu of notice will be calculated based on the employee's actual losses suffered. Any income received from employment and some benefits received during the period of notice will be offset against statutory notice payments, therefore reducing the period remaining to be paid in lieu by the States. Employees will be expected to attempt to minimise their losses by actively seeking employment during any period of notice in which they are not working. In particular, employees turning down the offer of employment, by either the employer or administrator of the insolvent business, without good reason, will not be entitled to any payments under this scheme.

I have become aware that a period of notice was given to the employees of Poundworld and in some cases that period will be sufficient to meet the requirements of the Employment Law. Only statutory periods of notice which have not already been worked by employees will be paid by the States.

1.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE STIMULUS OF THE ECONOMY:

Question

In view of the fact that in his written response to a question on 20th January 2009, the Chief Minister promised to share with members the economic analysis of the economy to be discussed during February at the Council of Ministers, and the package of stimulus measures to be completed in the first week of March, would he advise whether he is yet in a position to share this information with members?

Answer

The new economic forecasts that were seen by the Council of Ministers in February have already been shared with States members at the workshops on the Strategic Plan. The preliminary central estimates are that while real GVA growth remained positive in 2008, GVA will contract by 4% this year and a further 2% in 2010. Given the lack of data on the Jersey economy and the unusually uncertain economic times there are, however, significant uncertainties around these forecasts.

In terms of when information on the fiscal stimulus package will be shared with Members the Deputy is referred to the answer of the Treasury and Resources Minister to the Deputy's written question on 10th March 2009, in particular that "*The Fiscal Stimulus package is still being developed and the intention remains that it will be lodged alongside the Strategic Plan on 8th April 2009*". There will then be ample time for discussion with States Members and Scrutiny before the debate in June.

1.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING INCOME INEQUALITIES CONTAINED WITHIN THE STRATEGIC PLAN:

Question

What specific and concrete measures, either fiscal or otherwise, does the Chief Minister propose to reduce income inequalities for his 5-year vision for Jersey contained in the Strategic Plan?

Will he further comment on the growing inequality in earnings over the last decade, as revealed in Table A5 of the Jersey Economic Digest 2008, between the Financial Services sector and all other sectors of our economy, and will he work with his Ministers for Treasury and Resources and Economic Development to address this widening gap?

Answer

In order to measure income inequality, it is necessary to analyse income levels by households, not by sectors. The Jersey Income Distribution survey provides such information in terms of the Gini coefficient, the most commonly used indicator of income inequality. In 2002, the Gini coefficient for Jersey was similar to that of the UK. The Statistics Unit will shortly be launching the 2009/10 Household Spending and Income Survey. This survey will provide robust household-level income data and will enable an updated measure of the Gini coefficient and household income distribution analysis.

Table A5 of the 2008 Jersey Economic Digest presents average weekly earnings by sector. However, this table does not provide evidence of income inequality across Jersey's households; firstly, the table does not take into account the sectoral distribution of workers in households and, secondly, it does not include unearned income. Furthermore, the ratio of average earnings in the Finance sector to that of all other sectors has remained substantially constant over the past 5 years.

Nonetheless the draft Strategic Plan sets out how we intend to support the Island community through the downturn with a particular emphasis on supporting local employment. The Plan also sets out our medium-term objectives to maintain a strong, sustainable and diverse economy. I will certainly work with other Ministers in addressing these issues. However, economic policy alone is not enough and the Strategic Plan also focuses on how we can assist people to fulfil their potential and make the best of their opportunities. Where inadequate income is seen as a barrier to this, programmes, particularly income support and skills provision are available to help.

1.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE WITHDRAWAL OF TRANSITIONAL BENEFITS TO HOUSEHOLDS RECEIVING INCOME SUPPORT:

Question

Will the Minister inform members what sum of money, if any, he will be withdrawing from the benefits of households currently in receipt of £22.5 million worth of protected payments on 1st October 2009 when the transitional period for the introduction of the Income Support system comes to an end.?

Will he further state how the overall sum will be divided between households in the 5 groups mentioned in his previous oral response (on 10th March 2009), namely

- (a) those with moderate to severe disability (0%)
- (b) those with a pensioner or DTA recipient (25%)
- (c) those where income exceeds IS entitlement by a factor of 3 or more (100%)
- (d) those with the biggest percentage reduction in income (20%)
- (e) all other households (33%)

and how many households each group contains?

Has the Minister given any consideration to postponing this action, given the impact of the recession on the economy and, if so, what success, if any, has he had in negotiations with the Minister for Treasury and Resources and his other colleagues to maintain protected payments?

Answer

I can confirm that the protected payments available under the Income Support system will not come to an end in October 2009. The **first reduction** in protected payments is due to be implemented in October 2009.

The analysis requested by the Deputy cannot be completed by 30th March and will be provided at a future States sitting.

I have given consideration to postponing the first reduction in protected payments. A proposal to that effect is included in the package of economic stimulus measures that is currently being reviewed by the Fiscal Policy Panel.

1.12 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE LIMITATION OF INWARD MIGRATION:

Question

Will the Minister inform members how he intends to meet the stated target of limiting inward migration to 200 heads of households (420 in total) given the figures for the numbers of 'J' category applicants, showing totals of 498 and 523 approvals (and only around 60 refusals) in 2007 and 2008?

What consideration, if any, has been given to new criteria for new approvals or is the Minister relying on the recession to reduce recruitment and thereby requests?

What policy, if any, will he apply and at what level following the end of any recession in, for example, 2 years' time?

Answer

By nature, 1(1)(j) employees tend to be highly skilled and highly mobile, and therefore it is somewhat spurious to link gross approvals with net inward migration.

The Strategic Plan proposals relate to *net* inward migration of 200 heads of households per year, and is a 5 yearly measure designed to ensure that migration can be managed over the economic cycle. As to 1(1)(j) employees, while it is correct that 498 applications were approved in 2007, the numbers working in the private sector in Jersey increased by just 100 in that same year, and this was a particularly buoyant year economically. Manpower figures for 2008 are due in April, but it is expected that net changes will be significantly lower than the gross numbers quoted. By way of comparison, 2009 is showing 1(1)(j) approval numbers down by around a quarter and there is some expectations of numbers continuing to reflect the changing economic conditions.

As to the ability to manage numbers, these mechanisms are by definition flexible, and have coped well for decades though successive States targets and varying economic conditions, and will continue to do so.

Furthermore, through the creation of the Population Office and Migration Advisory Group we now have a new opportunity to apply the 1(1)(j) permissions and the non locally qualified licences under the Regulation of Undertakings and Development Law in wholly co-ordinated and pragmatic manner, to suit the economic climate, and to meet over the medium term whatsoever targets to States approve.

2. Oral Questions

2.1 Deputy M. Tadier of St. Brelade of the Minister for Education, Sport and Culture regarding the recent appointment of the new Head of La Moye School:

In the light of the recent appointment of the new Head of La Moye School, will the Minister confirm that due process was observed by the department and will he inform Members of the measures in place to promote home grown talent to top positions?

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

I can confirm that I am satisfied that due process was observed by my department during this appointment. I am also satisfied that a robust appointments procedure is in place that ensures selection is made against a clear set of professional criteria. To ensure that, insofar as it is possible local candidates are properly prepared to compete, a number of leadership development programmes are in place. These include Leading, Learning and Teaching; Leading from Experience; The Established Leaders' Programme; The National Professional Qualification for Headship, The Leadership Programme for Serving Head Teachers; and The Consultant Head Teachers' Programme. In addition, deputy head teachers may also be offered a secondment or a period as acting head teacher in order to develop their skills further. The success of this strategy is particularly evident in the primary school phase where we have not appointed a head teacher from off-Island in over 20 years.

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

Would the Minister outline whether his department has experienced previous difficulties with the appointment of principalships from outside the Island and what lessons were learnt on those occasions?

The Deputy of St. Ouen:

I do not, as I said in my response, believe that we have faced any difficulties within the primary school phase. There have, as I understand it, been issues in the secondary schools, however, I do believe that they were unfortunate incidents and did not reflect the failings in the process.

2.1.2. Deputy S. Power of St. Brelade:

Would the Minister be prepared to state, with the benefit of hindsight, whether the manner in which the Education Department communicated the appointment of the new proposed head teacher at La Moye was done in the correct way and if it were to be done all over again would he change the way it was done?

The Deputy of St. Ouen:

Communication with hindsight is always questionable. Certainly my view is that the procedure and the process was handled correctly. However, I suppose the department - and it was quite fortunate in some respects - did not expect the amount of support that the deputy head teacher was shown by the parents, which we celebrate and are encouraged by it. That was the only area that, I think, perhaps in hindsight, if we had known of those feelings, we could have perhaps dealt with the matter in a better manner.

2.1.3 Deputy M. Tadier:

There seems to have been widespread confusion and perhaps some misinformation in the media so could the Minister clarify the residential status of the new teacher who has been appointed, in fact, whether they are from the Island or from the U.K. (United Kingdom)?

The Deputy of St. Ouen:

The new head teacher has lived in the Island since 2002. She has a family and a daughter that has been born on the Island and, as such, she is quite entitled to apply and be considered for the position.

2.1.4 Senator B.E. Shenton:

The Minister admitted that he was surprised by the reaction of the parents. Would it not have been a good idea to find out what the parents thought of the acting teacher when you are going through the interview process? Does this not show a complete failing by the department to do their job properly?

The Deputy of St. Ouen:

Not at all, we would expect, in fact, all teachers to be supported by the parents. In fact it would be ridiculous to believe otherwise. In this particular case the issue was more about concerns over how the teacher was dealt with than the support that the parents were offering. The teacher himself has been totally embarrassed by the whole issue and certainly believes that at this time a line should be drawn under this unfortunate issue.

2.2. Deputy D.J.A. Wimberley of St. Mary of the Minister for Planning and Environment regarding licences for land reclamation, bio-remediation, ash disposal, aggregates recycling, green waste composting, and storage of asbestos at La Collette:

Could the Minister explain why licences for land reclamation by a bio-remediation, ash disposal, aggregates recycling, green waste composting and storage of asbestos at La Collette have still to be issued under the Waste Management (Jersey) Law 2005 which came into force in 2 stages in November 2006 and February 2007.

Senator F.E. Cohen (The Minister for Planning and Environment):

The Assistant Minister, the Deputy of Trinity, has special responsibility for the environment and the Deputy of St. Mary has kindly agreed that she may answer this question.

Deputy A.E. Pryke of Trinity (Assistant Minister for Planning and Environment - rapporteur):

The Waste Management (Jersey) Law 2005 included transitional provisions that allowed existing waste management sites to continue to operate until they are awarded waste management licensing, provided that they (a) have existed prior to the Law coming into force and (b) applied for waste management licence in the period stipulated in the Law. My department is currently assessing the very many licence applications made, including those from operators based at La Collette, before they determine them later this year. Members must realise that this is not a quick process. I am sure the Deputy is aware that the waste management licensing process is extremely complex. Its introduction has changed the face of the waste management industry in Jersey. It applies both to public and private sector operators and to all types of facilities. The ultimate goal is to reduce the impact of waste sites on the environment. Considerable care must therefore be taken to ensure that licence applications are reviewed and determined in an appropriate and robust manner. Best practice has to be considered in relation to every type of recovery and disposal process and unfortunately that takes time. I can assure the Deputy that my officers are making good progress with this matter. In the meantime the sites operating under the transitional provision allowances are under increasing pressures to conform with good environmental practice.

2.2.1 The Deputy of St. Mary:

I thank the Assistant Minister for that answer and about the stress she puts on the fact that care must be taken and best practice followed. But it does concern me that the Law was passed by the States in the middle of 2004 - on 8th June 2004 - which means that T.T.S. (Transport and Technical Services) knew from then that they would have to apply for a licence and the Law was registered in March 2005. That is a long time ago. Could the Minister tell the House when T.T.S. submitted the application for the licences? Particularly for land reclamation and ash disposal.

The Deputy of Trinity:

Taking the second part of the Deputy's question first, I am sorry, I have not got that information at hand but I will certainly get it and come back to him and to other Members if they wish it. As I said, this Law is very complex and it does take an awful lot of time but the most important thing is that when it did come into force - in 2006 - they had to apply under the transitional licence that had existed prior to the Law coming into force. We realise that there is some work still to do and that is what we are undertaking and hopefully well within this year T.T.S. should have the appropriate licences.

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

There is a phrase I believe: "Justice delayed is justice denied", similarly licences delayed are licences denied. The Assistant Minister stated that some of the organisations concerned are coming under increasing pressure to perform to best practice. What that effectively says is that we are not achieving best practice and we are achieving slack old standards that have been made illegal without a licence under this Law. When is she going to apply this Law? It has taken 2½ years now already.

The Deputy of Trinity:

I totally disagree with the Deputy. It is good practice and we must all aspire to having good practice and over the last years that practice has increased and we must meet the E.U. (European Union) as well. The department is working with all the relevant operators, both in the public and private sector to make sure that they all fulfil their obligation and come up to the standard required.

2.2.3 Deputy G.P. Southern:

Does the Assistant Minister accept that between 2 and 2½ years to administer and grant a licence is an extremely and outrageously long time to be considering anything?

The Deputy of Trinity:

How long is a piece of string, Deputy? Yes, you can say that but the most important thing is that to have the best practice in place, if it takes longer to get what we need in place, that is more important. That is aim of this Law.

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

Could I ask the Assistant Minister if treated water that contains toxic ash has been released into the marine environment from La Collette, and has there been any effect upon the marine environment from this, especially the oyster fisheries?

The Deputy of Trinity:

That is a very detailed question and I am not able to give the Deputy that full information. I am quite willing to do that.

2.2.5 Deputy P.V.F. Le Claire:

The Assistant Minister has been appointed the Minister in charge *de facto* because of a decision by the States not to have an Environment Minister. If she is not able to answer this specific question

about contamination about oyster fisheries today, is she really in charge of this brief? Is anybody really in charge of the environmental brief?

The Deputy of Trinity:

That is a very specific question about the water contamination affecting the oyster farms and I would rather have more information behind that and give the right answer.

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

The Assistant Minister just answered saying: "How long is a piece of string?" when asked how much time is given to work on the particular Law. Can the Assistant Minister inform the House how much time really is being devoted on this Law or is it just done part-time when that person has time?

The Deputy of Trinity:

No, we have staff who are very professional in their work who do do this Waste Management Law and I have every faith and confidence but, as I said, it is a very complicated Law and it is not only in the private sector but it is public sector operators too and it needs to be right.

2.2.7 Senator S. Syvret:

The answer to the question asked by Deputy Le Claire, as far as the discharging of the contaminated water into the marine environment is concerned, is, yes, it is occurring and it has been analysed. Does the Deputy not recognise that what we are seeing here is a gross failing of the States of Jersey - yet another one - in its ability to properly regulate itself and respective departments? **[Approbation]** There is probably, I think it is fair to say, going to be no greater ever case of the handling of toxic waste, toxic land, toxic material being moved around and relocated in the history of Jersey. If the Law - that we knew was going to come into effect since 2004 - has not yet been properly replaced to deal with this mass dumping of contaminated toxic waste that is happening now then frankly what is the department doing?

The Deputy of Trinity:

The Law is in place and, as I have said a couple of times, it does take time to get all the operators up and working. We have ... as a report to your proposition back in 2008, Senator, I did give a paper about what different type of laws are in place and staff at Environment, as I said, they are very professional and they are doing a job but it does take time.

2.2.8 Senator S. Syvret:

Just a supplementary on that. Does the Deputy not accept that at present the States of Jersey are committing criminal offences, under a variety of heads of legislation? **[Approbation]**

The Deputy of Trinity:

No, I do not.

2.2.9 Deputy R.G. Le Hérissier:

When the Assistant Minister investigated the matter, did the Assistant Minister accept the explanation that it was complex or did she find that there were some very clear and specific reasons for the delay?

The Deputy of Trinity:

I think the most important thing here is that, as I said, best practice needs to be done, and by E.U. waste management law too. So it is ... each section is so complicated and we need to make sure, as I said, that we have it in place and it is robust and that it is fit for purpose.

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

Has the Assistant Minister seen the photographs taken by Save our Shoreline showing pools of toxic water in both the Castle Quays site and the La Collette site which are able to permeate through to the sea depending on the tide? Is this best practice and would it be acceptable if it was happening in Trinity? [Approbation]

The Deputy of Trinity:

No, I cannot comment when I have not seen those particular photographs. Perhaps he would like to pass them on to me.

The Connétable of St. Helier:

I will happily do so.

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

Would the Assistant Minister give us an assurance that from today no discharge of this as described brackish water will take place until we are sure that it is safe to do so?

The Deputy of Trinity:

Yes, I can. I would like to hope I can. Yes, I can be sure.

2.2.12 The Deputy of St. Mary:

I find it very concerning, and I think we all may do, that a law that is passed to protect the environment and the people of Jersey takes 4 years for anything to happen and on the basis that this is a major, major pollution issue what is going on at Castle Quay and La Collette, bearing in mind that what is being taken to La Collette from Bellozanne is regular consignments of toxic and very light fly ash which is liable to fly away in the wind, it really concerns me. My final question to the Assistant Minister is whether in the interests of open government and in view of the sensitivity of this issue and the importance of the various considerations that Members have raised today, will the Minister publish to Members the applications in full for the licenses for ash dumping and land reclamation from T.T.S. and the ensuing correspondence and minutes and, in particular, the conditions which are going to be imposed by the Minister for Planning and Environment?

The Deputy of Trinity:

Yes.

The Deputy of St. Mary:

I did not hear the answer.

The Deputy Bailiff:

Yes, she said. Then we come to a question which the Deputy of St. Martin will ask of the Chief Minister.

2.3 The Deputy of St. Martin of the Chief Minister regarding changes to inheritance legislation:

In view of the fact that on 11th November 2003 the States agreed to abolish discrimination on illegitimate offspring and to make proper provision for dependents of the deceased and further to his written response to a question on 20th January 2009, will the Chief Minister inform Members why the necessary legislation has not yet been lodged?

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

Yes. The Deputy will recall that in my answer to the previous written question which I answered on 20th January this year and to which he refers, I stated that and I quote: "It will be for the new Legislation Advisory Panel to decide whether it is minded to recommend that the draft legislation

already drafted is presented to this Assembly for approval in due course.” I can advise Members that the Panel held its first short introductory meeting last week. The next meeting of the Panel, which will be its first substantive meeting, is due to be held in May 2009. I confirm that the Draft Wills and Successions (Amendment) (Jersey) Law 200- and the Draft Inheritance (Provisions for Family and Dependents) (Jersey) Law 200- will be on the agenda for that meeting. I will of course advise Members of the outcome of the Panel’s discussions on this issue.

2.3.1 The Deputy of St. Martin:

As we heard with the last question how long it takes for a law to become implemented, will the Chief Minister explain why if this particular law was approved to be changed in 2003, which we know was outdated and certainly not human rights compliant, why was it not audited prior to the Appointed Day Act for the Human Rights Law a couple of years ago? In other words, should it not have been audited to ensure that it was correct and human rights compliant before we had the Human Rights Law Appointed Day?

Senator T.A. Le Sueur:

The draft laws in question were drafted last year and they were referred to the Royal Court and to legal advisers for their fitness for purpose. At that time it was advised to us that there were some questions which needed answering about the drafting of the law, including perhaps whether it was fully human rights compliant. In order to ensure that the law when presented to the States was fit for purpose the Panel agreed to have further discussions with the parties concerned to resolve those issues. Those discussions are being held. The issues are being resolved and when they are resolved they will come to the States for approval.

2.3.2 Deputy M. Tadier:

Will the Chief Minister reiterate his lack of commitment to human rights by once more pledging not to sign up to various U.N. (United Nations) and E.U. conventions including the U.N. Convention for the Rights of the Child and the U.N. Convention for the Elimination of Discrimination against Women which the U.K. have been signed up to for 25 years?

Senator T.A. Le Sueur:

I regard that as a totally improper and unnecessary question. I am committed to human rights. This law is implementing the human rights of the child in this respect. But with all these things they do not happen overnight. They happen once they are properly researched, properly drafted and then agreed by this House. That process is going ahead in compliance with our human rights obligations.

2.3.3 Deputy M. Tadier:

I would venture that the question is perfectly proper and in order. I would ask the Chief Minister whether he thinks that overnight - a period of 25 years, for example - is perhaps misleading the House?

Senator T.A. Le Sueur:

I do not believe I have misled the House at all. As my answers to the previous question said, this matter is being dealt with in accordance with the Convention for Human Rights and will be brought to the States for discussion.

2.3.4 Senator B.E. Shenton:

The failure of the States to implement this law is causing considerable distress in a number of cases at a human level. Will the Chief Minister give an undertaking to try and speed-up the legislative process but also give an undertaking that when laws are passed by this House, they are implemented?

Senator T.A. Le Sueur:

I am happy to confirm that I shall do my best to encourage the process to take place as speedily as possible. Once the law is drafted it should be enacted and enforced as soon as possible.

2.3.5 Deputy G.P. Southern:

Would the Chief Minister inform Members why in a letter dated 17th July 2007, we state via the Bailiff that we do not wish to have the protocol the U.N. Convention against Torture and Other Cruel, Inhuman and Degrading Treatment extended to Jersey. Can he state why this should be so?

The Deputy Bailiff:

I am sorry, Deputy, that is not related to a question about illegitimate offspring. Deputy of St. Martin, do you wish to ask a final question? No, okay. Very well. We come to question 4 which Deputy Higgins will ask of the Minister for Transport and Technical Services.

2.4 Deputy M.R. Higgins of St. Helier of the Minister for Transport and Technical Services regarding the transfer of thousands of tonnes of heavily contaminated landfill from the Castle Quay site to La Collette Reclamation site:

Can the Minister give the Assembly full details of the transfer of thousands of tonnes of heavily contaminated landfill from the Castle Quay site to La Collette reclamation site in recent weeks and advise under which permits, regulations and laws these movements are being carried out?

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

The first excavated material from Castle Quay was transferred to the La Collette reclamation site on 8th January 2008 under the Waste Management (Jersey) Law 2005. A pre-notification consignment note number 01531 was received and accepted by the waste regulator. To date - that was of 27th March - 133,132 tonnes of landfill waste has been received at La Collette and treated as follows: 119,557 tonnes has been received as reclamation landfill; 10,990 tonnes of incinerator ash has also been encapsulated into 2 lined bays; 2,585 tonnes has been recovered as stone for recycled aggregates. On a point of clarity, 107,000 tonnes received related to the Les Pas Holdings Agreement and were received at no charge. The full La Collette gate fee was charged for the remaining amount.

2.4.1 Deputy M.R. Higgins:

Could I ask the Minister what precautions have been taken to protect the public with the transfer of some of this material? We know that drivers are wearing masks and that vehicles are being washed down far more than is normal but what measures have been taken to protect the public - including at La Collette - because we believe that large clouds of dust have been generated on this movement?

The Connétable of St. Brelade:

The vehicles transporting the materials from Castle Quay to La Collette are enclosed vehicles. All sensible precautions are taken. When any ash is put into the ash pits of La Collette they are lightly covered with sand to prevent any toxic ash going towards the Havre des Pas area.

2.4.2 The Deputy of St. Mary:

The problem with covering the ash when it has been dumped is that as it is falling off the lorry the wind takes it and casts it all over Havre des Pas. I wanted to ask the Minister whether he regrets the fact that the Waste Management Law which he mentioned does not apply to these consignments because it has not been implemented.

The Connétable of St. Brelade:

The disposal of these wastes being accepted at La Collette was done under the Planning Permit registration number 17742A. The reclamation site at La Collette is permitted to receive these wastes under the agreed conditions. All sensible precautions are taken. The department does not wish to prejudice either its staff or the public in any way whatsoever.

2.4.3 Senator S. Syvret:

The Minister just said all sensible precautions are being taken. I would like to know what his standards of sensible precautions are given that the resultant dumping of rubble which is contaminated with ash is taking place down the tipping faces of the site. This is causing pollution to the water. It has been filmed and photographed by members of the public. Is the Minister seriously trying to tell us that is acceptable standards?

The Connétable of St. Brelade:

I do not agree with the Senator's allegations that any toxic materials have been dumped in the water. The subject of water being pumped out of the excavated bunker pit is the subject of another question. That water is being purified. The analysis produced by the Deputy of St. Mary alluded to the analysis of silt removed from that area and was not in connection with the water that is pumped out and is purified. I am confident that the processes undertaken by my department comply with all regulations and the regulations set by the Environmental Department are of an adequate level to protect the general public and the staff working down there.

2.4.4 Senator S. Syvret:

Can I ask a supplementary on that, Sir? Does the Minister not appreciate the difference between water that is deliberately pumped out and, as he alleges, purified - although it is greatly doubtful that it is in fact pure - and the fact that very huge volumes of contaminated sea water daily move in and out of the site twice because of the actions of the tide?

The Connétable of St. Brelade:

While I would dispute the Senator's allegations about toxic water being pumped out into the sea, I would agree that the water does in fact flow in twice a day as per nature. His allegation, as I understand it, is that toxic water is flowing in and flowing out. That is not the case. Effectively we have clean sea water filtering into the excavated site and the same is working back. The sea water is flowing back out again. There is no indication of any toxicity in that water whatsoever.

2.4.5 Senator B.E. Shenton:

Under the terms of the Les Pas deal, the States of Jersey taxpayer was committed to pick up the tab for moving the toxic waste from Castle Quay. In fact the developer with this in mind increased the depth to which he was going to sink and increase the number of floors with the knowledge that the taxpayer was going to pick up the cost. Would the Minister be able to come back to this Assembly to give us a total cost to his department of undertaking this disposal paid for by the taxpayer on behalf of Les Pas?

The Connétable of St. Brelade:

Yes. In fact I am quite happy to come back to the Assembly with those figures. But referring to my answer, the tonnage if you like was 107,000 tonnes. That is the amount involved. Of course the loss to the department if you could call it that would be the loss of gate fee pertaining to that particular figure. But I can certainly transfer that into a monetary amount for Members and I shall do so.

2.4.6 The Connétable of St. Helier:

Does the Minister agree that an independent regulator we all want to be in place in the Island would do much to reassure the public that all the proper measures are being taken with regard to the ash disposal?

The Connétable of St. Brelade:

We already have a regulator. The regulator operates from a completely different department from mine. I see that as a perfectly adequate measure for safeguarding the public of the Island. I think if the public are not satisfied with the present regulation in place, they need to address that particular department who will take measures to address it.

2.4.7 The Connétable of St. Helier:

A supplementary, Sir. Could the Minister be more specific about where the regulator operates from?

The Connétable of St. Brelade:

The regulator operates from the Environment Department.

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

Yes, a point of clarification. Could the Minister please try and clarify for me because I am hearing from a member of my Scrutiny Panel that everything in reference to the ash is tipped and it can fly into the atmosphere. Would the Minister confirm or not whether this ash is damp and, therefore, would not be flying in the atmosphere given that it is buried below ground and given that the natural conditions of anything below the surface generally would be moist. Would there be a problem with ash flying or would it be a moister movement of materials?

The Connétable of St. Brelade:

I have no evidence of ash flying around at La Collette. Indeed I would think commonsense would dictate that the soil being removed from the Castle Quay site will be damp because it has been there for several years. From personal experience of working in the La Collette area has indicated that I have not noticed any or none has been drawn to my attention. I am at a loss as to where the evidence the Deputy of St. Mary used is coming from.

2.4.9 Deputy G.P. Southern:

Is the Minister content that after 4 years his department is still operating a dumping policy without a license to reassure that it is achieving best practice?

The Connétable of St. Brelade:

My department is operating under licenses, the numbers of which I quoted earlier on. I am perfectly satisfied that we operate best practice and have no wish to operate in any other manner whatsoever.

2.4.10 Deputy M.R. Higgins:

Really it is following on from the Deputy of St. John. Photographs have been taken of the plumes of dust at La Collette by Save our Shoreline. We will make sure the photographs are circulated.

The Deputy Bailiff:

So your question?

Deputy M.R. Higgins:

My question for the Minister is if the material is damp, why is the ash flying and if it is flying will he please give an undertaking that they will dampen it down in future for movement?

The Connétable of St. Brelade:

Yes.

2.5 Deputy S. Power of the Minister for Economic Development regarding Jersey fishermen landing their catches directly at St. Malo:

Will the Minister explain what action, if any, he intends to take in negotiating the removal of the ongoing ban on Jersey fishermen landing their catches directly at St. Malo when they are allowed to do so freely at St. Brieuc and Roscoff?

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

I would like to ask my Assistant Minister, the Constable of St. Clement, to answer this question. He has delegated responsibility for agriculture and all other fishy matters. I have spoken to the Deputy following last week's incident and the Deputy has agreed.

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

I am pleased to advise the Deputy that there is no ban on Jersey fishermen landing their catches at St. Malo. There were some difficulties experienced in early 2008 but diligent work by the Economic Development Department negotiating with many parties, including the St. Malo Customs Service, resulted in a convention being drawn up as a result of which for the first customs clearance only one copy needs to be signed by the French merchant receiving the catch and the St. Malo Customs. Thereafter, no further administrative action is required. This arrangement will be in place imminently.

2.5.1 Deputy S. Power:

That sounds very plausible but it is simply not what is happening. Can I ask the Assistant Minister that under E.U. Accession Treaty Rules Protocol 3, Jersey is entitled to free access to the E.U. markets for all agricultural and fishing products. This is not happening in St. Malo. Can the Assistant Minister explain why for over a year convention agreements are required in St. Malo when they are not required in Granville, Cherbourg, St. Brieuc or Roscoff?

The Connétable of St. Clement:

The Deputy is absolutely right. I agree. My interpretation is that under Protocol 3 of the Accession Treaty, Jersey is treated as if it were a member of E.U. for trade purposes. What we are dealing with here is an administrative procedural matter with the St. Malo Customs and probably worst of all their new computer system which is causing the difficulties. These difficulties as I say have now been resolved. The convention is in place and normal service should be resumed effectively almost immediately.

2.5.2 Deputy R.G. Le Hérissier:

Is the Assistant Minister aware that Jersey importers from France do find that particular port totally standing outside the system in terms of how matters are handled? If so, what steps is he taking to ensure that there is smooth and speedy importation of goods through that?

The Connétable of St. Clement:

Obviously I am aware that there have been some difficulties, as I have just explained, over the last 12 months. Negotiations have been going on between the Economic Development Department, our office in Caen, many other agencies and, as I have just explained in my answer under supplementary, those difficulties should now be resolved and problems should no longer exist.

2.5.3 Deputy S. Power:

Would the Assistant Minister not agree with me that the Chambre de Commerce in St. Malo are in effect creating an embargo on Jersey fishing products in St. Malo, that this is absolutely discriminatory and it must stop immediately?

The Connétable of St. Clement:

I have no evidence whatsoever of an embargo and indeed the St. Malo Chamber of Commerce is one of the parties involved in the negotiations of getting this difficulty resolved. Yes, it should be resolved immediately. As I say, the hard work of officers of the Economic Development Department and the Jersey Office in Caen those difficulties have been resolved.

2.6 Deputy G.P. Southern of the Chairman of the Comité des Connétables regarding postal voting:

Is the chairman satisfied that at the last election for Deputies, postal ballots were free from any of the following offences: bribery, treating, undue influence, secrecy, impersonation, multiple voting and proxy voting, and that the traditional standards of propriety observed at polling stations were carried through to the postal voting context?

Connétable K.P. Vibert of St. Ouen (Chairman, Comité des Connétables):

I am not in a position to answer that question. The role of the Connétables at election time is merely to facilitate at the taking of a poll. The postal ballot is entirely handled by the Judicial Greffier. Those postal ballots which are collected by him are handed to the returning officer prior to the election and the returning officer handles them throughout.

2.6.1 Deputy G.P. Southern:

Is the chairman aware that I asked a very similar question of the Attorney General last week and he said it was not his responsibility and he was not going to answer it? So who is responsible for the conduct and the propriety around postal voting in elections on the Island, do you know?

The Connétable of St. Ouen:

I do not. As far as I am concerned it is handled by the Judicial Greffier.

2.7 Deputy R.G. Le Hérissier of the Minister for Planning and Environment regarding the discharge permit application for the “treated brackish water” from the excavation pit at la Collette:

Can the Minister assure the Assembly that D.P.(B) 2009/03/01 - the Discharge Permit application for the treated brackish water from the excavation pit for the incinerator at La Collette - will be treated on its merits and in accordance with the law and not be influenced by possible delays to the construction of the energy from waste plant?

Senator F.E. Cohen (The Minister for Planning and Environment):

Deputy Le Hérissier has kindly agreed that the Assistant Minister with special responsibility for the environment may answer this question.

The Deputy of Trinity (Assistant Minister for Planning and Environment - rapporteur):

I can assure the good Deputy that the Discharge Permit application to which he refers will be treated on its own merits and, more importantly, in accordance with the law. Contractual delays are not a matter which will be taken into account. The application will be determined under the Water Pollution (Jersey) Law 2000 by my Environment Division officers in their regulatory capacity. Once they have considered all the pertinent environmental factors, they may refuse the application, award a Discharge Permit which could potentially have conditions attached restricting levels of chemical determents, expended solids or hydrocarbons. If a consent is granted, it is aimed to ensure that any discharge does not harm the receiving aquatic environments. It will not be driven by considerations relating to the construction of the energy from waste plant.

2.7.1 Deputy R.G. Le Hérissier:

Can the Assistant Minister outline the Chinese walls that are in place in the Planning and Environment Department to ensure that there is total independence and separation of decision-making in this instance.

The Deputy of Trinity:

In this instance it comes under the Water Pollution Law in the Environment Division which is separate to the Planning Department because it is one particular Law. By law, that Discharge Permit application has to be advertised in the Jersey Gazette which was done.

2.7.2 Deputy P.V.F. Le Claire:

I have a question, Sir. It is quite succinct. But procedurally I am asking if it can be directed to the Minister rather than the Assistant Minister.

The Deputy Bailiff:

If the Minister seems to be happy, yes.

Deputy P.V.F. Le Claire:

As the Assistant Minister has no knowledge or is not willing to express knowledge of any oyster contamination at this stage, is the Minister aware of any oyster contamination and any block on sales of oysters in the Island at present? If so, what is the information behind that?

Senator F.E. Cohen:

I am not going to answer this question in the States publicly. What I will do is to circulate a confidential note to States Members later in the day. This is an ongoing sensitive matter and there are many issues that need to be considered that may relate to oysters and the sale of oysters.

2.7.3 The Connétable of St. Helier:

Would the Assistant Minister agree with me that the perception of an independent regulation for this process would be greatly enhanced if the regulator were to operate from a different set of buildings than is currently the place where we have Jersey civil servants it would appear both regulating and organising these matters?

The Deputy of Trinity:

The Environment Division operates out of Howard Davis Farm. It is a law under the Water Pollution (Jersey) Law and they have to abide by the law which the States have put in place. They have to abide by that and they have to go through due process as well as the applicant has to go through due process which at the moment they are going through.

2.7.4 Senator S. Syvret:

Can the Assistant Minister for the Environment honestly tell the Assembly that she is content with the various regulations and processes she has described when it is crystal clear to anyone who has studied this matter that we have a contamination - a pollution - and a threat to our marine environment? So much so in fact, as we have just heard not quite admitted from the Minister himself, that there is contamination risk to the Island's oyster beds. How much more evidence does the Assistant Minister and indeed the other relevant Ministers need before they face the fact that we have a disaster on our hands?

Senator F.E. Cohen:

May I just make a point here? I certainly did not say what Senator Syvret has alluded to. The point is that there are issues relating to oysters. They may or may not be related to the matter of this question. I will be circulating a note to States Members later in the day.

The Deputy Bailiff:

Very well. Senator Syvret asked a question of the Assistant Minister.

The Deputy of Trinity:

There is a raft of legislation which I highlighted in a report at the beginning of the year. There are some omissions. One of them is the Emissions Law. But we are looking at that and hopefully that will be in place to come to the States later on in this year.

2.7.5 The Deputy of St. John:

Could the Assistant Minister through her Minister please give a full report to the Environment Scrutiny Panel of any contamination that is found; an extension basically on what the Minister has said so that the Environment Scrutiny Panel is fully aware of what is going on?

The Deputy of Trinity:

Yes. We have a good working relationship with Scrutiny and I do not think they have been denied any information and I hope that continues.

2.7.6 The Deputy of St. Mary:

I am very concerned about the proposed method for treating the water that is in this brackish water which as we know has lead, copper, iron and so on in it in the solution. I just wonder whether the Minister agrees that the proposed solution - the solution that appears to be on the cards - of 2 settlement tanks followed by a hydrocarbon separator will reduce the amount of contamination at all. My chemistry does not run to it but it does not seem to be a solution to me.

The Deputy of Trinity:

It is a very difficult subject. As it is advertised within the *Jersey Gazette*, the whole purpose is that people can put their submissions into that procedure. I would urge the Deputy of St. Mary to do that. By Article 10 of that law it has to be displayed for 28 days and it was in the *Jersey Gazette* of 14th March. There are strategy consultees which are Health and Social Services and Jersey Harbours but anybody can also put their own submissions.

2.7.7 Deputy G.P. Southern:

Would the Assistant Minister or the Minister state for Members the grounds on which the Minister has just refused to give an answer to a question in public but instead has decided to opt for a confidential answer to States Members? On what grounds has he based this decision?

Senator F.E. Cohen:

I think that will become self evident when the Deputy receives the note later in the day.

2.7.8 Deputy P.V.F. Le Claire:

Is the Assistant Minister in direct contact with the Health Minister in regards to the marine environment and any possible pollutants to the marine environment that could be ingested by humans in and around Jersey? If so, what procedures are in place to communicate these to the Health Department and what have occurred most recently in relation to these discharges?

The Deputy of Trinity:

There are procedures in place. I have not personally been in correspondence with the Minister. That is done at officer level and that will continue. If there was any breach, we have it in law and we will take action if necessary.

2.7.9 Deputy R.G. Le Hérissier:

I wonder if the Assistant Minister could tell us who will make the decision about the application and from whom will that person take advice in making that decision?

The Deputy of Trinity:

The decision will be made after looking at the facts from the statutory consultees as well as any submissions that come in from organisations or any person that writes in and, in fact, will be based on science and within the law. It will be the department makes the decision.

Deputy R.G. Le Hérissier:

Who in the department? Which officer?

The Deputy of Trinity:

Can I name that officer, Sir? It is the Head of Water Pollution.

2.8 Deputy T.M. Pitman of St. Helier of the Chief Minister regarding his confidence in the Minister for Health and Social Services:

Notwithstanding the recent personal statement of the Minister for Health and Social Services in the Assembly, does the Chief Minister still retain full confidence in that Minister and, if so, why?

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

Yes, I have full confidence in Senator Perchard as Minister for Health and Social Services. The Minister is an enthusiastic and caring man who I know works very hard for his department, just as he works very hard among his other Ministerial colleagues within the Council of Ministers. He has been in this role for 3 months now, having been elected by a majority of Members of this Assembly after he had served for a little over a year as Assistant Minister. He has always been a strong champion of Social Services and as Minister he has driven forward much needed reforms in the area of child protection and has followed all the recommendations put forward by Professor June Thoburn who is an independent chair of the Jersey Child Protection Committee. Furthermore, he is driving forward the proposal contained within the Williamson Report in a manageable way and over a short timescale. More generally he has reviewed the long outstanding proposals contained in *New Directions* and will be bringing forward realistic proposals from implementation and funding of major initiatives such as the care of the elderly. He has also agreed that Social Services will be independently inspected by the Scottish Social Worker Special Agency. This agency will be visiting Jersey in April in order to plan this work. His policy direction is one of prevention and risk reduction rather than reaction to subsequent problems. This is evidenced by his approach to issues such as vaccination and immunisation, as well as reducing the harmful effects of drugs, tobacco and alcohol. He has been very supportive of a dedicated team of staff who often have to work under extreme pressures. As an oral question, I am inevitably constrained by time as to what additional evidence I could produce by way of testimony to Senator Perchard's skill, dedication and enthusiasm; characteristics which surely we can all recognise. The accomplishments which I have cited are merely a snapshot of some of his work which I deem to be particularly relevant and which give me great confidence in him as a Health Minister.

2.8.1 Deputy T.M. Pitman:

A supplementary, Sir. Although it was a secret vote, I have to point out that I did vote for Senator Perchard on the strength of his presentation so I bring this without any malice. Could the Chief Minister say what this says about accountability in the response he has just given? I do not think he is really facing up to the issue.

Senator T.A. Le Sueur:

The question asked whether I had confidence in Senator Perchard. I do because the Senator has admitted that he made a mistake. He has apologised for that mistake. He has received comments from me that I do not approve of behaviour such as has happened. But in view of his apology, he committed to learning from that error. I believe that we should accept that apology and that we should take the matter forward, recognising his abilities as a Minister.

2.8.2 Deputy M. Tadier:

As a practicing Catholic does the Chief Minister agree with the words of proverbs 14 verse 17, Good News version: "People with a hot temper do foolish things. Wiser people remain calm"?

Senator T.A. Le Sueur:

Yes, I do and I try to put that into practice myself and remain calm. Equally I believe in the practice of forgiveness and charity. **[Approbation]**

2.8.3 Deputy M. Tadier:

I would venture to qualify that and go further and say selective forgiveness and selective charity. But that raises the question does the Chief Minister, therefore, think it is wise to have people who do foolish things in his Cabinet?

Senator T.A. Le Sueur:

None of us are perfect, myself included.

2.8.4 Deputy G.P. Southern:

Notwithstanding the skills, the determination and the enthusiasm of the Minister, does the Chief Minister accept that his Minister for Health and Social Services' remarks on self-harm have in fact damaged the confidence of the public in the said Minister and what steps will he take or what advice will he give to his Minister to restore that confidence which has been so sadly damaged?

Senator T.A. Le Sueur:

I acknowledge that some people will take offence at the remarks that the Senator made and which I regret and which even more so he regrets making. I believe it is up to the Minister to demonstrate by his abilities as a Minister that he can repair that damage and he can indeed work very hard to support those with similar sorts of problems. I look forward to the Minister working even harder now to demonstrate his abilities.

2.8.5 Senator S. Syvret:

Could the Chief Minister provide for the Assembly an estimate in his view of how many modern, respectable Western democracies would retain as a Health Minister in their government a person who advises others to commit suicide?

Senator T.A. Le Sueur:

I do not think it is realistic to provide any such estimates. I have no grounds on which to make that calculation. Fortunately though people do not make a habit of making remarks like that so I do not think it is particularly easy to quantify.

2.8.6 Deputy T.M. Pitman:

I just wondered is the Chief Minister completely confident that his Minister for Health and Social Services did not mislead the House in responding to the alleged statements made?

Senator T.A. Le Sueur:

Yes, the Minister has made a statement and made the position quite clear.

2.9 Deputy S. Power of the Minister for Home Affairs regarding the behaviour of cyclists:

Hoping to change the mood of the questioning. Is the Minister concerned about bicycle users of all ages who cycle through pedestrian precincts and open areas, against the flow of traffic in one-way streets, ignoring traffic signals? If so, would he undertake to address the issue in conjunction with the States of Jersey Police?

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

Yes, I am concerned. This is a very irritating feature of modern life. There are also of course public safety issues involved, both to the cyclists and to other people. It is a matter that I will discuss with the Acting Chief Officer of Police. But I am not prepared to go as far as an undertaking in these terms.

2.9.1 Deputy S. Power:

Would the Minister not also agree with me that some cyclists do not seem to accept or understand that they are in themselves part of normal traffic flow and that they put their lives and the lives of others at risk, particularly when they cycle at some speed in pedestrian precincts?

Senator B.I. Le Marquand:

Yes, I do agree with that. That was what I meant when I referred to there being public issues; that they are putting both their own lives and other people's lives, particularly if they are going at speed. There are particular difficulties in relation to enforcement matters to do with cyclists because bicycles do not have any registration plates or anything of that nature. So if members of the public seek to make a complaint but do not know the identity of the cyclist there is no way to follow up that complaint.

2.9.2 Senator S.C. Ferguson:

Given that difficulty and the fact that probably the only way to stop them is to put a walking stick through the spokes - which is not to be recommended I might add - does the Minister not think that there is a case to bring back cycle registration as it was in days of his and my youth?

Senator B.I. Le Marquand:

I certainly do not agree that it is a good idea to put walking sticks through the spokes. There has been consideration given as to whether or not it would be a good idea to bring back some form of registration but it is thought that that would be disproportionate to the degree of the existing problem.

2.9.3 The Connétable of St. Helier:

Is the Minister aware that the problems alluded to in this question and the potential solutions are contained in the Draft Cycling Strategy for St. Helier, the document submitted to the previous Minister for Transport and Technical Services for inclusion in the transport policy and would he like a copy?

Senator B.I. Le Marquand:

No, I was not aware of that. I was not even aware that this document existed. I would be very grateful for a copy.

2.9.4 Deputy M. Tadier:

Is the Minister aware that there are areas where cycling is encouraged against the flow of traffic? One can think of New Street where taxis come down one way and there is a cycle lane going up the other way. Would he also acknowledge the fact that in certain circumstances given the inadequate cycling provisions in certain areas that it may be more dangerous to encourage bicycles to go on the road than to allow them sensibly to ride in precincts?

Senator B.I. Le Marquand:

I am aware that there are some areas where allocation of bicycle lanes has been put which I think sometimes goes against the flow. This seems to me to be a somewhat precarious position. At the end of the day it is not my responsibility to decide the zoning of different areas. That is the responsibility I suspect of the Minister for Transport and Technical Services. So the question would be better directed to him.

2.9.5 The Deputy of St. Mary:

In the context of the need to encourage cycling in order to promote good health and to reduce our carbon emissions, I would just like to ask the Minister whether he is aware that ... and I do not condone by the way in any sense people behaving recklessly or putting other people's enjoyment at risk, but is the Minister aware that shared use - i.e. pedestrians and cyclists sharing the same space - is not only common throughout Europe and the U.K. but also has had research done into it by the Transport and Road Research Laboratory which showed conclusively - and they took video evidence of numerous shared use facilities - that in fact it works perfectly well?

Senator B.I. Le Marquand:

No, I am not aware of that. I am very grateful to the Deputy of St. Mary for bringing my attention to that.

2.9.6 Deputy S. Power:

I refer to the Minister's comment in difficulty in identifying certain cyclists who do cause some of the offences that I refer to. I was wondering if the Minister could discuss with the Chief of Police putting an ordinary P.C. (Police Constable) on the beat in St. Helier for about 3 weeks and to knobble some of the worst offenders? Would he not agree with that being a good idea?

Senator B.I. Le Marquand:

As it has been raised with me, I most certainly will discuss that with the Acting Chief of Police.

2.10 Deputy C.F. Labey of Grouville of the Minister for Economic Development regarding the potential impact of the loss of the Reciprocal Health Agreement with the U.K. on tourism:

What measures, if any, has the Minister considered introducing in order to ensure that potential visitors from the U.K. do not choose to holiday elsewhere due to the end of the Reciprocal Health Agreement? What estimated loss, if any, does the Minister envisage will occur to our economy as a result of this increase in the cost of visiting the Island?

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

My department has taken steps to ensure that as far as possible all visitors to Jersey are advised that it is strongly recommended that they purchase medical insurance in advance of their visit. This advice will also be given throughout the industry by hoteliers and tour operators and the information is kept up to date on a dedicated section of Jersey.com. In addition the States insurers are endeavouring to provide a special policy to also be made available shortly online from Jersey.com. This will hopefully provide easy access to a suitable policy for visitors to Jersey and be available for all age groups including people staying with friends and relations. We believe that the broad availability of insurance will minimise any risk of losing visitors to the Island.

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

In the not too distant past when Jersey had a thriving tourist industry it was beneficial for the U.K. Government to have a Reciprocal Health Agreement. Now that tourism has declined somewhat in the U.K. the balance has gone the other way. Could it not be worked out what the deficit is to the U.K. National Health Service and possibly a cheque being written to the U.K. National Health Service and the U.K. Government and the Agreement reinstated?

Senator A.J.H. Maclean:

I think that is really a question for the Minister for Health and Social Services. It relates to the Reciprocal Health Agreement as opposed to any effect it might have on tourism. I think unfortunately my department is in a position where we have to deal with a situation we find

ourselves in. We do believe that with appropriate insurances any potential loss will be mitigated. We will continue to support the tourism industry as we have in the past. Indeed our ...

The Deputy Bailiff:

I think you said that already, Senator.

2.10.2 The Connétable of St. Helier:

Did the Minister see or was it shown to him the *Saturday Independent* travel supplement which contained as its warning of the week advice to travellers to the Channel Islands that the reciprocal health arrangements had come to an end? Does he not think it would have been a good idea for his department to have proactively contacted all of the major players in the media, particularly the travel supplement writers, to ensure the message gets across that A.&E. (Accident and Emergency) services are still available for tourists?

Senator A.J.H. Maclean:

I am aware of the particular article that the Constable is referring to. My department has worked tirelessly in efforts to ensure that as many of the tour operators and others involved in bringing visitors to the Island are informed of the current position with the Reciprocal Health Agreement or the loss thereof. Sadly we cannot always have complete and utter control on what areas the media are going to report. But we will continue to work hard to ensure that the information is imparted on potential visitors to the Island.

2.10.3 The Deputy of Grouville:

As the written responses that I received this morning from the Health Department seem to be abdicating any form of help with reciprocal health agreements collective insurance, would the Minister like to comment on who he intends working with to progress this matter?

Senator A.J.H. Maclean:

Sorry, can I ask the Deputy to clarify her question?

The Deputy of Grouville:

Yes. The Minister for Health and Social Services is stating that their primary concern is healthcare not insurance or anything of that nature. The Minister alluded to the fact that it was not really his domain to work on this. It was the Minister for Health and Social Services'. So between the 2 Ministers could we have some assurance that there might be some progress in this area?

Senator A.J.H. Maclean:

Yes. It is a question or a matter for the Minister for Health and Social Services to deal with, the Reciprocal Health Agreement issue. It is a matter for the Economic Development Minister to deal with the results of the loss of this particular Agreement. That is indeed what my department has been doing to ensure that all those parties that are involved and affected are properly notified and that we put in place appropriate insurances to ensure that any potential loss of visitors is mitigated. That is exactly what we are doing and will continue to do.

2.11. Deputy K.C. Lewis of the Minister for Home Affairs regarding the sale of alcohol to people under age:

Further to yet more reports of young teenagers being drunk and violent in town, what action if any has the Minister taken to clamp-down on shops selling alcohol to people underage?

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

This is a matter which I take very seriously, partly because of my experience as Magistrate. We go through cycles in relation to this where there may be a period where there are a number of groups

of youngsters misbehaving regularly in this way. Then we can go through a cycle a year or 2 later where things are much quieter. Now we are clearly in an up-cycle in relation to problems. I do treat this seriously. I have discussed the matter recently with the Acting Chief Officer.

2.11.1 Deputy K.C. Lewis:

May I preface my questions by stating I seek to protect children not to criminalise them? Children as young as 12 can obtain strong alcohol which they drink with Red Bull. This makes them hyperactive and very violent. Any shop knowingly selling alcohol to children should have their drinks license revoked and never have it returned. Does the Minister not agree?

Senator B.I. Le Marquand:

This is exactly the sort of matter that I have been discussing with the Acting Police Chief. We are going through a process of looking at a new Licensing Law and certainly penalties in relation to those who breach the law and a quick manner of revocation - perhaps on a temporary basis - of a license is one of the factors that we are looking at.

2.11.2 Deputy M. Tadier:

Further to yet more reports of adults being drunk and violent in town, what action if any will the Minister be taking to clamp down on establishments selling alcohol to adults?

Senator B.I. Le Marquand:

This also is part of the overall review of the Licensing Law. This is why it is very, very important that we get this right. The place operates within a framework where we have existing Licensing Laws which have certain side effects and consequences. They are not picking up the paces as it were. We need to have a better legislative framework to reduce the risk of people getting drunk in this kind of way. Not all that happens of course is down to the licensees because sometimes people drink considerably before they go out and then misbehave on trying to get in to licensed premises.

2.11.3 The Connétable of St. Helier:

I think the previous question was perhaps a bit subtle. Could I ask the Minister whether he agrees with me that the vast majority of our young people in Jersey are well behaved, well motivated [Approbation], well brought up and do not constitute a hazard either in St. Helier or anywhere else in the Island?

Senator B.I. Le Marquand:

Of course I agree with that. My experience as Magistrate was of course that we were dealing with a small minority of youngsters who were repeat offenders and that was very frustrating. But I totally agree the vast majority are well behaved.

2.11.4 Deputy K.C. Lewis:

I would agree entirely that the majority of children are very well behaved but it just needs a small minority to create this devastation. The Scottish Parliament is set to announce plans to raise the age at which young people can buy alcohol in off-licences and supermarkets from 18 to 21, although people under the age of 21 can still buy alcohol in pubs and clubs. This could be a strategy that would be beneficial for Jersey. Does the Minister not agree?

Senator B.I. Le Marquand:

This is a strategy which needs to be looked at as part of the current Licensing Law review. It is a matter I am aware of. There are other possibilities as well.

2.12 Deputy G.P. Southern of the Chairman of the Privileges and Procedures Committee regarding the relevance of the Nolan Test to Article 39A of the Public Elections (Jersey) Law 2002:

Does the Chairman consider that the Nolan Test wherein if in any doubt about the probity or propriety of your actions, you should ask yourself the question: “What would a reasonable observer think?” is relevant to Article 39A of the Public Elections (Jersey) Law 2002?

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

Article 39A of the Public Elections (Jersey) Law 2002 will be considered in depth by this Assembly during the debate of Deputy Southern’s proposition P.18/2009 - Public Elections (Jersey) Law 2002 Rescindment of Article 39A. While criminal proceedings are being pursued against Members of this Assembly under Article 39A of the Law and until P.P.C. (Privileges and Procedures Committee) as a whole has considered this issue, I do not feel it would be appropriate for me to express an opinion in relation to this matter. As I informed Members in my answer to a written question put by Deputy Southern on 10th March 2009, the Privileges and Procedures Committee will examine all voting procedures under the Public Elections (Jersey) Law 2002 as part of its work programme for 2009. That will include a review of Article 39, alongside other postal voting procedures. I would simply conclude by reminding Members that Article 39A was approved by a large majority when it was debated last year.

2.12.1 Deputy G.P. Southern:

I do not have a great deal of hope for the next question, nonetheless, I will ask it just to hear the silence that perhaps ensues. Does the chairman consider that breach of Article 39A constitutes undue influence on postal ballot?

The Connétable of St. Mary:

[Interruption] I do not believe, Sir, that that is a question that can appropriately be put to me.

2.12.2 Deputy G.P. Southern:

A supplementary if I may. I believe it is entirely appropriate since the current chairman was the rapporteur that introduced Article 39A and certainly was very persuasive in persuading the House to vote with such a majority, including using I believe the words in *Hansard* of “undue influence” around 39A.

The Connétable of St Mary:

It is quite correct that I was the rapporteur for that but we are now facing a situation where a law has been passed by this Assembly and adopted. Breaches of the law are not my concern.

2.13 The Deputy of Grouville of the Minister for Treasury and Resources regarding the compilation of responses to questions on G.S.T:

Would the Minister confirm what assistance, if any, he receives from his officers, the States Communications Unit or an independent P.R. (Public Relations) person when compiling his answers to questions on G.S.T. (Goods and Services Tax)?

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

I get technical information from officials in relevant departments, particularly the Treasury - in this case, Income Tax/Customs - to inform the background of my answers. But of course the replies are my own. I use the States Communications Unit when considering how to consult or communicate on policy decisions.

2.13.1 The Deputy of Grouville:

As the Minister's response to a written question asked by Deputy Vallois on 10th March 2009 compared in similarity, in points made and wording to a letter which appeared in the *Jersey Evening Post* a couple of days earlier on 7th March which was investigated and discovered to be fraudulent by the paper [**Approbation**], would the Minister like to make comment?

Senator P.F.C. Ozouf:

I did not hear the last word.

The Deputy of Grouville:

Would the Minister like to make comment?

Senator P.F.C. Ozouf:

I regret the insinuation that there is some issue here. I am aware of the letter that the Deputy refers to. I have also drawn attention to my department by the fact that numerous previous answers to questions of G.S.T. have also answered similar questions in similar terms. That is the only explanation that I can draw from the Deputy's analysis.

2.13.2 Deputy G.P. Southern:

Given the timing of the letter and the statement, did the Minister copy those particular words and phrases from the letter?

Senator P.F.C. Ozouf:

I know nothing about any letter to the *J.E.P.* (*Jersey Evening Post*) apart from what I read in the *J.E.P.*

2.13.3 Senator S. Syvret:

In the event of the Comptroller and Auditor General undertaking a thorough comprehensive analysis of the activities of the Communications Department to see whether any taxpayers' money has been used to fund spin doctors writing fake, manufactured letters to the *J.E.P.*, would the Minister give us an absolute categorical assurance ... he is presently 100 per cent confident no such thing has happened but if it proves to have occurred what action would he take?

Senator P.F.C. Ozouf:

I can absolutely confirm that I have absolutely no information, insinuation, suggestion to me that the Communications Unit have acted inappropriately. I will re-examine the text of the letter. I repeat that my attention has been drawn to the fact that words in that letter were similar to previous answers given a number of months ago, I think perhaps under my predecessor who obviously also took advice from the department. I regret deeply any insinuation of any improper action. I hope the Senator is not suggesting so.

2.13.4 Deputy G.P. Southern:

Will the Minister give a categorical assurance that in drafting his answers given in the States he never makes use of any external advisers or P.R. advisers.

Senator P.F.C. Ozouf:

Absolutely, unequivocally no.

Deputy G.P. Southern:

So that is no assurance?

Senator P.F.C. Ozouf:

The Deputy is quite clear of the reason for my answer. The answer is no, I do not.

2.14 The Deputy of St. Martin of the Minister for Home Affairs regarding the appointment of an Acting Deputy Chief of the States of Jersey Police:

Is the employment of a retired overseas police officer to the temporary post of Acting Deputy Chief an indication that none of the current top management of the States of Jersey Police is fit to act above their present rank? If so, what impact on officers' morale will this loss of this ideal development opportunity have?

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

The answer to the first part of the question is no. The answer to the second part of the question is that it is a rhetorical question, it is not a real question, it is an attempt to make a statement through a question and I do not agree with the implications of the question.

2.14.1 The Deputy of St. Martin:

Well, will the Minister agree then that the appointment of an Acting Deputy Chief is denying officers the opportunity of proving their worth by acting-up and thereby the opportunity of ... sorry, the appointment of the Acting Deputy Chief is to the detriment of local officers?

Senator B.I. Le Marquand:

One senior officer was in fact acting-up for a period of in excess of 3 months but the pressures upon the leadership team are such that it was necessary to bring in an additional person from outside to support that team. If someone had been, as it were, internally promoted up, that would not have solved the problem because we need additional people. There is also a technical issue in that it is an A.C.P.O. (Association of Chief Police Officers) requirement for an officer of the rank of Chief Officer or Deputy Chief Officer to have completed the strategic command centre course and at this moment no local officers hold that qualification, with the exception of course of the Acting Chief.

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

Would the Minister confirm my understanding that this position is, in fact, on a short-term contract and it is not, in fact, a long-term permanent contract?

Senator B.I. Le Marquand:

That is absolutely right. Of course, because we were out of time last week I was not able to answer this verbally but I did by email. It is a 3 months fixed-term contract followed by continuing on a monthly basis. So it is purely temporarily bringing someone in to cover during a period of great pressure.

The Deputy of St. Martin:

The Minister will agree that the current problem arises because 2 senior officers are suspended at present; one for around 9 months and another one for about 5. Is the Minister aware of the hardship and the feeling of helplessness that both officers are experiencing? If so, what steps is he taking to expedite the investigations into the officers' alleged misdeeds so they can either be returned to duty or face a disciplinary board?

The Deputy Bailiff:

I am sorry, Deputy, I am not sure that arises out of your question, but I have seen 2 other Members who wanted to ask questions; Deputy Fox and then Deputy Le Hérissier.

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

In relation to the Senior Command Post at Bramshill in Hampshire, could the Minister advise, if possible today but if not in writing, of the consequences ... sorry, let us turn it the other way ... could advise in writing of what current officers are being considered for this accelerated year-long course to be able to take up the A.C.P.O. positions in the future that are required as just previously stated?

Senator B.I. Le Marquand:

I do not know if I can or cannot, I am afraid, because I do not know how that would be viewed from the point of view of confidentiality. I would need to take advice on that.

2.14.4 Senator S.C. Ferguson:

Could the Minister not give us the numbers, if not the names?

Senator B.I. Le Marquand:

The numbers who have been considered? Yes, I could give that information.

The Deputy Bailiff:

Now or later? [Laughter]

Senator B.I. Le Marquand:

But not now because it is a complete and utter surprise. No one could have guessed at this line of questioning, I think.

2.14.5 Deputy R.G. Le Hérissier:

Building on that question, would the Minister give us an assurance that there is in place a proper succession planning system within the force?

Senator B.I. Le Marquand:

I am afraid I do not know the answer to that question. It is clearly a matter of some importance to me because one of my primary roles is to ensure that there exists an efficient system and succession planning is an important part of that. Of course the position of the Chief Officer remaining uncertain, it is difficult to formulate clear plans until his status is finally determined.

2.14.6 Deputy R.G. Le Hérissier:

Supplementary. Would the Minister not acknowledge that, given that succession planning is a very long, long-term process as the Minister for Education, Sport and Culture knows, would he not acknowledge that therefore it is strange that every few years we shudder to a halt and discover that there are no people apparently in the pipeline?

Senator B.I. Le Marquand:

I cannot comment on the past, but I can indicate that I am not very happy with the situation which currently presents itself to me.

2.15 Deputy K.C. Lewis of the Minister for Home Affairs regarding changes in legislation to make parents more responsible for their children's behaviour:

Does the Minister consider that a change in legislation is required to make parents more responsible for their children's behaviour?

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

No, I do not. The courts already have considerable powers under Articles 9 and 18 of the Criminal Justice Young Offenders (Jersey) Law 1994. It is up to the courts as to how they choose to utilise those powers.

2.15.1 Deputy K.C. Lewis:

May I just briefly repeat that I seek to protect children, not criminalize them. There are reports of children being able to walk out of care homes any time day or nights and putting themselves in danger. Some parents have even tried to remove the children from gangs at Snow Hill and have

been prevented from doing so by the police who are merely upholding the law. Does the Minister think that in this respect the law relating to children in Jersey needs to be completely redrawn?

Senator B.I. Le Marquand:

There are problems. It is very well known that I have highlighted problems for a very long time. The problems relate partly to the fact that we have no secure Children's Homes and therefore that Greenfields has to seek to fulfil a number of different functions. There are difficulties; there is a particularly difficult issue as to whether the courts should have powers to sentence youngsters aged under 15 to some sort of order by virtue of a criminal conviction. I personally favour that and while that lacuna by which we continue to have no effective enforceable sentencing powers for those under 15, while that continues, we will continue to have the existing situation in which we have youngsters who are untouchable and know themselves to be untouchable. My concern, like the Deputy's, is for the welfare of the children as well as for public safety.

2.16 Deputy T.M. Pitman of the Attorney General regarding alleged breaches of the Public Elections (Jersey) Law 2002:

In the light of the Attorney General's recent confirmation that he has chosen to prosecute only certain alleged breaches of the Public Elections (Jersey) Law 2002 and not all, does the Attorney General now intend to tender his resignation? Particularly as this breaks entirely the ethics of the code of his own website?

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

I did not hear the last bit, so could the questioner repeat that?

Deputy T.M. Pitman:

I said, particularly as it appears to break the very code on your own website.

The Attorney General:

I do not recall giving any such confirmation as is contained in the question, but in any event, the answer is no.

2.16.1 Deputy T.M. Pitman:

We have in our evidence from the Attorney General that he does confirm such a thing so I think he is misleading the House, which I think is quite shocking.

The Deputy Bailiff:

What is your question? What is your question, Deputy?

Deputy T.M. Pitman:

My question is is the Attorney General misleading the House?

The Attorney General:

Certainly not because I have said I do not recall giving any such confirmation, that remains true. If the position is that the Deputy is referring to the written answer which I gave last week, I expressly said that I was not commenting on the facts underlying the 2 current prosecutions which are pending. I gave the answer then as a matter of general principle, as I say, expressly not commenting on those facts.

Deputy T.M. Pitman:

But this really is not good enough. Email evidence - an email sent to Deputy Shona Pitman - this is quite disgraceful. Proof. I can fax it if Sir would really like me to.

The Attorney General:

I am grateful to the Deputy, if I may, because I do now recall the email in question and in the circumstances that that has been made public by the Deputy, it was a communication between me and a person who is accused and unrepresented. But, in the light of that, I do confirm that I did decide not to take forward a police investigation in relation to one other incident. Details of that will, no doubt, be available to the court at the time the matter comes to trial. For all the reasons I have given previously, it is simply not appropriate that there should be discussion about these matters in this Assembly when a trial is pending.

2.17 Deputy A.T. Dupré of St. Clement of the Minister for Health and Social Services regarding the impact of his recent comments on those with suicidal tendencies or coming to terms with bereavements:

Notwithstanding his apology to the Assembly, does the Minister appreciate the hurt that his comments have caused to those people who have suicidal tendencies or who are trying to come to terms with bereavement from suicide?

Senator J.L. Perchard (The Minister for Health and Social Services):

I thank the Deputy for this question and an opportunity to reaffirm my position. Last year during a private conversation outside this Chamber, I directed an improper comment suggesting self-harm to another States Member. I snapped and I reacted improperly at the Member after being repeatedly provoked and provoked and provoked. I am very sorry I said what I did and I repeat my unreserved apology to States Members and to the people of Jersey. This apology of course extends to anyone with mental health or emotional difficulties and those who may have thoughts of self-harm or suicide. I recognise as well as my apology, that it should be extended to families and the loved ones of those with mental health problems and those that have committed suicide. My commitment to supporting those who provide high quality, evidence-based mental health psychological services is a priority. I assure Members that my unfortunate comment made last year has re-intensified my desire to demonstrate this commitment.

2.17.1 Deputy A.T. Dupré:

Does the Minister realise how many people on this Island are now asking for your resignation?

Senator J.L. Perchard:

No, I do not realise how many people on this Island are asking for my resignation, nor does the questioner.

2.17.2 Deputy M. Tadier:

I do regret the tone of that last answer but first of all let me just say that I think the whole of the House welcomes the apology that was given last night in public. That notwithstanding, does the Minister acknowledge that any words will remain simply words and any apology will remain hollow, certainly as perceived by the public, so long as the Minister doggedly refuses to tender his resignation?

Senator J.L. Perchard:

I do not accept that at all. That is a position taken by some, including the Deputy I assume, and I do not accept that. I have made a mistake. I said something last year in a private conversation that has been used widely now and quoted widely. I regret it immensely. I apologise; I intend to move on and learn from that and ensure that the lesson is put to the benefit of the mental health services and I am committed to ensuring our mental health services are properly resourced and it is a priority for me. I have learned a lesson.

Deputy M. Tadier:

Purely to clarify, I am not saying one way or the other what my position is, I am purely reiterating as Deputy Dupré has mentioned that there is a vast outcry from the public on this issue and it does not seem to have been satisfactorily dealt with.

The Deputy Bailiff:

So were you asking another question?

Deputy M. Tadier:

It is not a question, it is purely a clarification. I can tack a question on to the end of it, if you like.

The Deputy Bailiff:

Very well, I am afraid time has now expired on ...

The Deputy of St. Martin:

Can I ask that we suspend Standing Orders to allow the completion of this question and the one question remaining? I would like to propose that Standing Orders be suspended.

The Deputy Bailiff:

Very well, you are proposing the suspension of Standing Orders to allow the questions to finish? Seconded? **[Seconded]** Very well, the appel is called for in relation to whether to suspend the Standing Orders to continue Question Time until the end. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 24		CONTRE: 14		ABSTAIN: 0
Senator S. Syvret		Senator T.A. Le Sueur		
Senator P.F. Routier		Senator P.F.C. Ozouf		
Senator B.E. Shenton		Senator T.J. Le Main		
Senator S.C. Ferguson		Senator J.L. Perchard		
Senator A.J.D. Maclean		Senator B.I. Le Marquand		
Connétable of St. Lawrence		Connétable of Trinity		
Deputy R.C. Duhamel (S)		Connétable of Grouville		
Deputy of St. Martin		Connétable of St. Brelade		
Deputy J.B. Fox (H)		Connétable of St. Martin		
Deputy J.A. Martin (H)		Connétable of St. John		
Deputy G.P. Southern (H)		Deputy R.G. Le Hérisssier (S)		
Deputy of St. Ouen		Deputy J.A. Hilton (H)		
Deputy of Grouville		Deputy S.S.P.A. Power (B)		
Deputy of Trinity		Deputy I.J. Gorst (C)		
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

Very well, so we return to Question 17. Senator Syvret?

2.17.3 Senator S. Syvret:

It was not my intention to participate in this question, but I am afraid the Senator has again imputed the implication that I did not quote accurately or honestly the remarks he made to me in the Assembly. Will the Senator acknowledge that, in fact, what he terms: “The private conversation that took place last year” in fact took place in the presence of at least 2 other people at a public press conference and that he did, in fact, in the matter in question in this Assembly, instruct me to: “Go and top myself”?

Senator J.L. Perchard:

I am not sure that is related to the original question. However, I will answer it. The Senator, on a daily basis, distorts facts and writes his version of the truth on his website and I am not prepared to try and ... why should I have to defend myself, we just have to read his website daily, he will distort the evidence ...

The Deputy Bailiff:

Senator, can we just come back to you answering the question, rather than ...

Senator J.L. Perchard:

Yes, well, I am not even sure what the question was, quite frankly.

Senator S. Syvret:

I am happy to clarify it. I stated quite unambiguously what it was that the Minister said to me in this Assembly. The Minister persists in attempting to avoid that issue and duck around it. Will he confirm that he told me to go and top myself in this Chamber?

Senator J.L. Perchard:

I did not, but as I was not aware that was his question, I did not. I did whisper some unpleasantries in his ear in response to something that he had, just moments before, said to me and I refute his version of what was said and I maintain the position that I totally refute his version of what was said.

Senator S. Syvret:

This is a serious matter. The Minister is accusing me of lying and in fact I ...

The Deputy Bailiff:

No, no, Senator, I am sorry, there is a difference of statement as to what was said. That does not necessarily impute lying. People in court remember conversations differently every day.

Senator S. Syvret:

Well, he is having exactitudinal difficulties with the actuality, if I might use that phrase then. He told me to go and top myself. That is the phrase that he used to me and I would entirely happily affirm that under oath in a court of law, as I think would probably a few other Members.

The Deputy Bailiff:

Very well. Deputy of St. Martin?

2.17.4 The Deputy of St. Martin:

I can appreciate the difficulty the Minister finds himself in and I am quite happy to say that I did vote for him because I did have his confidence. However, would he not consider probably the best way forward is to offer his resignation and stand again? That way he would test the mood of the House to see whether, in fact, the Members still have confidence in him?

Senator J.L. Perchard:

I had not considered doing that, no.

2.17.5 Deputy G.P. Southern:

Since the Minister contests the wording used, will he inform Members what he did say without the expletives?

Senator J.L. Perchard:

Senator Syvret's interpretation of what was said is not the same as mine and that is all that needs to be said except I know what I did not say.

2.17.6 The Connétable of St. Martin:

We have heard the apologies in this Chamber, we have heard the apologies in public on the television news and will the Minister demonstrate his intent to improve the mental health services by some measurable means that, in the future, we can say: "Yes, he is contrite and he has improved the services in the mental health situation"?

Senator J.L. Perchard:

I give Members my commitment that I will make every effort to prioritise the support given by me and my Assistant Ministers to the mental health services and that we will endeavour to not only improve but completely upgrade and we do need to be looking at the whole St. Saviour's Hospital site as to whether it is even suitable. I did mention at the time of my election that I will be bringing forward a plan for Overdale, which I would like to see include a state-of-the-art acute mental health facility which could be paid for by the sale of St. Saviour's Hospital. Yes, I am committed. I did not realise until quite recently that Jersey suicide rates are statistically higher than they are in the U.K. and so we have real issues here. I am committed and perhaps, I hope, Members will agree some good will come out of this in the sense that the sensitivities around this whole situation, perhaps I was not aware of. I said something flippant and stupid and I really regret and something good will come of this, I hope. I stand to be judged by that.

2.17.7 Deputy A.T. Dupré:

Could the Minister tell the House if he would be prepared to undertake an anger management course?

Senator J.L. Perchard:

Yes, I would, I would. But when provoked to a level and you say something ill-considered and flippant, I am not sure whether that is anger or stupidity. I think probably I was stupid. But I would be quite happy - the experience would be very useful - to undertake that course, because I have undertaken all sorts of courses already in my role as Minister for Health, S.P.E.L.D. (Specific Education Learning Difficulties) training, for example, Autism Jersey, some very interesting courses, and yes, one learns from that.

2.18 Deputy R.G. Le Hérissier of the Minister for Transport and Technical Services regarding the provision of more capacity on public transport during the morning rush hour:

Would the Minister stipulate the number of school buses that return to town empty during the morning rush hour and advise what steps, if any, are in place to provide more capacity on public transport during this busy period?

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

As advised to the Deputy in a written question on 24th February 2009, the only school service that is feasible to reuse as commuter services are those operating to Le Rocquier and Les Quennevais, being out-of-town schools; 12 morning services are operated to these schools of which 4 are reused, providing 5 commuter services back into town, 3 are provided by white Mercedes school buses

which are not licensed for the main network and the remaining 5 return to town empty. There are a number of issues which do curtail the reuse of school services. But I am committed to maximising the integration of all services and will continue to discuss options in this regard with Connex. However, it must be remembered that if we succeed in bringing more commuters into town in the morning, we will need to provide afternoon commuter services to get them home. These cannot be provided by returning school buses and will need to be new services on the main network which will require additional funding, which the department does not have. As far as increasing capacity during the morning peak, I am already proposing, as part of the summer timetable amendments, an additional commuter service on the route 15 which will operate as an express along Victoria Avenue and this is provided within existing budget by simply tweaking the network. In conclusion, I would advise the Deputy that whether additional capacity is provided by reusing school services or by adding new services and morning services would have to be replicated by the afternoon services as well, additional funding would be required.

2.18.1 Deputy R.G. Le Hérissier:

Would the Minister not acknowledge that one of his aims was to provide a truly integrated service and that the issue in the morning is not necessarily the capacity, it is the fact that it is all condensed within a very short time period. So to say that extra people will be brought in in the morning and that therefore extra services have to be brought into service in the afternoon to mirror those morning services is not quite accurate. It is the condensation of the services which is the issue. Would he also confirm that I observed at least 7 empty buses going in along Victoria Avenue this morning, totally empty when people were waiting at bus stops?

The Connétable of St. Brelade:

Yes, indeed, the Deputy is absolutely right in that situation is more condensed in the morning, but the fact of the matter is those people arriving in town have to be got home somehow and we have additional capacity issues in the afternoon. So, I do not think that can be ignored. In terms of the empty buses, I am not content with seeing empty buses running back into town and also have witnessed, in a similar vein, the Deputy's experience. What we have to take on board is the fact that the white Mercedes school buses are not licensed for scheduled services. They are less accessible with steep steps on entry. The drivers just operating the school bus services are not trained or paid to handle cash. They are paid at a different rate, they are part-timers and they are only required during the school term and therefore are on a different contract to the full-time, permanent members of staff. So it all depends on the arrival of the school services as to whether it is feasible to get them back on to the already congested network into town to collect commuters and to get them in by 9.00 a.m. It is a tight issue and one the department is keen to gain the most advantage out of and we think with the present situation that we do our best.

2.18.2 The Deputy of St. John:

Will the Minister confirm that his department are thinking outside the box because at a meeting I had with the Assistant Minister and his Director at Connex some weeks ago, I raised the issue of double-decker buses across parts of the Island and I have got a book here of Jersey buses; in fact there is one that goes to Plémont, another one that goes to Gorey Pier, *et cetera* and the excuses were that double-deckers were basically out of sync because there were too many pinch points? On the roads as they were many years ago - they have been widened since - the double-deckers were running around this Island and I am sure you are aware of that. I am aware that you are possible looking at that, but will you make sure that you are looking outside the box in any review that is going on so everybody in the Island can benefit? This publication can be obtained in fact through the good services of Deputy Le Hérissier.

The Connétable of St. Brelade:

I, for one - I think, probably with a bit of nostalgia - would be very pleased to see double-decker buses back. They worked very well on the Gorey to Corbière route as I recall and I caught them many times to school myself. So, clearly there are road issues and a bit of trimming which could be done, as I recall it used to be done with the open topped double-decker by the J.M.T. (Jersey Motor Transport Company Limited) and I am sure that is achievable. I think, quite frankly, we will be leading in the next 2 years towards renegotiating the bus contract towards the replacement of bus stock and these are the times that we have to look at this. I, for one, am keen to take this present contract perhaps in a different direction. The present situation I do not think is satisfactory to the travelling public of the Island in its entirety, but it is entirely constrained by finance and this is the difficulty I have at the moment. I have figures in front of me here which indicate an increased bus usage over the last year of 3.67 per cent, while creditable I do not think is really enough and I would like a new contract to perhaps reflect more the demands of Islanders and be in a position for my department to provide a better service after 2013 when it will come into place.

2.18.3 The Deputy of St. Mary:

Again and again the Minister has said that each additional bus requires funding. The buses cost money. I would like to ask the Minister whether he will quite soon cease to think only in terms of the costs of the bus service and start also to add up the benefits of the bus service to the community? What measures will the Minister take to assess the savings and benefits which accrue to the community, both in health terms, fitness terms, pollution terms and land-take terms? Will he undertake to assess the benefits to the community which accrue when more people commute by bus instead of by car?

The Connétable of St. Brelade:

While the Deputy takes a very creditable approach and has perhaps a different angle on living to others, I fully understand, but I do not think it is for me to impose a policy change on the people of Jersey. If there is a strong enough feel... if the Deputy feels that the Treasury ought to take into account the suggestions he makes, I put it to him that he has to bring policy to this House for the Assembly to adopt and transfer to the various departments so that we can review they way we finance the operations of the Island.

2.18.4 Deputy G.P. Southern:

I simply cannot believe this last answer. The Minister responsible for Transport on the Island says: "It is not for me to bring a policy forward." When is the Minister going to bring forward a sustainable transport policy for this House to consider and to decide which emphasis we should be directing transport policy?

The Connétable of St. Brelade:

I think that the Deputy misunderstands me. I operate the department in a way that has to stack-up financially. I have no alternative. The Assembly has directed my department to operate in a sustainable manner and if we are working with intangibles, it is extremely difficult. But if Members wish us to do so, we will. Now, in terms of the transport policy, that has been submitted to Scrutiny who are in the process of reviewing it. I expect I shall have a response shortly and it will form part of the Island Plan which will be presented to this Assembly in due course.

2.18.5 Deputy G.P. Southern:

Supplementary, if I may? When will he be submitting his policy and does it take into consideration such things as the new energy policy?

The Connétable of St. Brelade:

The policy has been submitted to Scrutiny and I am awaiting their response. In terms of energy policy, that will form part of the Island Plan and will certainly have some link into the I.T.T.P. (Integrated Travel and Transport Plan).

2.18.6 Senator S.C. Ferguson:

We are not on Questions without Notice, are we? No? We have got a bit off the point.

The Deputy Bailiff:

We have another 15 minutes for Members to question the Minister for Transport and Technical Services.

Senator S.C. Ferguson:

Yes, but in relation to the bus service, I wonder if the Minister has considered asking the Comptroller and Auditor General to review the operation of the Connex contract to see whether it has provided value for money and where it could be improved?

The Connétable of St. Brelade:

I would be quite happy for any review into the contract and in fact my department will shortly be, over the next 2 years in fact, getting involved with that to see how we can improve it to the benefit of the public of this Island.

The Deputy Bailiff:

Final question then from Deputy Le Hérisier? No. Very well, that completes Question Time. So we then move to Questions without Notice [**Laughter**] and questions are to the Minister for Transport and Technical Services.

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

3.1 The Deputy of St. Martin:

Four months ago on 2nd December 2008, the States approved the Speed Limits Creation Review Working Group put forward by Deputy Gorst of St. Clement to bring forward its conclusions to the House by 30th June which is 3 months away. Will the Minister give an update on the work being undertaken by this Review Group and is the project on time to be here on 30th June?

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

I thank the Deputy for the question. The panel - a sub-panel if you like - has been formed consisting of the Connétable of St. John, Connétable of St. Saviour and Deputy Fox and they will be considering the subject matter, utilising the information which is at hand. A review was undertaken by the Comité des Connétables about 18 months ago. They will be taking that on board and carrying out the necessary consultations and no doubt reporting to the House hopefully back in time for 30th June.

3.1.1 The Deputy of St. Martin:

May I ask a supplementary? When was that group set up, please?

The Connétable of St. Brelade:

It was only set up about 10 days ago.

3.2 Senator S.C. Ferguson:

The House is aware that there will need to be a replacement for the Chief Officer, the current one having been promoted. Has a new Chief Officer been appointed and in view of the House's concern about succession planning and promoting from within the Island, can the Minister give us any details as to what is happening?

The Connétable of St. Brelade:

The post of Chief Officer was advertised and there were 3 local applicants, one of which was selected as Acting Chief Officer with a view that the post be advertised further. I am keen that the post be taken by a local applicant. I feel it is a position that is quite difficult to fill from outside in that it is technical - that is the nature of the beast - a technical operation and the applicant who was appointed as Acting Chief Officer, I think, with training will be the ideal person to eventually take the post.

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

The Waste Management Strategy states that only a small fraction of the waste electricals and metals will be separated for recycling and that the remainder will be included in the waste stream for burning. Given that these materials are a major pollutant of the gases emitted and the ash formed, will the Minister be bringing to this Assembly, within his term of office, a revision to the waste electrical items and metals recycling targets within the Waste Management Strategy and also be seeking to introduce stricter separation procedures to minimise or eliminate metal contamination within the residual waste stream?

The Connétable of St. Brelade:

If I can work this backwards in answer to the Deputy's question. Clearly the concern is over burning waste electricals as any emissions that may exude from the flues, either from Bellozanne or from the new plant presently being constructed at La Collette. I am very keen that any emissions from those flues are kept well within controls and to that end I would ensure that any separation or any filtering of the flues takes place before this happens. The present situation is that we have a considerable number of pallets of television sets down at Bellozanne; these are awaiting shipment to the U.K. and the costs are significant. We worked out recently that it costs about £10 per set to send these off the Island in terms of palletisation at this end, transportation for getting it across, transportation from the docks to the plant over the other side and a gate fee at the other side. It may be that in the course of time we will have to review how these costs can be balanced and perhaps turned into a user-pays situation so the Island is not forced to spend money on disposing of electrical goods.

3.3.1 Deputy R.C. Duhamel:

Supplementary? Does the Minister intend to eliminate or to separate out from the incinerator waste stream things like household batteries or indeed items containing mercury? If not, how will he intend to deal with these material items within the burning incinerator waste?

The Connétable of St. Brelade:

The detail is that the department has a philosophy to reduce this as much as possible, but with the best will in the world, there will be the odd one that creeps in and I think with additional kerbside separation schemes which the Parishes are developing as time goes on, this situation will be much improved. But certainly, to confirm with the Deputy, the department's philosophy is to separate as much as possible.

Deputy R.C. Duhamel:

Further supplementary, if I may?

The Deputy Bailiff:

No, I am sorry, Deputy, you have had your 2 and there are a number of other Members who want to ask questions. Deputy Green?

3.4 Deputy A.K.F. Green:

Could the Minister outline the design changes that were made by the Minister for Planning and Environment to the original specification for the energy from waste plant? It was discussed at a meeting on 6th November 2008 and these alterations increased the cost by £4 million.

The Connétable of St. Brelade:

The Minister for Planning and Environment, as part of the condition of the planning consent, insisted on various alterations to the building proposed to encapsulate the energy from waste plant and those were implemented and the planning permission was given.

3.4.1 Deputy A.K.F. Green:

Supplementary? Could the Minister be a little bit more precise rather than “various alterations”?

The Connétable of St. Brelade:

Well, in truth, the involvement of the Minister for Planning and Environment insisted that Hopkins Architects be engaged to redesign the exterior of the building and this was done and has been approved.

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

Would the Minister for Transport and Technical Services, if the proposed Ann Court car park does not go ahead which would have seen the Minister have to borrow up to around £25 million, still pursue this money to exactly do what we were hoping a new Minister for Transport and Technical Services would do and that is think outside the box and kick-start a new integrated form of transport in Jersey?

The Connétable of St. Brelade:

Yes, if I may just correct the Deputy on one point, with the proposals in place prior to the change of heart, if you like, and move to a master plan, the intention was that the proposed construction would be financed principally from the car parks trading fund and there would be a borrowing of some £12 million to make up the difference. I am guided by the mood of Members. In effect, the proposals for Ann Court car park were passed through the Assembly, they were given to the Council of Ministers in the previous regime, if you like to call it that, and my department was charged to produce plans for a car park which they have done. The situation now has reverted back, and I think quite rightly, to the Minister for Planning and Environment for the creation of a north town master plan. Discussions on this are ongoing and I think the result will be of great benefit, not only to the north of town but to the town in general. So, yes I am prepared to think outside the box. Anything which is going to be of benefit to the public. But not only the public and residents, but traders alike have to be considered and if there is an improvement to be had, we need to think about it.

3.5.1 The Connétable of St. Mary:

The Minister will be aware that as far as the bus service is concerned, St. Mary and other outlying Parishes effectively close at about 6.00 p.m. in winter months. Will the Minister undertake to investigate whether it would be possible to lay on a circular route taking in areas of St. Mary and St. Ouen prior to the winter schedule being finalised? Even if perhaps this only happens on limited nights, say Friday and Saturday in the first instance.

The Connétable of St. Brelade:

All suggestions with regard to improving the bus service will be gratefully received and, in fact, I think at the next meeting the Comité des Connétables have asked representatives of Connex to attend to receive suggestions from the Connétables as to how their Parish services may be improved. What must not be overlooked, of course, is cost. In fact, if these services can be cost neutral, it is best, but that is not always achievable. I think what we need to demonstrate and perhaps draw out of our parishioners is the need. So once we have identified that need and perhaps a certified need, we can put on a service which is going to be satisfactory to those who wish to use it.

3.6 Deputy R.G. Le Hérissier:

Will the Minister outline, given that the Discrimination Law has been held up yet again, what voluntaristic steps is he taking to improve disability access to public transport, be it taxis or be it buses, where only half, if that, of the fleet is currently covered?

The Connétable of St. Brelade:

With regard to bus replacement, when this becomes due once again at the end of the contract, consideration will need to be given to that. In fact in part of my previous answer to the Deputy regarding school buses, that is a situation which is not very flexible in that we have school buses which are not accessible to disabled people, so we feel we cannot use them for certain routes. There are a number of taxis which are, shall we say, wheelchair-friendly and those were brought in by my predecessor to help ameliorate the taxi situation. So while I am sympathetic and will always consider the disabled as a priority, we have to work in within our present contract - particularly with the buses - but in the new one we will be perhaps focusing more sharply on it.

3.6.1 Deputy R.G. Le Hérissier:

Can I just ask a supplementary? Is the Minister aware, are the number of taxis that are disabled-friendly increasing? Is that policy still being applied energetically?

The Connétable of St. Brelade:

I do not think there is any change to the policy and that there were a number of new licence plates issued a year or 2 ago and, that number I think is stationary at the moment but the taxi service is due for a review and maybe that is something that we should consider in the round.

3.7 The Deputy of St. Mary:

The Minister will have seen the email, which I circulated to all States Members, about Deputy Green's written question last session, in which he asked, among other things, for the chemical composition of the water in the excavation pit for the incinerator at La Collette and the answer from T.T.S. was that the water entering the site will be sea water and rain water. How does the Minister feel about his department when he sees them misleading the house?

The Connétable of St. Brelade:

I would refute the suggestion or allegation of the Deputy that my department misleads the House. My understanding is, and I went down to look, is that sea water comes into the pit and flows out. Effectively, the contractors who applied for the permit are tanking out the bunker pit as part of the new construction and there will inevitably be leakage. There is a Jersey Electricity Company cooling water outfall and there is leakage through that and what comes in goes out. But, as a precautionary mechanism and to ensure there is no suggestion of any polluting at all, the Environment Department were applied to for a discharge notice in the proper manner and this is being undertaken. My understanding of the analysis provided by the Deputy is it was an analysis of the silt taken out of the excavations and not the water. I await an analysis of the filtered water, which I have not yet received, to be certain that the Deputy's information is correct. I, at this stage, am not satisfied that the suggestions he has put forward are absolutely correct.

3.7.1 The Deputy of St. Mary:

The Deputy did not do the water analysis; the official analyst did the analysis and it says here "sea water" in one column and "pit water" in the other. It does not say "pit silt" and I doubt if he could analyse the silt. The figures here with lead at 40 times ambient, copper 4 times ambient, iron 112, I think, times ambient, manganese 32 times normal sea water; does the Minister not agree that these figures are quite startling and do not add up to sea water and rain water and that therefore his department was trying to keep this House unaware of the truth?

The Deputy Bailiff:

No, no, no, Deputy, I am sorry, you cannot allege improper conduct like that. You can say that it was inaccurate information.

The Deputy of St. Mary:

What other interpretation can be put upon ...?

The Deputy Bailiff:

You can say, under Standing Orders, that it was inaccurate information, Deputy.

The Connétable of St. Brelade:

I dispute the Deputy's allegations of inaccurate information. I am aware of the analysis taking place. I am not satisfied that what the Deputy is suggesting... the correct part has been analysed. I want to see that the water coming out of the purification process has been analysed. I am not satisfied that has taken place. If there are any inappropriate levels in the discharges, the Environment Department will be telling me. If I may add, as part of this - I am wearing a Fisheries Panel hat - I am extremely concerned that any pollutant would enter that area and it affects the fisheries in that corner of the Island and we will go to great pains to ensure that the water remains pure.

The Deputy Bailiff:

Very well, I know a number of other Members have got questions but that completes the time to the Minister for Transport and Technical Services. So, the second period is to the Minister for Treasury and Resources. Deputy Southern.

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

4.1 Deputy G.P. Southern:

Would the Minister agree that presentation of slide 11 in the presentation on G.S.T. given by his 2 Assistant Ministers recently, contained once more direct statements about how much was paid in the lowest quintile and how much was paid in the highest quintile to try and give the misleading impression that G.S.T. was not in fact regressive when in fact figures need to be presented which show the proportional impact upon the lowest quintile - the poorest - and the highest quintile - those most wealthy - and reveal, by a factor of 3 to one, that G.S.T. impacts most on the lowest quintile and least on the highest quintile? Will the Minister accept that this proportionality should be maintained in discussing the impact of G.S.T. in a rational way?

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

As the Deputy is aware, I was not at the presentation last week so I have not got the slide. What I am advised is that the point that the Deputy seeks to try and make is one taking G.S.T. in isolation and I would remind the Deputy that, in the fiscal strategy approved by the States, G.S.T. was part of a package of measures. G.S.T. was brought in, income support was brought in at the same time, with increased allowances and increased amounts of money to those in the lower paid and of course those people on higher incomes are now bearing the issue of '20 means 20.' It is an overall package approach that was brought in the fiscal strategy and that is the point that should be made and remembered by him.

4.1.1 Deputy G.P. Southern:

Further to that, in question time last week, the Assistant Minister made much of the fact that G.S.T., taken on its own, is the most efficient way of taxation. Taken in the round and as a whole, does he not accept that it becomes very much less efficient if you have to administer a system to give back money that you have already taken from people? Is it not, taken in the whole, a very much less efficient system than his Assistant Minister pretends?

Senator P.F.C. Ozouf:

Absolutely not. We have had a debate about the principles of G.S.T. and it is the package of measures of '20 means 20' and bringing in G.S.T. that this Assembly has approved. I think the Deputy tries to reinvent history. G.S.T. brought in at a universally low rate... a broad based tax is an efficient form of taxation and it is certainly more efficient and it is certainly more certain to insulate those people on lower incomes by giving income support as we have done, than creating a nightmare of a G.S.T. system on the lines of the V.A.T. (Value Added Tax) system, with complications and Treasury having to employ more people to decide whether or not matters are in or out of the scope of G.S.T. This overall system - the package - is the most efficient and the best way to create and to collect the necessary amount of tax.

4.2 The Connétable of St. Clement:

Approximately 3 or 4 weeks ago the Minister gave interviews to Channel Television and Radio Jersey during which he said he would not be seeking to introduce new taxes or increase the current taxes during the next 4 to 5 years. Could the Minister confirm this still remains his position and does this promise apply to all taxes, including impôts duty?

Senator P.F.C. Ozouf:

I think that I need to be quite clear that I do not believe that we should be increasing the taxation burden during the period of what is clearly going to be a difficult economic time. Of course all Treasury Ministers reserve their position on an annual basis and announce their taxation matters at the budget but I certainly give the overall signal that I do not believe that we should be increasing the levels of taxation. There is one exception to that; this Assembly has agreed environmental spend to increase the amount of recycling, to do various different environmental initiatives. This Assembly, I think unwisely, removed V.R.D. (Vehicle Registration Duty) and that as a form of environmental tax is something that I am giving consideration to at the moment.

4.2.1 The Connétable of St. Clement:

Could the Minister confirm that his ideal, his ambition is not to increase impôts duty at all during the next 4 or 5 years?

Senator P.F.C. Ozouf:

The Connétable and I have debated the issue of impôts duty over I think the entire membership of my career in the States. I recall that he was the Member that proposed at some point to remove petrol duty, thinking that consumers would benefit. I think he is well-intentioned in his duty policies, however experience suggests that when you reduce duty - just as in the case of G.S.T. - consumers do not necessarily benefit. The issue of cigarettes is something I think is close to his heart and are a case in point. Even though we have low duties of G.S.T., consumers of cigarettes are not necessarily any better off and certainly the Treasury is not. We need to take issues in a package of measures and certainly there are issues of alcohol that I need advice from the Health Department on.

The Connétable of St. Clement:

I take that as a no?

Senator P.F.C. Ozouf:

He can, indeed.

4.3 Deputy R.G. Le Hérissier:

Given the apparently increasing role that the Minister is giving to the Fiscal Policy Panel, would he outline what the role is of the Economic Adviser's Office in the States?

Senator P.F.C. Ozouf:

The Economic Adviser is based within the Chief Minister's Department. A number of departments contribute to its establishment. It gives in-house economic advice to all States departments, including the Treasury. I think the F.P.P. (Fiscal Policy Panel) is different and I would characterise the role of the F.P.P. in similar terms as the Monetary Policy Committee, which is an independent group of economists that report publicly and separately directly to this Assembly. I do not see that there is any conflict in the requirements of government to have their own in-house economic advisers and buying-in economic advice, for example, from Oxera and having a separate independent panel such as the F.P.P. In fact, I think that that is a stricture and a benefit that all Members would agree with.

4.3.1 Deputy R.G. Le Hérissier:

A supplementary; could the Minister tell the House what is the Economic Adviser advising about in respect of the Minister and broader economic policy?

Senator P.F.C. Ozouf:

That is a pretty wide question which I could ...

The Deputy Bailiff:

Which should be answered concisely. [Laughter]

Senator P.F.C. Ozouf:

On all matters of economic policy.

4.4 Deputy S. Pitman of St. Helier:

Could the Minister inform Members why Scrutiny has not yet received a 70-page document which was sent out to all States departments on 5th March, concerning the economic stimulus package?

Senator P.F.C. Ozouf:

I think the answer to that question is that the Scrutiny Panel - I may be wrong - has refused to sign a confidentiality agreement, but I am not sure. Certainly, if that is not the case, then that is not a matter that directly I deal with as a Minister. We both - on the Scrutiny side and the Ministerial side - have officials that deal with these matters. I know that there are established practices of transferring information between departments and I am under no notice that there are any issues. If the Deputy wishes to inform me, I am happy to follow it up.

4.4.1 Deputy S. Pitman:

I do not believe that that was the case; that there was some confidentiality agreement that needed to be signed. Yesterday the Economic Affairs Panel attended a meeting with the Economic Development Department and we are informed that it was up to the Chief Executive as to whether or not Scrutiny would receive that document. Does he think this is right?

Senator P.F.C. Ozouf:

What I do know is that Scrutiny is there not to engage in ongoing fishing expeditions of matters that are under development. If the Scrutiny Panel wishes to examine - and I understand the chairman of Corporate Affairs has advised me that she and her panel wish to examine the Treasury, and it is the Treasury economic stimulus package - then of course we will move matters and engage in a transfer of information upon normal lines. What Scrutiny cannot do is they cannot simply pick and choose what information they do, in the way, and I think that there are established Scrutiny issues which maybe the Deputy needs to reappraise herself of.

Deputy S. Pitman:

Sir ...

The Deputy Bailiff:

No, I am sorry, Deputy, you have had your 2 questions and there are others.

Deputy S. Pitman:

The Senator has not answered my question. Does he feel it right that it is up to the Chief Executive of the States as to whether or not Scrutiny will receive that document?

Senator P.F.C. Ozouf:

I am advised by my colleague; the Minister for Economic Development, that that is not what was said.

Deputy S. Pitman:

I am afraid that is incorrect. My Scrutiny colleagues will agree with what I have said. Thank you.

The Deputy Bailiff:

I am sorry, Deputy. We will have to move on so that other Members get their chance. The Deputy of St. Mary.

4.5 The Deputy of St. Mary:

I want to ask about the headline in the *Jersey Evening Post* recently, as a result of the Minister's press release to them: "Incinerator blunder: failure to fix. The euro rate cost £3 million." I just want to put 3 facts to the Minister and then ask whether he does not consider that he has been misleading the public. If the rate had been fixed the day after the States voted for the incinerator, it would have cost the Island an extra £3.5 million on top of the £106 million which the States voted for. If the rate had been fixed when the contract was signed, it would have cost an additional £8 million on top of the £106 million which the States voted for. If the rate had been fixed when the C.A.G.'s (Comptroller and Auditor General) report was written, it would have cost an additional £15million, taking the total to £121 million. How does the Minister square that with the headline figure of £3 million and what is his interest in making the public think the incinerator is cheaper than it is?

Senator P.F.C. Ozouf:

The Comptroller and Auditor General's report, which of course I found out was established on the day that I became Minister for Treasury and Resources, showed that the matter of the hedging has not been carried out. I asked the Chief Executive of the States to carry out a report. The C.A.G.'s report has concluded on what is a very complicated issue. It is the figure of £3 million that is from the Comptroller and Auditor General's report that is being used. We will not of course know what the final cost of the incinerator costs will be because the euro issue has not been hedged and, upon advice in December, which has been agreed with by the Comptroller and Auditor General, the position - as we stand at the moment - is that the matter is not hedged so we do not know what the cost is. The Comptroller and Auditor General's figure is the £3 million.

4.5.1 The Deputy of St. Mary:

Additional, supplementary; all my figures were taken from the C.A.G.'s report simply by reading carefully and making notes in the margin. £3.5 million, £8 million, £15 million; would the Minister care to comment on his figure of £3 million which was fed to the media and how that happened?

Senator P.F.C. Ozouf:

The £3 million is from the Comptroller and Auditor General's report at the time that he wrote his report. Of course that £3 million will be different as exchange rates move. Let us be absolutely clear about that; there is no intention to mislead. We will not know what the final issue is until the matter has been hedged and the Minister for Treasury and Resources takes advice upon hedging. Now we are faced with the issue that the matter has not been hedged.

4.6 Senator B.E. Shenton:

Is it not the case that the gross tax take from G.S.T. will be closer to £55 million than £45 million?

Senator P.F.C. Ozouf:

I have given information to the Deputy of Grouville on the matter of taxation and the latest estimates and I believe that, if I turn to my papers, the estimate for G.S.T. is slightly over £50 million but I will come back with the actual figure later on in the G.S.T. debate.

4.7 Deputy J.A. Martin:

Would the Minister inform us how much money he has put aside out of the Stabilisation Fund, given the fact that not counting the Easter holidays, school leavers have got about another 20 days at school and I am very concerned that he is not working with local businesses, as promised, and money is not being put aside to help these youngsters into work as soon as they are leaving school?

Senator P.F.C. Ozouf:

The money from the Stabilisation Fund will be a matter for this Assembly to consider. I intend to lodge my fiscal stimulus package on 8th April. What I do know is that the Economic Development Department and Social Security have been working extremely hard in dealing with the real issues, which the Deputy is quite right to make, about people not being able to get into the workplace as a result of the downturn. Members will see on their email systems the latest labour market figures, which will be published tomorrow morning. We are acutely aware of the implications of people not being able to get into work and we are working hard in order to provide opportunities for training and for people to get into work as soon as possible. That will feature in the economic stimulus package.

4.7.1 Deputy J.A. Martin:

A supplementary; would the Minister help with the other 2 Ministers to advise the youngsters who are leaving school, that the only help they will get is at Social Security, either with training or income support in their own right, which they are entitled to and nobody seems to be telling them this?

Senator P.F.C. Ozouf:

Well, obviously the Deputy is right to say that there is a communication issue there and if we need to do more then we will do more. What I can say is that money will be specifically allocated towards the issue of assisting people that are unable to find work as a result of the economic downturn.

4.8 The Deputy of Grouville:

To follow on from the Constable of St. Clement's question, could the Minister please confirm that he is altering the rate of stamp duty to kick-start the property market?

Senator P.F.C. Ozouf:

I am going to consider, and Treasury Ministers always keep matters of taxation until the budget, but I have confirmed that I am reviewing the issue of stamp duty. I am also re-reading the very good report by Jurat Blampied on stamp duty, which was made a number of years ago, in particular in relation to the stamp duty arrangements on mortgages. This Assembly will shortly consider the arrangements for stamp duty on share transfer property. I think it is absolutely vital that all property is on a level playing field and this Assembly will be given an opportunity to consider that matter when I lodge the proposals in May for debate in June.

4.8.1 The Deputy of Grouville:

A supplementary Sir; could the Minister tell us how much anticipated tax loss this will bring?

Senator P.F.C. Ozouf:

Clearly the property market is in a stagnant position. Clearly the estimates of stamp duty will be lower this year as a result of the economic downturn. The issue of mortgage registration is, I think, in the region of £500,000 but on the other side, bringing in a transfer in a normal housing market is expected to bring in a number of millions of pounds in terms of stamp duty.

The Deputy Bailiff:

Very well. I am afraid that concludes Questions without Notice to the Minister for Treasury and Resources.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

5. Statement by the Vice-Chairman of the Health and Social Security and Housing Scrutiny Panel regarding the Williamson Report Review Sub-Panel

The Deputy Bailiff:

There are no matters under J. Under K; Statements on a Matter of Official Responsibility, the Vice-Chairman of Health and Social Security and Housing Scrutiny Panel will make a statement regarding the Williamson Report Review Sub-Panel.

5.1 Deputy G.P. Southern (Vice Chairman, Health and Social Security and Housing Scrutiny Panel):

I hope Members have their statement on their desks so they can follow it clearly. Following Senator Syvret's request that the debate on P.17 of 2009; Williamson Report Implementation Plan Funding be postponed until 13th June 2009, which was accepted by the Assembly last week, the Health, Social Security and Housing Scrutiny Panel has agreed to form a sub-panel on this subject. Members of the Education and Home Affairs Panel will be invited to join Senator Breckon and Deputy Southern on the sub-panel, thereby covering the 3 Ministerial departments with responsibility for children's services. The sub-panel intends to cover a wider remit than simply the Williamson Report while adhering to the demanding timeframe imposed by the date of debate agreed upon by the Assembly. The sub-panel intends to present its report to the Assembly in 10 weeks' time, by 9th June 2009, which will allow 3 weeks for Members to consider the report's recommendations fully before the date of the debate. Terms of reference will be agreed by the sub-panel, I hope tomorrow, and presented to the Chairmen's Committee for noting at the earliest possible opportunity. The working title of the review is "The Co-ordination of Services for Vulnerable Children". Issues likely to be covered will be governance and accountability, suitability of Williamson recommendations for a small jurisdiction, appropriate phasing and finance, the significance of Laming compliance, lessons learnt from the Kathy Bull Report and its implementation and the Howard League Report. Thank you.

The Deputy Bailiff:

Does any Member wish to ask any questions of the Vice-Chairman? Deputy Le Hérissier.

5.1.1 Deputy R.G. Le Hérissier:

I welcome this statement. Would the Vice-Chairman confirm that, while it will deal with an enormously important area, given the time constraint, it is likely to be a broad brush report rather than a re-run of an investigation into the history of child protection?

Deputy G.P. Southern:

I can give that assurance, absolutely. I warned last week when we were debating the postponement of the Williamson Report implementation funding that we would have to strike a balance between depth and the timescale required. The last thing we want to do is hold up implementation of what is appropriate from Williamson, from being put into place as soon as possible.

5.1.2 Senator J.L. Perchard:

Yes, I too welcome this announcement from Scrutiny and will offer my and my department's full co-operation with the panel in order to progress this as swiftly as possible and provide as much information to the panel as we possibly can. That said, my question is to the rapporteur, will he support the Minister for Treasury and Resources when he comes back, in due course - probably around June - for some immediate funding for 2009, non-Williamson specific, to support vulnerable children?

Deputy G.P. Southern:

I will not offer him that assurance at this stage because by 9th June we will be reporting about the phasing and the funding. Hopefully the 2 will coincide, provided that we can get on with our report and deliver in a timely manner. So, that support may be there and it may be in the report.

The Deputy Bailiff:

Does any other Member wish to ask any questions? Very well, we will move on then.

Senator P.F.C. Ozouf:

May I confirm the figure that I was asked for on G.S.T.?

The Deputy Bailiff:

Yes.

Senator P.F.C. Ozouf:

I can confirm that the receipts for G.S.T. for 2008 were £32.4 million and that the target yield for 2009 is still £50 million, based upon the deterring economic situation which of course affects the G.S.T. It was originally estimated that it would be higher than £50 million but the target, based upon our latest economic advice is £50 million.

PUBLIC BUSINESS

6. Ministerial government: review (P.181/2009)

The Deputy Bailiff:

Very well. So, then we come to Public Business and the first matter on the Order Paper is Ministerial government: review - Projet 181 - lodged by the Deputy of St. John and I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of the opinion to request the Privileges and Procedures Committee to carry out a review of the current system of government and present a report with fully researched recommendations to the States within 9 months and to lodge a proposition so that the proposals for improvement may be debated by the States.

6.1 The Deputy of St. John:

When the States in their wisdom decided to adopt Ministerial government - may I say by a small majority - on the back of a promise of the President of Policy and Resources; Senator Pierre Horsfall, he stated: "Accept this in principle and we will put the meat on the bones before it comes into operation." Needless to say I did not believe the Senator and voted against adopting a skeleton without any meat on as it would create problems in the future. Members were told time and time again by the Clothier Panel: "Accept all of the report or nothing." Unfortunately Members cherry-picked and we now find ourselves being asked to review government reform. While out of the Chamber I have had the opportunity to take soundings from the public and former States Members,

plus I have listened to debates and found myself in areas where governmental reform needs to be reviewed. Firstly, the areas of policing need to be addressed. We have seen the nonsense of the States Police having suspended a number of Customs officers on bogus claims of misconduct. This was never properly dealt with under either the former 2 Home Affairs Ministers. Within that Ministry we have seen the Minister who, in February 2008 knew she was conflicted in an inquiry yet, instead of handing over responsibility for that inquiry, she stayed in place until late June or early July. Then, 6 months before her term of office expired, resigned without explanation. Still with Home Affairs, her successor is embroiled, or was embroiled in what could be a costly out of court settlement or court case over the suspension of the Chief Officer. None of this bodes well for Ministerial government. We are now seeing the Chief Minister getting caught up in this affair at question times over the action of the C.E.O. (Chief Executive Officer) of the States within that. Secondly, the issue over the control of the Council of Ministers needs to be reviewed. I have read in the media a headline which said: "Minister claims he had too much power" and in the same paper another article claiming Scrutiny in leadership crisis. All these headlines, all the to-do and even some of the most recent ones: "States in a shambles", "Tourism U-turn", "Hospital third surgeon under investigation", "Curb my powers", "Minister delays the Esplanade over £350 million decision", *et cetera*. If I stand on peoples' toes during this debate, then I apologise. It is just my way of putting things across. There have been numerous examples of how Ministerial government has been given a free rein over the Island. The first example is E.D.D. (Economic Development Department); we are not told how much the cost to the taxpayer was to acquire the Heathrow slot on grounds of confidentiality. Why could that information not have been given to Members in camera? I wonder how much it is costing the Island for the 2 new members of staff of the Chief Minister's Department as well as costing the £200,000 known about, how much does it cost the taxpayer to fund the school placements, if there are any children? The relocation costs, *et cetera*? This is an example of how subjects like these need to be scrutinised. Again, we have seen shipping companies on the St. Malo route come in and out as they please and I must ask, was there a service level agreement? If so, were their any penalties in place? This whole area shows a lack of discipline in the Ministerial system, where some items are confidential and others are *laissez-faire*. I need not remind you of the fiasco with education funding in the Heritage Trust, whereby a private sector company was taken over to run a Dukw service to Elizabeth Castle at great cost to the taxpayer; an ongoing cost, highlighting the evidence of little control in the Education budget of the day. I hope the new Minister for Education, Sport and Culture is taking this on board. Similarly, with T.T.S., we saw the fiasco over the Bel Royal improvements and also allowing the Minister of the day making provision for people to cross peoples' land. It was only after pressure from this House that he backed down. Moreover, we have seen at Health how all is not well with Senator Syvret having been ousted midway through his term and being replaced. Importantly also is that the Connétable of St. Ouen sits with the Council of Ministers. This is an example of our secretive, controlling Government. He is neither a Minister nor an Assistant Minister, yet he still attends these meetings. It is clear that a new system is being bent to suit the Council of Ministers. By getting the Chairmen of the Connétables on board, it means that he can try to influence his fellow Connétables, although that may be difficult, knowing the Constables as I do. But that is how it is seen from outside the Chamber. This might only be my take on events but I am sure I am not far from the truth. We now see the Chief Minister, in his previous role at the Treasury, lose the Island in excess of £3 million and is not accountable, yet his officers or the officers of the Treasury are being investigated. I think this is wrong. If a Minister has made a mistake, the buck must stop there. These are just a few of the examples of how, through cherry-picking, we have resulted in a system of government that is undemocratic and not transparent. It is the taxpayer having to pay the cost of this House's previous mistakes. In addition to this, we need to reunite our Government which seems to be going off on numerous tangents, depending on which side you are looking from. For example, in the media in November 2008, the Minister for Planning and Environment stated that the Esplanade Quarter is to be delayed, only to later read on 29th November that the Minister for Economic Development is highly critical of the Minister for Health and Social Services because

of an email sent to Members and mentions litigation. This to me shows that all is far from joined-up government. It is clear there are few checks and balances. This review needs to be adopted to amend these errors. In Scrutiny, we have seen in-fighting where panel members and some Ministers go to head to head, like ping-pong balls. This is far from the way to operate a Scrutiny Panel. There has to be commonsense from the Minister and his team to supply information to panels when requested and not play at politics. Likewise, panel chairmen and members must respect fellow politicians; not go out to be confrontational because, at the end of the day, there are no winners and any report produced will not carry the weight it is meant to do. Scrutiny is a very important part of our new government system. The public wish their government to be open, less dictatorial and transparent; not as it is at present; secretive and in silence. I was hoping to see considerably more openness among Members on my return. Yes, I expected change but change for the better and unfortunately in my absence we have a Chamber of discontent in certain quarters and total distrust in others. I hope by a review now, after a full 3 years of Ministerial government, it will bring forth good old common sense. We must not go back; we must move forward. Some Members will say that the system is fine but I believe they are in the minority. It is for oneself to review our past workings and find out where we can improve on things. I am asking P.P.C. to carry out this review. I do not do so lightly and I note the president of the P.P.C.'s comments at the time of her election. She accepted a review was necessary but maybe not yet. I can assure her that this is definitely the right time for any review. We have new Members in this House, fresh from knocking on doors, who will be able to bring to any review the comments from many Islanders who have similar concerns as to those raised by myself. We are here today to do what is right for the people who elected us. This is a good time to look again at the 4-year term of office. We saw the Connétables adopt a system, then let it fall from lack of support at this Chamber. We see Senators elected for 6 years but, in fact, some did not get a full Island mandate. If you look at the election results, at least 2 Senators have been returned to this House without a mandate in all 12 Parishes, yet they hold senior positions in government. The last review was in 2006 and covered only the first year of Ministerial government. I am proposing looking at the first 3 years of our new system, both Ministerial and Scrutiny, plus we have seen a political party partake in government. These issues need to be reviewed. We need checks and balances put in place. Let me remind Members, I did say I apologise if I stand on any of your toes and I mean that. I do that; I do apologise. Before I finish, can I remind Members that, prior to Ministerial government, under the committee system, Members had a respect for each other. This has been lost under the new Ministerial system. There was a discipline, so much so that I recall a Member being excluded from the Chamber for 6 months. I am not saying that was right or wrong but it did make for some order within this Chamber. Under Ministerial government we have seen Members behaving without respect for each other or for the office they hold and others, by putting questions to the Attorney General or the Solicitor General on issues to do with the Royal Court case in which they are involved. This is no way to respect this Chamber. Now, please tell me, P.P.C., that the disciplinary code for Members does not need to be reviewed and a more robust code put in place, along with a general review. Members will see, from my addendum, that I have left the area of the review open to P.P.C. to choose so that they can have bite-sized packages of work to do so, therefore, any review can be meaningful. Finally, can I echo the words of the former chairman of P.P.C.? On completing the first review after a few months, he said: "It was equivalent to the first service of a motor vehicle." Well, we are at a point in time when the warranty is up at the end of 3 years and a full service review is necessary so as to claim against the manufacturer for defects and have them put right. I make the proposition.

The Deputy Bailiff:

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition?
Deputy Shona Pitman.

6.1.1 Deputy S. Pitman:

I will be supporting this proposition although I disagree with the Deputy. If the Attorney General treats myself and Deputy Southern with respect, and treating inequality and other Members who have committed a worse offence are not being pursued, then I will respect him. Respect works 2 ways. I would like to start with the P.P.C. report that was done in 2007. It says in their comments as to how much they have addressed, but they have left out major issues. Firstly, the public have no say in who their Chief Minister is and there is a huge call in Jersey for the people to have more say in who their Chief Minister is. Secondly, Scrutiny have consistently had problems getting information from the Executive, getting legal information that the Executive have received from Law Officers, access to the ever increasing agenda, much of which is highly questionable as to why it is on the agenda. In my experience... and I know other Scrutiny Panels have experienced frequent delays on the part of the Executive in getting just general information for a review. I have to say, what impact has Scrutiny really had on policy? I believe it has been very limited since the implementation of Ministerial government. We now have more power in less hands in Government than the former committee system. There are very obvious conflicts of interest of the Crown Officers, for example, we have the Bailiff as Chief Judge and President of the House, the Attorney General as Chief Legal Adviser to the States and then Chief Prosecutor. There is a severe lack of accountability; £4 million or more we have seen recently, wasted, lost from our former Minister for Treasury and Resources, a Chief Officer of Police suspended without knowing why, a former Attorney General, now Bailiff allowing a convicted paedophile to work within the Honorary Police. Who is he accountable to? This Government does not question such actions, and it really is about time that we did. Thank you.

6.1.2 Deputy M. Tadier:

If no one is planning to speak I will say a few words and I will just mention that I am, of course, on P.P.C. I will not be supporting the Deputy's proposition but that does not mean that I do not agree with pretty much all of what he is saying. I suspect that the Deputy has fallen into the trap, however, of allocating what the problems are first and then trying to fit the reasons for that in. While I have no doubts that there were benefits of the old committee system, I can hark back to memories which are perhaps slightly distant and in my youth but things like the Pav and the steam clock, which were not the responsibility of a Ministerial government but which happened under the committee system and I suspect that if there is a democratic deficit - which I do believe that there is in Jersey, I could go on for a long time but I will not - it is due to an underlying problem with the Jersey system and not necessarily Ministerial government. However, what I would say is that I completely agree with the Deputy's comments about how the *Clothier Report* was cherry-picked and I think that certainly limits its efficacy and I think that there perhaps is too much power in the hands of Ministers, but I suggest that the Jersey we know has a primitive form of government. We have recently switched over to Ministerial government only 3 years ago and I would hope that we would give it some time to really find its feet and for Scrutiny to be given teeth and I would ask the House and the Deputy to wait to see what changes are forthcoming from the P.P.C. and, if he is still not satisfied, perhaps to re-open the issue but I will not be supporting the proposition on this occasion but that does not mean I do not sympathise with him.

6.1.3 Deputy R.G. Le Hérissier:

I would very much echo many of the words of Deputy Tadier. My feeling is that sadly the public are totally fed up with the introspection of this House and, as with Members' pay, which hopefully and most sadly for the Constable of St. Peter, we may have put to bed through an independent body, so it goes with government reform. We have looked at it and looked at it. It is clearly flawed because Clothier had 2 aspects to it; it had the Ministerial of course and it had the democratic/representational reforms and we know those never came through. We know, quite frankly in terms of checkmate, they probably will never come through. Under the energy and the steam and the drive of this House we are basically totally checkmated on that situation, where the House cannot move forward because of the competing vested interests that are at play. So, my

view is we have looked at it an awful lot of times. We did have the premature, if I may say so, under the instigation of the much beloved Senator Shenton... we did have the premature one year review, which P.P.C. did work very hard on but I felt pointlessly, quite frankly, because of the limited timeframe they were working with. I just could not face, despite the worthy comments of the Deputy and some of the - it has to be said; comparable to dancing at West Park Pavilion and so forth - rather nostalgic views of how good the committee system was, which take on a more rosy glint as one pushes them back into the past. The committee system did have a lot of good. It brought Members on board, it was an Executive embedded in a legislature, it got Members involved, it got Members - certainly the group - involved with the committee. It got them behind and I have to say, from my own point of view, having been a great fan of the whole of the ethos of Clothier; not just the Ministerial side, and the concentration of power which is where, obviously, the whole thing started to derail, I have to say, we have lost some aspects of consensus government. The trouble is consensus government often meant wishy-washy government; it often meant a powerful group manipulating the rest of the group who, either knowingly or unknowingly were carried along in the wake of that consensus government and we have ended up with a system which probably was, quite frankly, more suited to political parties. They have grown but not perhaps in the way some of us anticipated or to the extent some of us anticipated but, undoubtedly, it was a system where it would operate best with 2 strong or maybe 3 points of view to lead to a certain edge in the debates and to a certain *frisson*, as the French say, in the debates but that is not how, at the moment, it has worked but I think it is far too early. I think the public would go crazy at yet another bout of introspection, wherever it would lead us, and I would ask the Deputy, to withdraw his proposition.

6.1.4 Senator P.F.C. Ozouf:

I like the Deputy of St. John very much [Laughter] and he can be somewhat of a drain on resources sometimes but this did not necessarily have anything to do with the debate, but he is quite right when he says - and he has been absent from this Assembly for 3 years - that many Members are concerned about the standard of debate and the standards within this Assembly. I think many members of the public are concerned. I think many members of the public are concerned that, while we have a global economic crisis, the States seems to be completely disconnected and living in their own microcosm or living in our microcosm in dealing with parochial matters, minor matters like back-biting, attacking each other when we should be unified and dealing with the national issues that face Jersey over the next few years because they are real and there are real issues. I have to say that I heard a number of allegations of failure. I heard a number of comments from the *J.E.P.*; I think the Deputy of St. John has been in this Assembly long enough to know that the *J.E.P.* is there to sell newspapers and that sometimes there is another side. But if he is saying that there is a constant need to improve and to raise standards, then he is absolutely right. I will say one thing about resources, because he says in his comment that a review would deliver savings and deliver savings in a way in which would deliver the costs of the review. I want to give the Deputy of St. John comfort. I want to tell him that, as far as the Treasury is concerned, while we accept that the easy savings have been made in the introduction of Ministerial government, we must do more. We must do more to make the States more efficient. We must do more to get all of the savings that are there to be taken as a result of the move to centralised Ministerial government, whether that be centralisation of Property Services, doing away with numerous sites across town, whether that be looking at the delivery of different services and challenging whether or not departments really need to deliver certain services, whether or not we can be enhancing and harnessing the skills of the not-for-profit sector or the private sector to deliver States services more efficiently. If he wants that, he does not need a review of Ministerial government to do that; he needs to support the Treasury in the important work that we are doing with departments over the next few months. I am with him in terms of the spirit of efficiencies and savings. My view is that we have taken the early savings but there is a lot more to do; we need to make Ministerial government, centralised government work and we need to deliver that within the current scheme.

6.1.5 Deputy A.E. Jeune:

I think we need to acknowledge that much work has been done and there is much more work to be done. Three years has passed but this Assembly appears to be so top heavy it has difficulty standing up. That is how many of the people of Jersey see it. We need to get the trust and involvement of our people whom we represent. That is what we are supposed to be doing here. We need to engage them and we need to be doing that now. Therefore, what I would wish to hear is an assurance from P.P.C. that they will take Clothier further, look at it as a matter of urgency; for example, a further reduction in States Members and extending the term of office, as somebody has already suggested, to 4 years. At this stage I really have not made my mind up on how I will vote on this proposition and I will listen to what others have to say.

6.1.6 The Deputy of St. Mary:

I have been listening to what people have been saying. Deputy Jeune just now talked about trust and I think she is absolutely right; I think that is an essential part of reconnecting this Assembly to the people and I am very concerned about that. The other issue I want to pick up on is when the Minister for Treasury and Resources - and I hope he is still listening, even though he is not here - talked about being unified and back-biting and that whole issue of how this House proceeds and whether we should be more consensual and the 2 issues of course are linked, are they not? How can we be consensual, which is the way that I would like to work? I would like to get people round a table and try to get to a common feeling about things, but how can you be consensual if you do not have the trust? So, the trust is pretty fundamental and I would just cite a couple of instances - fewer than the proposer - where I feel that this issue of trust has been betrayed, and that is part of the problem, of course, and they have both arisen today. The first is on the loss... the euro fiasco to do with the incinerator. Now, I am not concerned with so much as the figures; what we are talking about here is the way they are presented and what we end up believing and whether what we end up believing is the truth and so on. These are the kind of issues that are important, particularly when we are presenting information to the public. I heard Deputy Pitman talk about a £4 million loss and someone else, I think, in this debate mentioned £3 million. It is not £3 million, it is not £4 million; the point is that we have all been misled. That is the figure; the loss between the additional loss between November and February. That is what the C.A.G.'s report shows. But the loss had already been £8 million on top of the £106 million by the date of 14th November. It is that kind of playing with figures so that people end up thinking it is £3 million to £4 million and it is not and, if the rate is fixed at the middle of February rate, that the C.A.G.'s report was written on that date, then we will be £15 million over the £106 million. So, it is just important to get figures like this - and they are big figures - it is important to get them right. It worries me when you take a report that is 60 pages long, or so, by the C.A.G. and it ends up in the public domain with a headline in our esteemed local paper of £3 million additional cost when it is not £3 million additional cost because everyone will interpret that as £106 million for the incinerator, I seem to remember £106 million from somewhere, £3 million extra now. It is not so. It is not true and that is fundamental. We cannot operate in a consensual way; we cannot operate all around a table talking to each other honestly if we have that kind of spin operating. So, that is the first example. The second example is the written question, of course, about what is in the excavated pit for the incinerator at La Collette. Now, it is quite clear, and I will not say that it was deliberately misleading because, obviously, I am not allowed to say it is deliberately misleading but the fact is that when you ask what the chemical composition is of water that is laced with lead, copper, manganese, iron and arsenic, and the answer comes back that it is sea water and rain water, I am sorry, that is misleading. Completely misleading and, whether it was designed to keep this House unaware of the situation down at La Collette, I do not know.

The Connétable of St. Brelade:

I must object to this remark, it is most inappropriate and untrue.

The Deputy of St. Mary:

Sorry, so, that is the second example, where I feel that trust has broken down and there are plenty more examples, which I will not go into, of T.T.S.'s non-bringing of information when they are asked perfectly simple questions. Now, so there we have the trust issue and so I sympathise with the proposer when he says something is not right at t'mill, you know? There is a real problem here and his catalogue of errors was truly horrific. It just went on and on, about the failings of this House and it is sad. But the question is, of course, that we have to ask ourselves is, is it due to the system? Is it due to the Ministerial government system or is it due to something else? Others may wish to comment on that; is it due to the political personnel involved or is it due to the civil service personnel involved? These matters possibly should be looked into but it certainly is not a particularly wonderful track record when you look at those various errors brought up by the proposer. One thing I would like to comment on also in this matter of trust is the election of the Chief Minister issue, which was brought up by Deputy Pitman. When I hear that I react away because if we move to a directly elected Chief Minister or it is some system where the public has a really major say, then we are moving towards a presidential system and you have to imagine President Le Sueur gadding around the world as your president and I am not sure that that is where Jersey wants to go. So, I just want to put that on the record that I feel that the directly elected Chief Minister is possibly a red herring in the context of this debate.

Deputy S. Pitman:

May I, on a point of clarification, I did not say that. It was giving the people of Jersey more say. I did not say the direct vote.

The Deputy of St. Mary:

I thank the Deputy for that clarification and in fact I hatched a little plan whereby maybe the public should have the right to veto but not to vote for a nomination for Chief Minister from the House. It is just a possibility. So, returning to the proposition, I do feel that there is a lot at stake and a lot wrong, really. It is not satisfactory the way it is proceeding but I am not convinced, on reading the papers, that a review - given that there was one 2 years ago - is the right way forward and I do take the point of P.P.C. when they say maybe when the new Members have had another year - we have had half a year already, have we not? Another year, maybe that is the time to basically bring the proposition again because, if we carry on like this then we will be losing contact with the public. Thank you.

The Deputy Bailiff:

I heard a text message coming through there. Is someone going to own up or not? The Deputy of St. Peter, thank you very much. I think a fine is recorded.

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

Yes, the adjournment is proposed then, at 1.45 p.m. so the Assembly will reconvene at 2.15 p.m.

LUNCHEON ADJOURNMENT

PUBLIC BUSINESS - resumption

The Deputy Bailiff:

Before we reconvene I should perhaps just inform Members that the Code of Practice on Public Access to Official Information Annual Report 2008 - R.32 - has been presented.

The Deputy of St. John:

Before we continue with the debate could I give the Members some information re a question that was put by the Minister for Transport and Technical Services this morning? In question time the Minister for Transport and Technical Services stated that the draft plan had been submitted to Scrutiny for review and he was waiting for a report from the panel. This seems to overstate the case. Although the draft plan has been subject of a presentation by the department at a recent meeting which was followed up by a further meeting at the department and subsequently questions from the vice-chairman - for which we expect an answer later this week - this certainly would not constitute a formal comprehensive review of the draft plan. We understood that the draft plan was subject to further review by the department and, as you know, we have not currently set aside any resources for such a review. Clarification of the position seemed to be necessary as the Minister made a statement in public which raised an expectation which the panel is not currently geared to address.

The Deputy Bailiff:

No doubt you and the Minister will get together after today's sitting to clarify.

The Deputy of St. John:

Yes, Sir, we have already spoken.

Senator S. Syvret:

I notice also we have a statement on our desks to be made by the Vice-Chairman of the Health, Social Security and Housing Scrutiny Panel, has that been made yet?

The Deputy Bailiff:

Yes, that was made before lunch, Senator. Does any other Member wish to speak on the proposition of the Deputy of St. John?

6.1.7 Deputy R.C. Duhamel:

I have been in this House for some 15 and a bit years and I have had the benefit of the previous system and the new system, and I can categorically state that I think the system that we have at the moment does not have advantages over the previous system from a particular point of view, and that point of view is absolutely fundamental in my mind as to how those Members who are not Ministers are able to hold the Ministers to account. I think that the ability of the non-Ministerial Members to be kept informed, fully informed, of what is going on within the departments has been watered down by this move to Ministerial form of government. One can argue, and the arguments have been put forward, that under the old committee system the decisions were made behind closed doors, often it took a long time to reach decisions, but one thing should be remembered, and that was that the decision making capacity of this House remained paramount and that although decisions or rather the organisation of the work in order to bring forward a proposition on which a decision was to be taken was parcelled out under delegated powers to the committees, the decisions were always taken in this House. Now under our system of government at the moment, although a number of Members are not happy that it is well known or even spoken about, we have moved to the system where Ministers have become legal entities in their own right, they are corporations sole and they have the powers to take the decisions independent of this Assembly. Now, where does that leave this Assembly in determining policies and strategies? I do not think it really leaves the majority of Members in a position where they are fully able to play their democratic part and a full role in that type of decision making. For me this is the fundamental flaw of the Ministerial system. I think that it must be sorted out. It is all very well to say: "Well, because we decided that we were going ahead to Ministerial form of government that the power rests with 10 Members and they can do what they like" and they will always do what they like because the big sanction - the nuclear option - is to bring a vote of no confidence in that particular Minister but even there we have difficulties in that the decisions would have to be agreed ostensibly by the Chief Minister before the proposition could come to the House which is largely crazy. **[Interruption]** I am not giving way, I

would like to make my speech first so would the Senator sit down please. The points of order are normally points of interruption. Normally what ... I think it has had the desired effect to put me off my stroke and I have forgotten where I was coming from, but I will come back. The decision-making powers of the House should really remain with the House, and although we can be assured from time to time that Ministers will bring forward their desired strategies, we can rubber-stamp them, to my mind that is not the same as saying that the Assembly is quite within its right to make the decision which is binding for the Minister. It is a bit of a legal technicality but I think it is fundamental to the failings of the particular system that we have endorsed. So where does that leave us? Well, we have a proposition from the Deputy of St. John who is probably cursing under his breath that he has had the temerity or the courage or whatever to come back to the House having had a period of retirement; perhaps it is one thing that having given up politics you should never go back, as indeed with other things. Once you are retired you should stay retired. [Aside] But here he is, he is back in the States Chamber and he has come forward with what I think is a sensible proposition. In any system there should be ongoing review. Now that is not to say that we are all going to agree with any of the propositions that would come out of Privileges and Procedures Committee if they carried out the review into this current system, but nevertheless that, to me, is what open debate on the floor of this House, proper democratic government is all about. If we are going to simply say: "Well, because it is the Deputy of St. John and he should have stayed where he was in his retirement and he is rattling the cage and he should not be doing these things so we should wait for the system to bed down even more" then I fear that we will all be in our retirement beds before the system is sorted out in a proper form. There are failings within the system and these issues must be teased-out. They must be openly debated and for the things that are not clearly working then we should have a regular opportunity afforded by discussion through the Privileges and Procedures Committee to discuss whether or not the system of government that we know at the moment can be made better, because that is really what we are trying to do. There are a whole host of election things. We did have the agreement up to a point that the Constables would run for 4 years. We thought that was going to be binding as well and there was a proposition with the previous House for the Deputies to do similar things and then it failed because the Senators did not wish to play ball. That was wrong. That shows that there are splits in this Chamber, 3-way splits and perhaps even 53-way splits, which makes it difficult for us to bind together as a single House in charge of the Government of the Island. For me it is not a case that the Government are the 10 Ministers, and if that is the case then why do we not have the courage to go forward to the public and tell them so, and then vote the other 43 Members out of office. But that seems to me where we are. I think there is a very real need for the electoral system to be looked at again. I think 3 years is too short. We have 5-year strategic plans, we have 3-year terms of office and I do not really know which system should be taking the priority. Certainly if we are dealing with strategic issues then the planning framework should be the 5 years but if you are going to do that there must inevitably be a need to synchronise with the electoral term of office, which we are not doing. I think there are still issues with the Constables as to whether or not they should have an automatic seat in this House. I think there is an issue as to whether or not predominantly most of the Senators should be given the Ministerial positions, although this time round quite clearly the Ministerial stranglehold on the jobs does not seem to be as strong as it was with the previous House. All these things must be looked at but they must be looked at on a regular basis and I think for that reason I am going to wholeheartedly support the Deputy of St. John and urge the House that everybody else does the same.

6.1.8 The Connétable of St. Mary:

I was hoping to hear a few more comments before I spoke but in view of the comments made by the last speaker I think it may be helpful if I speak as Chairman of Privileges and Procedures. While individual members of Privileges and Procedures Committee could identify with many of the concerns that the Deputy of St. John has raised when he came to the Committee to discuss this proposition, and some of which he has elaborated on today, the fact is that the remedy exists for

many of these concerns in other processes. Several speakers have spoken about their views of what the public expect so for the record I will add something of my own. I believe that the views of many of the people that put us here is that they did so because they had the hope that we would, on their behalf, take action as it was required. Actions, not continual reflection. The Privileges and Procedures Committee has embarked already on a heavy work programme that will allow many of the areas in questions raised by the Deputy of St. John to be addressed directly. We are already working without the need to undertake a further review. The Committee is concerned, in fact, that if this proposition is adopted it will effectively divert the Committee from work that it is already actively engaged on in areas such as composition and election of the States, freedom of information. We have collectively talked about this on the Committee and we believe that we have a window of about 18 months in which to successfully bring propositions to the States in these regards if we are to be able to ensure that the due process of registering the law, *et cetera*, and putting other systems in place as a result of any laws changed, can happen before the next election, so it is crucial in my view that the Committee is not diverted from doing the work it is doing now by any other propositions which might take us to one side. I would also say that other items which have been discussed, other concerns... and I do not deny that Members of this House have very valid concerns in some of these areas. Things such as we have heard of the currency fund problems. Well, there are mechanisms in place to deal with that. The Comptroller and Auditor General has some domain; there are internal disciplinary procedures, things are happening. Happening outside of this review. Deputy Pitman, when she spoke early in the debate, talked about the Crown Officers' position and the Bailiff's position, *et cetera*. That is the subject of a review that this House has already agreed to undertake. So this would be a further duplication and I really do hope that Members will understand that this proposition, as it stands, has very little focus on issues that could be meaningfully resolved. The broad areas which the Deputy has brought out in his proposition in his speech I think are shared by many people, but I do not believe that by asking P.P.C. to divert itself from the work it is undertaking, direct action to take on a very wide-ranging review would be productive for this House and I urge Members to consider that and think how they can vote on this to ensure that the work gets done, not the reflection that we start to do the work.

6.1.9 Senator S. Syvret:

I will not be supporting this proposition but there is no escaping the fact that the system we have at present is flawed - it has a number of flaws within it - but whether this particular proposition, this particular vehicle is the right way of addressing those flaws and this is the right time to try and address them, frankly, I doubt very much. I have been in this Assembly for a long time and I frankly would be frightened to attempt to count up the number of hours Members of this Assembly have spent on precisely this kind of navel-gazing. We have a community out there which is threatened with serious economic crisis at the moment for global reasons and indeed for some local reasons of our own. Really it is those issues that this Assembly, that Members ought to be applying themselves to. The real day to day concerns of ordinary people, how their jobs, how their incomes, are they going to have a secure and happy and well-provided future. Frankly, spending another 8 hours on a debate of this nature and then, were it to be approved, spending another 6 months arguing about it and then spend another 2 days debating only to throw it all out again is not a good use of our time and it is not an application of our time to the public interest. Having said the system is flawed and it needs to change, the question then arises: "Well, what force will drive forward progress, will drive forward changes that may be necessary in our system?" and I think ultimately that must be the public will. When the people of Jersey want real change, meaningful change, they will decide that and they will decide it by the democratic method of the ballot box. It may well be that the future of the political environment in Jersey is to be a party political one and personally I have got no objection to that at all. I have long said that, frankly, the only way the ordinary people of this community are going to ever gain control over the destiny of this society is via party politics, and it is through such empowering democratic grassroots bottom-up approaches that meaningful change will be driven if that is what the public want. But in all of the arguments

about governmental reform we have to ask ourselves: “What is the real issue?” What is the base concern that we must have? The base concern has to be the public good. At all times the method of government we have is a secondary consideration. What we need to be considering is whether what we are doing is properly servicing the public good, properly protecting the public interest. In that respect I can say, having had a great deal of experience of the committee system and some interesting experiences of the Ministerial system, I can say that both systems have in many respects failed the public good. We need only consider 2 issues, one of which we have dealt with at length this morning - the toxic ash dumping and all of the issues and problems that arise from that - that was an issue that has been spoken of and argued of on the floor of this Assembly literally for years under the committee system. The committee system failed to properly deal with it. It failed and we had an environmental disaster on our hands as an example, as a result. Then we have to say: “Well, has the Ministerial system performed any better?” So far it has not. We need only look at the whole child protection disaster and this I think throws up an actual very serious failing of the present system, one which I think has largely gone over the heads of most people and has escaped simply unnoticed, and it is this: as the then Minister for Health and Social Services I was endeavouring to carry out my statutory duties, things that I was compelled to and obliged to carry out by law as described in the Children (Jersey) Law 1969 and the Children (Jersey) Law 2002. The Council of Ministers did not like that. They did not like the fact that I was holding civil servants to account who had failed obviously, and on a very evident basis, and very widely failed. So they had me slung out. So this is a fundamental question that people have to consider; when you have Ministers with these kind of powers and inescapable statutory duties what safeguards do we have in the current system to ensure that Ministers are able to carry out their legal duties without the kind of intimidation and oppression and hostility that that attracted on that particular occasion because, frankly, as far as I can work out, the actions of the Council of Ministers in respect of the actions that they took against me were illegal. Indeed, possibly a conspiracy to pervert the course of justice in that I was seeking to expose criminal malfeasances by the public administration of the Island and the Council of Ministers chose that they did not want that to happen so they got rid of me. So that I touch upon just to illustrate to Members how many very serious and unconsidered problems there are within the system. But in the final analysis no matter what particular procedural, structural improvements we may make to our systems of government, as I said, ultimately any real change, any meaningful change has to be driven forward by the will of the people, if that is what they wish to do. Finally, I would say that even if we had a greatly improved system of government that most people in this Assembly could look at and say: “Well, yes, that is a marvellous system and it has all the hallmarks of being a very good way of governing the community”, unless each of us and all of us meet the appropriate calibre required, unless we as individuals apply the necessary wisdom, commonsense, endeavour and ethics then frankly no system of government will work properly.

6.1.10 Deputy M.R. Higgins:

I have a great deal of respect for the Deputy of St. John and I have every sympathy with the proposition that he has put forward and I agree with him on the vast majority of the points that he has made to this House and to P.P.C. upon which I sit. I believe that the Ministerial government we have at the moment is flawed. I am very concerned at the lack of transparency as was demonstrated in the incinerator debate, the amount of information you get from bodies like W.E.B. (Waterfront Enterprise Board) and Jersey Finance, I am concerned at the tendency to cover up and the lack of information, trying to keep Members in the dark. I am also concerned about the lack of accountability of Ministers who either are not aware of what is going on in their departments or are not prepared to accept responsibility for what is going on in the departments. I am also concerned of the role of the civil service and, in particular, of the role of chief officers. Senator Syvret, when he was just speaking now, mentioned his investigation into the childcare system and child abuse. I am aware of instances where civil servants prevented children in the care system speaking to him when he was going around the children’s homes to gather information. They deliberately

obstructed him and I am prepared to put that information forward at the appropriate time. Many of the concerns that Deputy Rondel has raised, as the chairman of P.P.C. has mentioned, are being addressed elsewhere. I feel very strongly about freedom of information and about changes to the machinery of government and the electoral system and I know that P.P.C. are working on those. In the same way some of the other issues that the Deputy of St. John put forward to do with things like ombudsmen and tribunals and so on, the Economic Affairs Scrutiny Panel tends to look at and promote. In terms of this House, again, we are all going to be reviewing the role of an elected representative to the House so I think that report needs to come back. What I would say is that although I very much support what he is trying to do, and I am prepared to assist him personally in a more focused approach, I think at this time I cannot support this proposition, but again, as I say, I believe these reforms to be coming through very, very shortly ... I hope will be coming to the House very shortly, and I hope that this House will support those reforms.

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

I shall be supporting the Deputy of St. John's proposition, after all I did second the proposition. I was rather taken aback by Senator Syvret's comments a moment ago in that I felt the arguments he put forward would have been more towards supporting a reform of government bearing in mind the comments he made about Ministers having undue influence over his particular circumstances, so I am rather surprised that the Senator is not supporting the proposition. As another speaker said earlier on, I think it is always healthier to continually review what you are doing to make sure you are going in the right direction. That does not mean to say one has to spend a lot of time navel-gazing all the time at the same navel. There are issues in this House which certainly as a new Member I would like to see addressed in the way that perhaps this House behaves. There are a lot of issues in the community right now facing us as an Island environment which need far more focus in some of the areas which we seem to be focusing on now as well. But equally in that I think it is for us, as States Members, to take some leadership and take some views forward in how we behave and how we want to conduct our business and not wait until we have failed to such an extent that the public - the electorate - either lose total interest in the political process or they have to just swell up and vote the whole lot of us out and put something else in place. So therefore I will be supporting the proposition.

6.1.12 Senator A.J.H. Maclean:

If this debate had concluded before lunch I was not planning to speak but it is amazing how a good lunch lifts one's spirits. I was noting that the former Deputy of St. John was in the gallery just before lunch and I had a great deal of time for him as, indeed, I do for the current Deputy of St. John. I think it is something about the country Parishes that brings out the best in people. **[Interruption] [Laughter]**

The Deputy Bailiff:

I think you are getting in hot water there, Senator. **[Laughter]**

Senator A.J.H. Maclean:

I would just say that I did note when the Deputy of St. John started his address late this morning that he voted against Ministerial government when it was debated and indeed it must have been during his previous incarnation in this House. I do wonder whether it is the remnants of his opinions from those days that have encouraged him to bring this proposition today. I feel that first of all I will lift his spirits and agree with him on one point, and that is the fact that unfortunately Clothier has been cherry-picked and cherry-picking any form of recommendation is not the best way forward, and it has left us in a position where we have not got an ideal scenario. But from my perspective, although there is without doubt plenty of room for improvement with what we have, it is not a bad start and I believe that Ministerial government to date has gone reasonably well. I think the time will come when we will need to review it, it should not be too far down the road but

on the basis we had a review in 2006 and bearing in mind the current economic climate and difficulties that we are facing, I think that a review at this precise moment is probably, from a timing point of view, not quite right. I would like to also just raise a few points or address a few points that the Deputy of St. John made in his opening remarks which I believe were slightly misleading, and I think the record needs to be put straight. In particular, he talked about ... he held up some press cuttings and talked about Tourism's U-turn. I noted that with interest because in fact it was under the committee system that that decision was originally taken, to move the tourism building, and I should just clarify that the press coverage talked about a U-turn and there is no guarantee of any U-turns. We are, as indeed the Deputy is trying to do today, being nothing more than prudent, we are reviewing the position which is completely and utterly appropriate. I would go on to raise a couple of points with regard to the arrangement that was reached by Economic Development on Heathrow, I am not going to spend very much time on this but the Deputy did say that it should be subject to Scrutiny or should have been at the time. I would point out to him that both publicly and privately I have said that it was open for review at the time when the arrangement was reached, the Public Accounts Committee could well have reviewed it if they had so chosen, the Comptroller and Auditor General and indeed Scrutiny. It was completely and utterly open for any of those bodies to review it as they so chose. There was nothing in that respect. The only reason the deal was confidential was because we were seeking to drive the most appropriate cost effective arrangements for the public.

The Deputy Bailiff:

Senator, I think it would be unfortunate if every Member who was criticised by the Deputy of St. John rose to defend their particular aspect, this is more about whether there should be a review rather than the merits or demerits of every individual matter raised by the Deputy.

Senator A.J.H. Maclean:

Indeed, Sir, but I am enjoying myself [**Laughter**] and I have to say that the Deputy was, to a great degree, justifying his reviews based on a number of perceived failings within the department so I thought it was only right that we should point out, in fact, these are not necessarily the failings that perhaps he perceives they may well be. I am not going to go on at length, there are just a couple of further points that I will make in that regard. One of which was relating to service level agreements and sea routes; the Deputy ... this is an interesting point because he was asking why were we not told about the terms of the service level agreements. Well, in fact, I seem to recall the Deputy was a member of the former Harbours and Airport Committee so I am sure he is well aware of what is contained within the original old service level agreements and the shortcomings of those particular instruments, and in fact it was the change of the Harbours (Administration) Law which has given us the ability and indeed the option for sanction to deal more robustly with such matters in the future, and I am sure he would be delighted to hear that. I will expand in private if he would like some more information. The Deputy talked also about accountability. He talked about the fact that he did not believe that Ministerial government allowed Ministers to be brought to account, brought to book, if you like. I do not agree with that particular point. Ministers are accountable, they are accountable to this House, they are accountable to Scrutiny, and I think they are accountable through, for example, question time which the Deputy himself uses extensively. That is exactly as it should be. The Deputy also referred to, on his return to the House, his hope that there would be a greater degree of openness and transparency, and I think he used the phrase that he hoped there would not be ... he would not again see people playing at politics. I would just like to raise one point because I recall very clearly when I first stood on my very first questions without notice, talking on the subject of playing at politics, the good Deputy passed some very interesting photographs of some rubbish in the harbour across the House and it was particularly relevant because it was a matter of weeks prior to that that I had asked him if he had any concerns and I would be delighted to chat about it in an open style. I think there are some disparities there with perhaps ...

The Deputy of St. John:

On a point of correction, if I could correct the Minister, he had at least 5 opportunities to meet me in open forum with my then hat on as the Deputy Chairman of St. Helier Boat Owners and he did not take them up.

The Deputy Bailiff:

I think what this shows is that everyone is getting rather off the point. **[Laughter]**

Senator A.J.H. Maclean:

Indeed. I think I will come to a sum up now because although I do favour the concept of a review in due course, I do not feel that this is the appropriate time to be considering a review. I do also support some of the comments that the Deputy made with regard to cost savings and clearly if the review is going to lead to a situation where there was genuine cost savings, clearly it is something that not only I but other Members of this Assembly should take very seriously. It is a matter that I certainly take seriously and the time will come, I have no doubt, when an appropriate review, I am sure, will be both constructive and useful for all concerned. But I am afraid from a timing perspective I am not able to support the good Deputy, although he is wagging his finger in my direction, and I think that is all I have to say.

6.1.13 Deputy G.P. Southern:

[Aside] But I rise to my feet to support the Deputy of St. John in his wish to have a review of Ministerial government, and I do so for a reason which has not been mentioned yet by any other and I do so because I hear the Chairman of P.P.C. saying the time has come for action and not reflection. Quite frankly coming from the mouth of the Chairman that prospect fills me with absolute terror. In support of her call for action and not reflection she says that she is going to deal with and must do in the next 18 months deal with the composition of the election of the States Members, and will also deal with freedom of information. The evidence we have that P.P.C. can do this and do it in a significant and rational way is given in her comments to P.181, comments (3), where she leads with: "P.P.C. would remind Members that the previous P.P.C. undertook a very significant review of the operation of Ministerial government over a period of several months and presented a comprehensive report to the States on 9th November 2007 which contained 55 separate recommendations", many of which were mutually exclusive, none of which had been analysed in any sensible way. The several months it took to compile that report I remind Members consisted of hearing Member after Member loosely rant about all they thought was right and wrong in the system and what do you like. There was no decent mechanism for analysing these answers, they were just simply grouped together as a job lot, most of them made no sense whatsoever, some of them were downright crazy, silly things. So on that basis I do believe that anybody with whatever terms of reference could probably do a better job, and that if we get on with doing that job it would probably be much improved on the results of the so-called review that was carried out previously in 2006/2007. So I shall be supporting in favour of the Deputy of St. John despite his saying earlier that he was going to upset everyone in the room and despite his criticism of me for exploring the inherent defects contained in Article 39A of our current Public Elections Law which is misdirected and misplaced and thoroughly wrong. So he will have my support despite his upsetting of me or his attempt to.

6.1.14 Deputy T.M. Pitman:

I will be brief and I have not heard anyone groan yet either. I will support the proposition, I do not always see eye to eye with the Deputy of St. John but it is nothing that we both hold personal, I do not think. A lot has been said about the public and the way they view these things, well I personally believe that the only reason the public are so fed up is because they never get anything they want. In fact, they never get anything that has not been cherry-picked and quite frankly had the life kicked out of it. A say in the Chief Minister, as someone has said; standardised terms;

accountability - surely that is worth fighting for. The list goes on and on as has been said. Indeed the fact that they elected 53 of us yet information, and with it power, seems to become more and more condensed in the hands of just a few who cling to it desperately. Ideally I think the proposition should have gone hand in hand with the Deputy of St. Martin's excellent proposition on the review of the Crown Officers because I am afraid, from what I have seen recently, I can only describe as an abuse of powers, this is absolutely desperate. Absolutely. I am appalled by what is going on. It should have been looked at yesterday. But can we find a way of doing this then that will not drag on and on. Well, I think maybe we can. I am sure someone will correct me, but was it not Turks and Cayman or somewhere recently where the British Government were considering stepping in and suspending government because it had got so morally corrupt and democracy had been so undermined, compromised. I have been in this House 3 or 4 months and that sadly is the conclusion that I am coming to. I am appalled. We should put this in the hands of the British Government now because I feel **[Members: Oh!]** the law system ... yes. Because we never get **[Interruption]** ... if you want to heckle do it in your own time, not mine. **[Interruption]** I am staunchly for Jersey's independence but House after House, sorry, some of you are still here, you cannot do anything. Fudge, fudge, fudge, fudge. Bend it, make laws that only apply to certain people, it is beyond a joke. It is disgraceful. I am going to support this proposition, I am sure we will have loads of reasons why we should not, but something has got to be done and I compliment the Deputy of St. John for bringing it. I think just a few Members in this House want to face up to reality for a change. I could list loads and loads of examples. Our Chief Minister I have got nothing against but he really does not seem to understand what inclusive means. That was meant to be one of the cornerstones of Ministerial government. I think every time the Minister says "inclusion" we ought to write "exclusion". Accountability does not exist in this Government. I am afraid that is how bad it is and I am shocked, and for someone who has worked a long time with young people I say we have got no chance of motivating the young in this Island to take part because they are constantly offered a complete and utter shambles. Well, who is it who said about knowing when to run and to be calm. Someone earlier, maybe it was Father Tadier, so I am going to take that advice and I am going to sit down now and say I will support the Deputy.

6.1.15 The Connétable of St. Brelade:

I come from a background of the last 3 years of having had an interesting experience on Scrutiny and I thank the chairman of the panel at the time, Deputy Southern, for an induction into Scrutiny but I think he was the best man for it, with all due respect to others: he is, in my view, an excellent Scrutiny Panel chairman. Now I find myself, shall we say, on the other side of the fence but the initiation last year has encouraged me to make this present system work and I think it has great potential for being able to work, and I am determined during my period of holding the office which I have at present to work with the Scrutiny Panel appointed to scrutinise my department in an inclusive sort of way, so that we can produce the best value for the public because I think this is something that has been overlooked in the past but the system is quite capable of dealing with. We have evolved from a position last year where the Council of Ministers were predominantly old committee chairmen, I think there was a lack of understanding of Scrutiny, I think in all truth the public did not understand how Scrutiny worked. I think we have moved on a little bit. We have evolved to the next stage and it is working better. I was disappointed this year to note that there are a lot of Members of this Chamber who really are not involved in Scrutiny and I think that is unfortunate. I think that this particular proposition is slightly misplaced and, with due respect to the Deputy of St. John, in this changed House it is a job for P.P.C. Setting off a separate review is a way we used to do it in the past but I do not think is the way we should be doing it now. It is a job which should be pointed to P.P.C. to do and they will do it in whichever way they think best and if ever Members have contributions to make towards them, I am sure they will be happy to receive them. There was comment made over the election of the Chief Minister from within the House. I think that the Chief Minister needs to be elected on merit and I think those in this House are best to do it. I do not believe that we want Government by media which very often tends to

take place these days. I think many Members are over influenced by the media and what they think the perception of the public is, and I would rather that government took place on the basis of competence and ability to make decisions and correct decisions based on information and knowledge and this, I think, will command the great respect of the public out on the Island, which we appear to serve. With regard to the *Clothier Report* it is now 9 years old, I think it is past it. I think the best was taken out of it, I do not see any difficulty with taking the best or cherry-picking from a review of that nature. We are not obliged to adopt every part of every review or proposition and I think it has served the Island well, but we need to move on from that and not keep harping back to the *Clothier Report* which is really too old to consider. Individuals have moved on, we have different characters in the House, the situation has changed so I think we need to go on. To conclude, while I consider there is always movement for evolution I do not think I can support this proposition. I would rather leave it to P.P.C. because it is their job to get on with it.

The Deputy Bailiff:

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

6.1.16 The Deputy of St. John:

I think I have got the feeling of the Chamber, and particularly the last speaker. But I sincerely hope that Members did read my addendum to the proposition where in fact I did in fact put in that I would leave the P.P.C. to choose bite-sized pieces of the report and proposition to scrutinise and to come back to this House with a report on. That is in the addendum. I am sorry if they have not all read it or you have not all read it. It is not my intention given the feeling that I have heard from Members this morning to respond to each and every one of the people who spoke, and I must say I was disappointed in hearing Senator Syvret and his comments given that from his time immemorial as far as the Senator is concerned, he has always been a supporter of freedom of speech and reviews and the like and yet on this occasion he is not supportive. I therefore will not, as I say, go over each and every Member’s comments. I would like to thank everybody who has spoken. It has been a good debate and I do understand where some of you are coming from but those who have not bothered reading the addendum I will be interested to know how you vote, therefore I will call for the appel and not waste any more of the Members time.

The Deputy Bailiff:

The appel is called for in relation to proposition 181. I invite Members to return to their seats. The Greffier will open the voting.

POUR: 9		CONTRE: 42		ABSTAIN: 0
Connétable of St. John		Senator S. Syvret		
Connétable of St. Peter		Senator T.A. Le Sueur		
Deputy R.C. Duhamel (S)		Senator P.F. Routier		
Deputy of St. Martin		Senator P.F.C. Ozouf		
Deputy G.P. Southern (H)		Senator T.J. Le Main		
Deputy P.V.F. Le Claire (H)		Senator B.E. Shenton		
Deputy S. Pitman (H)		Senator F.E. Cohen		
Deputy of St. John		Senator J.L. Perchard		
Deputy T.M. Pitman (H)		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. Lawrence		
		Connétable of St. Mary		
		Deputy R.G. Le Hérisssier (S)		
		Deputy J.B. Fox (H)		
		Deputy J.A. Martin (H)		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy M. Tadier (B)		
		Deputy A.E. Jeune (B)		
		Deputy of St. Mary		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy M.R. Higgins (H)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		

The Deputy of St. John:

Can I thank those people who voted, in particular those who voted in favour. **[Laughter]** They are obviously the thinking Members. **[Members: Oh!]**

7. Draft Royal Court (Amendment No. 12) (Jersey) Law 200- (P.19/2009)

The Deputy Bailiff:

The next matter on the Order Paper is the Draft Royal Court (Amendment No. 12) (Jersey) Law - Projet 19 - lodged by the Chief Minister. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Royal Court (Amendment No. 12) (Jersey) Law 200-; a Law to amend further the Royal Court (Jersey) Law 1948. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

This is a fairly simple procedural amendment which brings elections for Jurats in line with the sort of procedure that we have for electing Ministers in this Chamber. It simply says that it would require an absolute majority of the Electoral College in order to obtain a successful conclusion and that in the event of candidates having an equal number of places, how the proceedings would work for dealing with and resolving that issue. I think the report in the explanatory note is very straightforward and, as I say, it reflects more modern procedures in the same way that we have and I propose the preamble.

The Deputy Bailiff:

Is the principle seconded? **[Seconded]** Does any Member wish to speak on the principles? Those in favour of adopting the principles kindly show. Those against. The principles are adopted.

Senator Ferguson, this is a matter which falls within the remit of the Corporate Services Scrutiny Panel. Do you wish to have it referred to your Panel?

Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel)

No, thank you, Sir.

The Deputy Bailiff:

Chief Minister, do you propose Articles 1 and 2 together then?

7.2 Senator T.A. Le Sueur:

I propose the Articles together, yes. Article 1 is quite convoluted and deals with probably the very rare occasion of tied votes but does allow for virtually every contingency in some detail. I think it is straightforward and I propose Articles 1 and 2.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on either of the Articles?

7.2.1 Deputy R.G. Le Hérissier:

Given the laudatory words stated here about the benefits of moving away from a first past the post system, will the Chief Minister confirm that he will be asking for the same principle to apply to the election of Chief Minister and to every other election involving the States?

The Deputy Bailiff:

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

7.2.2 Senator T.A. Le Sueur:

I wish I understood the Deputy's question because I thought in our present proceedings for electing Ministers we do have to have an absolute majority and this reflects a similar situation. Certainly I agree with him that the Chief Minister or any other Minister ought to have an absolute majority of votes being cast. I share his approval then of the way we are going.

The Deputy Bailiff:

All those in favour of adopting Articles 1 and 2 kindly show. Those against. The Articles are adopted. Do you propose the Bill in Third Reading, Chief Minister?

7.3 Senator T.A. Le Sueur:

Yes, Sir.

The Deputy Bailiff:

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

7.3.1 Deputy R.G. Le Hérissier:

Would the Minister confirm that the excellent principle which underpins his election and that of the forthcoming election for Jurats should be extended to other elections within the Island that are used for democratic purposes?

The Deputy Bailiff:

Does any other Member wish to speak in Third Reading? Chief Minister, do you wish to reply in Third Reading?

7.3.2 Senator T.A. Le Sueur:

Other elections are not a matter entirely for myself and I think things like parochial elections, they are down to Constables and other people to determine their procedures. But to the extent that I can

also help in getting procedures such as that into a more modern setting, I am more than willing to help.

The Deputy Bailiff:

All those in favour of adopting the Bill in Third Reading kindly show. Those against. The Bill is adopted in Third Reading.

8. Goods and Services Tax: exemption or zero-rating for foodstuffs and domestic energy (P.28/2009)

The Deputy Bailiff:

We come next to Goods and Services Tax: exemption or zero-rating for foodstuffs and domestic energy - Projet 28 - lodged by the Deputy of Grouville. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion (a) to refer to their Act dated 13th May 2005 in which they approved the introduction of a broad-based Goods and Services Tax, G.S.T., at a rate of 3 per cent fixed for 3 years and to their Act dated 18th April 2007 in which they approved the Draft Goods and Services Tax (Jersey) Law 200- and to agree to vary those decisions in order to exempt or zero-rate the following items: (i) foodstuffs in line with United Kingdom Value Added Tax arrangements as set out in the appendix, and (ii) domestic energy; (b) to request the Minister for Treasury and Resources to investigate whether alternative progressive tax measures can be brought forward for approval to restore the revenue foregone under paragraph (a) as an alternative to withdraw any increases in income support, income tax exemptions and allowances and the food costs bonuses that were agreed by the States on 3rd December 2008 and which it was agreed on that day would only remain in place while G.S.T. was payable on foodstuffs or on domestic energy; (c) to request the Minister for Treasury and Resources to bring forward for approval the necessary legislation to give effect to the decision.

8.1 The Deputy of Grouville:

I bring my proposition to the Assembly today to ask Members to remove tax on food and domestic energy. These are life's absolute essentials and in a civilised society I believe we should have the right to feed ourselves and our families and have the right to keep warm in our homes without being taxed. We are in very different circumstances to when G.S.T. was originally debated and later brought in. We are even in very different financial circumstances to when we debated exemptions last September. The buzz words today are economic stimulus and financial stimulus packages, which is something we are told the Council of Ministers are working on to help kick start the economy. We are putting in place a Zero/Ten tax regime next year so our finance industry remains competitive. In order to make up the huge revenue loss our Island is going to face we have introduced a G.S.T. which many of us recognise as an unfortunate necessity, but at the same time as recognising that we also need to recognise it is the ordinary residents of this Island who are making up the vast majority of the financial deficit. So while we have created a level playing field within our finance industry we have not created a level playing field within our own community. We have created an unfair and unjust system and that is where I have an issue and I make no apology for bringing it back to the Assembly for reconsideration. It is with disappointment that Treasury and Oxera and all the tax experts this Island has enjoyed have not put as much zeal into introducing additional tax measures to really broaden the tax take. Many of us voted for G.S.T. on the understanding that other tax measures would also be forthcoming, measures like the Blampied proposals, windfall tax and capital gains on commercial developments, however the only tax measure introduced amounts to a tax on ordinary people to try and recoup the tax deficit created by corporations having their tax rate reduced to zero or 10 per cent to help our finance industry. A

stimulus package is also going to be introduced to help our economy at this time of recession. Low income support has taken over from our welfare system to help the least well-off, yet those who are going to bear the brunt and pay for all of this, those who are going to make up the huge revenue losses to help retain business is middle Jersey. Those who work hard, pay tax, pay exorbitant rent or mortgages, pay tax on their children's clothing, those who pay the economic sanction to university fees, the people who live on fixed incomes like pensions, or income from savings which will have fallen dramatically. In other words, the backbone of our society. Those are the people who are going to pay and I ask what are we doing to help them now we are in recession and global food and energy prices are rising dramatically? The U.K. Government by comparison reduced their V.A.T. rate by 2.5 per cent on non-essential items. So that is very important, on non-essential items, because obviously the essential items are V.A.T.-free already. I lodge my proposition now not only to give new Members the opportunity to fulfil their election promises to the people they serve - some of whom may have won their seat on this issue alone - but another reason was because we have recently heard from the Chief Minister that the likelihood is, given the global recession, that the G.S.T. rate will go up after the 3 year period and the people of Jersey will be expected to pay again. I ask Members to therefore consider, are we going to sit back and watch while the tax rate goes up to 6 or 10 per cent and will we be happy to tax life's essentials then? If we are uneasy about it then, we should be uneasy about it now, in the midst of a recession and global food rises. The Le Fondré tax allowances were brought in to help but are those going to keep pace with food and electricity rises. Well, they are not, and indeed they have already fallen behind inflation. I will refer to the comments from the Minister for Treasury and Resources and the Council of Ministers I received this weekend, and for those listening my proposition has been lodged for nearly 6 weeks and the comments are given to a Back-Bencher who does not have a department of civil servants at their disposal, the Saturday before the debate. **[Approbation]** The Minister's comments were predictable as I would expect from a Minister coming from the fiscal angle, although very light on economics and extremely narrow in outlook to other tax measures that could make up the deficit. After reading it I was minded of an author who had been charged with writing an instruction manual describing how to drive a car and his remit was to make it as complex as possible with the desired result that after reading it no one would ever wish to learn to drive, so well done the author. But the reality of driving is quite easy when you get used to it and so are exemptions. They work in other jurisdictions at zero and differing percents for different items and, after all, politics is the art of the possible. Treasury talked about, and I quote: "Circumstances having changed dramatically since the last debate in September 2008", and I am grateful Treasury mentioned this because I have been criticised for bringing this subject back again but I believe the change in circumstances merits it. It says deflation rather than inflation is now the major concern. In certain quarters I would agree but not in others. That is what concerns me. What both sets of comments are totally absent in addressing... nowhere is there any mention of global food inflation. With food rises running at 13 per cent last year and Jersey Electricity putting up their prices by 24 per cent in January more and more people are struggling, but there is no mention of these 2 inflationary commodities. As I said, the comments from the Minister for Treasury and Resources are what one might expect from his remit and what I find especially disappointing are the comments from the Council of Ministers. They are meant to consider all the issues from a more holistic angle. They should be considering our society as a whole, not just business. But instead we get the same mantra from them as we do from Treasury. Both reports talk about the effects on the small percent of businesses whose profit margins will be slightly affected by the inconvenience but nowhere does the Council of Ministers acknowledge what the recession is doing to our community and the people in it. They too do not even mention global food increases, peak oil, or the zero rate of interest on savings. They do not consider that more and more people will be required to make claims for benefits and to have the tax paid back to them months later with our simple G.S.T. If that scenario is simpler than not charging it in the first place I am obviously missing something. But let us not forget many Jersey people, pensioners, may be too proud to go through what some might consider to be a demeaning process filling out forms, revealing personal data, standing in queues to eventually get the tax back some

months later. Those at any rate who know they entitled to claim. What about those who do not. Those who suffer in silence. Who is speaking up for them? Who is speaking up for the people paying for all of this middle Jersey? It certainly is not the Council of Ministers and I doubt if it is going to be the most of the Constables. I attended the Grouville Friendship Club on Friday afternoon and nearly every single parishioner who spoke to me wished me luck today and told me how out of touch this Government is and how they are only concerned with business. Reading these 2 sets of comments, how right they are. These were not people necessarily on income support but some told me how they lived in one room in their homes in winter because of the fuel prices and now had to watch what they ate because of the global food increases. Who is speaking up for them? With 3 teenagers I also have a lot of contact with fellow parents, as you might expect, parents who collectively do not have a 6 figure income stream and who are finding it very difficult paying family home mortgages, having huge bills with the enormous appetites of most teenagers, parents who pay £40 plus for a pair of school shoes and face very expensive university fees. These are the people who pay all their dues but find this Island very expensive to live in. Who is speaking up for them in this recession? What about our young? Many of our young, local and talented people will leave this Island as the cost of buying basics as well as the cost of housing become even more out of their reach. What comfort does the Council of Minister offer them? Which States Members among us are speaking up for these people? For the benefit of newer Members I will try to explain why the U.K.-style V.A.T. system is the easiest to adopt for exemptions. During these exemption debates we have considered alternative forms of food exemptions, which is why they have been debated on different occasions in the past. We have debated the concept of exempting just healthy foods, for example. I would not disagree with that concept, but first let it be demonstrated the work has been done and the list compiled, the definitions finalised, and computerised systems put in place for retailers. Let me give an example of the definitions needed. The Medical Officer of Health put cereals on her list of healthy options. That is fine. Now, what about Sugar Puffs? Coco Pops? Unsweetened Alpen, sweetened Alpen? So, here we would have to go at reinventing the wheel, and while healthy food exemptions are laudable, I say let us have the food exempt now to help people now, to help middle Jersey with an off-the-peg model where court cases have been tried and tested long ago in the U.K. courts and if healthy food option is what we want, then let it be devised first and brought in when it is ready. My guess is that will not be some time soon. The largest food retailer in the Channel Islands wrote to me and said: "The great advantage in using the U.K. V.A.T. model for definitional purposes is that although complicated in its initial inception virtually all of the issues are now settled and there is a well-defined set of rules governing what does carry V.A.T. and what does not." They go on to say: "Arguments also over the complications this will bring to the collection regimes and the extra cost in manpower this will create is largely spurious as V.A.T. is a self-declaration system and most Island retailers use computer systems that are largely designed to the U.K. model, splitting out standard and zero-rated sales and should present little problem", "they" being Sandpiper and the Co-op who make up 80 per cent of the Island's food outlets. They have both confirmed to me that they would welcome zero-rating essential foods from G.S.T. They both believe it should never have been put on in the first place and that it is too much for people to bear, given the current economic climate and the increase in world food prices. They have also both confirmed that the changes could be made within 6 weeks and that they will reduce the 3 per cent by exactly the same mathematical matrix as they added it on in the first place. I would suggest therefore that if the Island's largest food retailers are prepared to reduce their prices by 3 per cent others will do likewise to remain competitive. As for the smaller retailers Treasury could do, as has been done in the U.K., if they were minded to help, where based on the shop's previous returns an agreed percentage of their takings is deemed liable for tax. The whole issue could be a lot simpler than it is today. We have already introduced exemptions on school fees, we have introduced exemptions on medical services and supplies and let us not forget boat fuel, which is exempt. The sky has not fallen in. There was not an army of extra civil servants required to deal with these exemptions. If we continue to tax food and domestic energy the 3 extra staff Treasury now claim they will need will probably be needed in the Social

Security Department dealing with all the bonus systems and extra support needed in this welfare state we seem to be encouraging. Domestic energy is one of life's essentials; it cannot be regarded as a luxury, surely, not to have to suffer cold in one's own home. Is this Government seriously at ease with taxing domestic energy and yet exempting boat fuel? Can Members appreciate why people feel at odds with their representatives when these scenarios have been created and the Council of Ministers and the Treasury seem eager to maintain? Energy prices will go up. Electricity has already gone up by 24 per cent this January. Fuel generally went up by 26 per cent over a 12-month period to June last year. Already these increases have outstripped fuel allowances and it is the very young and elderly, who spend a lot of time at home, who will suffer most. In a report recently produced by the U.N. they predict that global food prices are likely to rise by up to 50 per cent by 2016. They say that falling agricultural production, increasing wealth in countries such as India and China and the use of key food crops for biofuels will drive up prices by between 20 and 50 per cent over the next 7 years. The latest statistics in the U.K. showed currently food inflation at 11.3 per cent, add on to that Jersey G.S.T. and you have 14.3 per cent food inflation with R.P.I. (Retail Prices Index) and interest on savings close to zero. The question is, should a government capitalise on this situation? Is it right that we add a tax to these dramatic food and energy rises where people's fixed incomes fall to zero and their food bill increases by 14.3 per cent and electricity by 24 per cent? Why should we not try to help our community, middle Jersey, those footing the bill to save our finance industry and those providing the stimulus package for the economy? Why should we not help the pensioners, families, and our young people while developers and foreign-owned companies pay nothing? Why should we not help those working hard, paying their dues, and struggling in expensive Jersey in these uncertain economic times? We are not just here to serve business and the I.O.D. (Institute of Directors); we are here to serve our whole community and the people in it. Last July we rezoned 60 vergées of our countryside and developers made millions overnight on the back of that States decision. If we are hard up for cash, why did not Treasury bring in windfall taxes before that decision? The value of the rezoned field in my Parish alone changed from an agricultural field worth maybe £45,000 to a building development site now worth millions, yet the States derived not one penny in tax from developers over a transaction worth millions and millions and we sit back and claim to be so hard up for cash that we have to tax the pensioner on the already expensive bread and milk and tax them on keeping themselves warm in their homes. Is that fair? Can we understand why people are losing faith with this Government? The land development levy was promised years ago, both in the 2005 rural strategy and in the fiscal option strategy approved on 12th May 2005 and still we have nothing. The Blampied proposals have been talked about since I was first elected to the States, some 6 years ago now. Scrutiny have now revealed that we are no further forward with these proposals, nor are we likely to be in the near future, because the political will is not there. So, foreign-owned companies while trading side-by-side with our local companies pay nothing, shops who help King Street look like any other backwater in the U.K. pay nothing, yet our local companies and shops pay tax and now local people pay tax on their basics to make up the deficit. I would have thought this is the area that is going to do more damage to small, local businesses than the inconvenience of changing a 3 per cent to zero on their price tags. In my proposition I have deliberately not suggested getting rid of the tax allowances and bonuses derived from the Le Fondré proposition and I would like the radio to listen hard to this because the misreporting that has been going on in the last 2 days is quite incredible. I have requested that the Minister for Treasury and Resources bring forward alternative, progressive tax measures for this Assembly to consider so the debate of how we make up the loss in revenue is a debate for another day when we have all the facts and all the options before us. It is with extreme disappointment that both sets of comments from the Council of Ministers and the Treasury go for the easy target first. They both threaten the shortfall can be made up by increasing the rate of G.S.T. to 4 per cent, or removing support to the low to middle earners and Senator Ozouf confirmed this this morning on the radio that they were the only options on the table. I would suggest that this Government is not just here to serve business and the wealthy, it is to serve everybody, the whole community. I must say that the options in both sets of

comments, to recoup the money, are an insult to the intelligence of most States Members and certainly an insult to the public. They suggest raising the 20 per cent tax rate. Well, yes, why not? Why do they not look at those earning 6-figure sums first? That way those who feel the wealthy may get a benefit out of zero-rating food and domestic energy can perhaps feel better about it, better that they would be paying a higher income tax rate. New Zealand, which is held up as the perfect G.S.T. model, pay income tax ranging from 12.5 per cent to 39 per cent. Well, no wonder they are happy to pay a flat rate of G.S.T. Why does the Treasury not agree to the 1(1)(k) resident tax rate being set at an average of 7 per cent instead of 6 per cent, as it is at the moment? Why has there been so little work done on the Blampied proposals to require foreign-owned businesses to make a contribution to the community where they make their money? Why do we still not have a windfall levy on developers? Why did we allow the rushed rezoning of massive chunks of our countryside before this tax measure was in place? Millions in tax would have been derived by the Treasury yet the silence on these measures in both sets of comments is deafening. Like I say, how we make up the £6 million deficit is a debate for another day, but a debate that this Assembly will decide and I, for one, will not be voting to cut allowances or put up the G.S.T. rate until fairer measures that I have already mentioned are in place first. The situation we have at present is unjust and it is wrong and we as politicians can go some way to put it right and put it right for people, not just business. Food and domestic energy are life's essentials and their costs are rising dramatically. Exempting these 2 items from tax might just level the playing field just a bit in our own community in these uncertain economic times. I make my proposition.

The Deputy Bailiff:

Is the proposition seconded? [**Seconded**] Does anyone wish to speak on the proposition? No, wait a moment, we have an amendment.

8.2 Goods and Services Tax: exemption or zero-rating for foodstuffs and domestic energy (P.28/2009) – amendment (P.28/2009 amd.)

The Deputy Bailiff:

There is an amendment from Deputy Green and I will ask the Greffier to read the amendment.

The Greffier of the States:

After the words: “(ii) domestic energy” add the words “and (iii) catering services in ‘provided’ and ‘registered non-provided’ schools.”

8.2.1 Deputy A.K.F. Green:

Before laying out my case for the amendment I would just like to thank the Head of G.S.T. at the Treasury and the Head of Statistics for the time that they gave me. They are probably disappointed in me in the response that I have come out with but I am very grateful for the time that they gave me. I speak today as an independent Member, a former caterer and a voluntary worker working in middle Jersey and with those less well off, not as the Assistant Minister for E.S.C. (Education Sport and Culture). Perhaps I should start by taking the opportunity to explain the terminology used in my amendment. Put simply, provided schools are those which are provided by the States of Jersey and registered non-provided schools are private schools registered with the E.S.C. in accordance with the Education Law. This is important so as to ensure in the event of this amendment being accepted that only genuine educational establishments' catering services are zero-rated. Out of a total of Jersey's 9 secondary schools on the Island at present 6 of those procure private contractors, 2 schools have in-house services, and one has no meal service at all. Not wishing to have the full G.S.T. debate just yet I will be brief and confine my comments to the school catering services in my amendment. For me the issue is both a moral one and one of equity. Is it right to tax children's school food when some U.K. companies based here in Jersey are making no tax contribution at all? I am sorry, but it just does not square with me. In the times of recession, as we head possibly towards depression I would suggest that we have a moral obligation to ensure that affordable food

is available for our young people. Indeed, there could well be an argument that we should be providing free school meals to many of our less well-off families. This would be the norm in the United Kingdom school meal service. School meal providers are operating currently on very small margins. Before the introduction of G.S.T. the margin for the example that I looked at was on average - and this is net - about 7 per cent and, for example, the meal at Hautlieu School is £2.20 and has been held at that level voluntarily for 5 years. The cost of G.S.T. has been absorbed in this time, thus reducing the profit margins still further. Some schools have also removed the sale of more profitable but less healthy produce, such as fizzy drinks and crisps. That was the area where many of them made their profit. Food inflation in 2008 was in the region of 13 to 14 per cent with some basics, such as rice and cereals increasing over 100 per cent in that time. This has eroded still further the profit margins. Clearly, this position is not sustainable. In the long term prices will have to rise when people are having economic difficulties and I think this would be irresponsible. A caring government should be looking for ways to support families with young children. We may end up with a situation where it becomes not viable for contractors to provide a service with them withdrawing. This would not only leave some schools with no service, but another concern of mine is it would reduce semi-skilled or skilled job opportunities as well. We need to encourage children also to remain in school over lunchtime. To do this we need affordable nutritious and healthy food. In part this would go some way to meeting the aims of Health and Social Services *New Directions*. I have considered a number of different ways of exempting school meals, such as exempting only healthy food, but this would be impossible to administer, therefore I have chosen to zero-rate the sale of any items sold in a school canteen. There are no manpower implications. The advice I received from the Treasury is that the financial implications would be minimal - their words not mine. In my opinion the cost would be around £20,000 per annum. Is that a lot to ask at this current time? In accepting this amendment we will be showing support to our families. I urge you to support it.

The Deputy Bailiff:

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

8.2.2 Senator P.F.C. Ozouf:

We will of course return to the main debate and it is in that main debate we will address the real issues that are facing Members; the dilemma that is facing Members in terms of the £6 million revenue. Fundamentally when we get to that debate the choice will be cutting G.S.T. on food and withdrawing the low income measures or introducing another tax. It is clear, as Deputy Green says, that this is not in financial terms a material issue and certainly I will not argue that it is a financial issue which is a make or break issue. It does however have an underlying issue which is common to the underlying proposition and that is one of complexity and confusing the issue of a simple rate of G.S.T. I want to say to Deputy Green that I know that he is extremely well-intentioned in his amendment. I would even go so far as to say that there may well be an issue in relation to school meals which we need to deal with and perhaps ... and I note from his report that he is concerned about the margins for one of the school meal providers. I do not have any children myself but I certainly would subscribe to the Jamie Oliver School of School Meals and I think that children should be provided with healthy wholesome meals, that they should not be fed turkey twizzlers and all the rest of it and that food is a very important part of a child's growing up, *et cetera*. The reality is though, as well-intentioned as I know Deputy Green is, I really do not think that the solution is to tweak the G.S.T. system. As my comment explains, the issue of school meals and G.S.T. and V.A.T. is complex. In the United Kingdom if school meals are supplied under commercial arrangements then they are a V.A.T.-able supply. If they are provided by an educational institution providing exempt education then they can be exempt. If the supply of education is non-business then the supply will be non-business and it will not be V.A.T.able. I say that because as usual the V.A.T. system in the U.K. throws up all sorts of complications, and I say that because there is of course a difference between this proposition and the underlying one that this one seems to suggest

that we need to find another alternative variant from the V.A.T. system whereas the underlying proposition seems to say it is okay because we are just simply going to use the established position of the V.A.T. system and I say that because of course that is going to introduce complexity. There is another important issue. I see the Deputy Grouville shaking her head but the reality is that it is complex, as I have just illustrated with the changing issue depending on different types of institution of V.A.T. We do not want a complex system, I would argue, of G.S.T. which is going to increase the cost of compliance and increase the cost of collecting the tax. That is the fundamental argument which we had when we introduced this tax. There is one fundamental other issue and that is the issue which it is difficult, I accept, to explain and to argue and that is to exclusion-creep. Why this exclusion? Why not also for example meals in senior citizens' residential homes? I could stand here and make exactly the same kind of case, same kind of moral case, I am not sure that is right to use it, but I could make exactly the same kind of case for excluding senior citizens' meals in residential homes. Why not higher education? Why just schools? When I went on the radio this morning I was up early reading my notes and I thought of this issue of exclusions. It is not only essential school meals or essential foods. I needed soap to wash this morning. Why not soap? What about the toothpaste that I used? We all need toothpaste, just as we all need food or children needing school meals. I needed water from the tap in order to make a cup of coffee and have a shower. Why not water? The fact is that if we follow the logical argument, and we can make emotional arguments on all sorts of things, we effectively have exclusion-creep, we would effectively not have a consumption tax at all. The reality is that the G.S.T. rate would be higher. It would be increasingly on a narrower amount of taxable supplies. Where does it end? Why just school meals? That is the fundamental problem that the Assembly has and the central issue. The reality is that tweaking with G.S.T. for individual exclusions is well-intentioned but ultimately fails because you end up with a G.S.T. or a V.A.T. system which is complex and which you have to have a higher rate, or you need to have higher taxes which we will come back to in the other area. We need another solution, I think, to deal with Deputy Green's problem - if there is one - in terms of school meals. If we need to have discussions with the Education Department and the Treasury in order to find a solution in relation to particular school meals, in relation to a particular company, let us do that. Let us find another way in order to give children proper healthy school meals but not start down the road of complex exclusions for one area where favouring school children over O.A.P.s (Old Age Pensioners) or other exclusions. I hope that we can get to the fundamental debate and I urge Members to reject this well-intentioned but unfortunately narrow tweaking amendment which I simply think there is a better solution to deal with the fundamental problem.

8.2.3 Senator B.E. Shenton:

I am only going to be brief. I fully support the amendment of the Deputy. I think it is very important that school meals are affordable and it can be quite a burden if you have more than one child at school. I think also it should be accessible to all members of the family and everyone from every type of walk of life. The reason I decided to stand up and speak is simply when I was Minister for Health and Social Services we did have some concerns about not so much the quality but the healthiness of the food served in our schools, and I would like the Minister for Education, Sport and Culture to take this on board. There is one school in particular, which I will have a chat about with him afterwards. Exempting G.S.T. from school meals is beneficial, in my opinion, but if those school meals consist of cheesy chips and a can of coke I wonder if we are doing anyone any favours at all. So, I would like Education to pull their socks up a little bit and work with Health on making sure that we have a proper healthy food initiative within schools, albeit you cannot go too far because if you serve school children salads every day they will not eat it but you need a better balance and maybe there are a few too many soft drinks and other things like that. So, I do fully support it but I would like to send that message out to the Minister for Health and Social Services and the Minister for Education, Sport and Culture.

8.2.4 Deputy P.V.F. Le Claire:

It has been a long time since I was in school and I was not there for a long time anyway. When I was though - on the rare occasions - we did not have school meals and when we took our own sandwiches they were often taken - stolen - from us and we were often ... no, it is okay. I made my own sandwiches. I am a lousy cook. Yes, we went to the same school; it was a Jersey school, St. Helier Boys. The point I would like to make is that school meals are an important part of a child's education. They give the child the nutrition that that child may not necessarily have at home. For different circumstances children leave the house in the morning not necessarily prepared for the day. I think it is important that children have school meals. I would be interested in asking the proposer of the amendment if all schools do have school meals when he responds. Not now. Also make the point that exempting G.S.T. from ... Members know that I have not been a fan of G.S.T. and I am still not. In exempting G.S.T. from this area I do not see it in a similar vein as perhaps exempting food from the police canteen, for example, or from the States of Jersey hospital canteen, or from some other area in the Island where there are provisions made for people to have lunch. I could mention 101 different places but I will not bore Members. What I am saying is that as this is an important component of children's education and the ability to absorb knowledge and perform a function of getting through the day and learning. Those better educated are less dependent in later years and more capable of standing on their own 2 feet, in providing the nutrition for children at school in an affordable and acceptable and enjoyable fashion, i.e. one that the provider can do. So, by making a decent profit and providing a decent sort of food, then what you do in the long term is you set up a process that encourages that child to attain better educational results and earn more money and - unless they are going to be exempt from tax because they are very, very rich - probably putting back more money into the pot at a later stage.

8.2.5 Senator S.C. Ferguson:

Just a note to say that before you all make too much hay on the deemed Scrutiny Report, it is my understanding, and I hope that the Assistant Minister for Treasury and Resources will confirm this, that in due course it is intended to bring this law back so that no foreign-owned trading companies have an unfair advantage over Jersey-owned ones. As to the quality of school meals it seems to me that it really depends on the ability of the cookery staff, and perhaps we should be providing cookery lessons for the school staff. You can provide within a budget. Jamie Oliver proved that it is quite possible to provide good meals economically and probably at a lower price than knocking off the G.S.T. from the meals they are getting at the moment. So, I think this is somewhat of a spurious argument and I hope Members will reject this because I also feel with the Minister for Treasury and Resources that there is a terrific 'me too' element here and what the Minister for Treasury and Resources called rather more eloquently "exemption-creep".

8.2.6 Deputy T. Pitman:

Firstly, I just want to clarify that it was not me who used to steal Deputy Le Claire's lunch when he was at school. I think he has probably eaten quite a few dinners since so we will not mention that. I am going to support the amendment. It really baffles me sometimes how we get into these huge debates on comparatively small figures and yes of course there are difficulties but then no one really says anything about the fact that the Minister for Treasury and Resources' assistants are frightening us all to death about the £6 million that we will lose if we accept exemptions and yet the previous Ministers for Treasury and Resources wasted twice that in one foul swoop and nobody really bats an eyelid. It just seems to me that we really need to get some priorities sorted out, and for someone who worked in education for a long time I really endorse what Senator Shenton said. It is well worth focusing on supporting in any way we can the school meals and making sure that those are healthy otherwise we are not doing anyone any favours. So, I will definitely be supporting the amendment and would urge others to do so.

8.2.7 The Deputy of St. Ouen:

I hope that Senator Shenton will be pleased to hear some of the comments that I will be making within my speech. I can understand Deputy Green's desire to keep the cost of school meals to a minimum, however as accompanying reports show, one of the unintended consequences of this proposal is to allow mainly private companies to maintain a reasonable profit margin. This is not in itself wrong. However, it just demonstrates the difficulties of this type of proposition where the ultimate beneficiary may not be the intended target group. It is worth noting that school meals presently fit into the category of restaurant sales. My department, however, and others, are keen to promote healthy eating within our schools and the efforts to date have achieved some success and yet more can be done to improve the school meal service. The challenge lies not only in considering the quality of food provided but also the additional aspects which influence the uptake of the school meal service and the best option for its procurement and its delivery. In July 2008 a working group was established to identify options which will lead to improvements and key stakeholders, including the current school catering contractors, were consulted and still are. Clearly there will be financial implications and this is one of the areas that will need to be properly considered in the future, as a quality school meal service could make a significant contribution towards supporting the future health and education needs of our young people. For this to be achieved and agreed and costed a strategic plan designed to improve the quality of food served will need to be developed and implemented. Simply exempting school meals from G.S.T. is not the answer. As we are told, as school meals become more focused on health food we are told the profit margins have been reduced, especially as the unhealthy food such as crisps and fizzy drinks demand a higher profit. Even the proposer, quite rightly, recognises that his proposition does not necessarily help promote healthy food being supplied within the school environment. My department recognises the need to work closely with the private contractors and others if we are to improve the nutritional quality of school meals. Although mindful of the concerns of the caterers and the sustainability of their profit margins we should not be distracted from dealing with the far bigger issue of improving the standard of food sold within our school environment. My department aims to work with all parties to improve the service on offer and develop a Jersey school meals policy. A school food working group has been set up and includes representatives from the Health Department who aim to work closely with all caterers in order to address this issue and how best to proceed. It should be noted that the experience in the U.K. and elsewhere shows that exempting school meals from G.S.T. has not addressed issues of poor diet and wellbeing of our young people. Indeed there are many suggestions that it has failed. In summary, if Members are serious about improving the general health of our young people I ask Members to support the actions of my department, rather than commit to a proposition which will simply exempt G.S.T. from the sale of any item sold in a school canteen.

8.2.8 Deputy M. Tadier:

Just really to follow on from Senator Ozouf's comments, and I found some of his arguments very salient. In fact, I would possibly argue the same that why does this only have to be limited to school dinners? But I would also say that the outcome of his logic is not necessarily the same that I would have come out with myself. I would indeed urge him to support the amendment and then in future to bring his own proposition to exempt perhaps food in senior citizens' homes, *et cetera*. That is all I have to say. [Aside]

8.2.9 Deputy J.A. Martin:

The Deputy was very brief there. I do not think we realised he had finished, but his point was very well made and we await the Minister for Treasury and Resources' amendments. Just a few points. The Minister for Education, Sport and Culture tries to make a good point about working with his department. I have always had a concern about our primary school children and, alright, this will only cover secondary schools because we do not have facilities in our primary school, but our Jersey Education Law has no obligation at all to feed children while they are in that educational establishment. No obligation at all, yet the Minister for Education asks us to trust him and work

with him. Did you hear him mention he would make this a law? Make it compulsory that we have to feed our children and then we may have more say in what they can be fed. No, I did not hear that and I know through, I think, private conversations it is another realm that Education would rather walk away from and let someone hopefully provide. It really worries me that we could lose some outside caterers. The profit margin really is very small and if anyone knows the school system ... let us say at one school that I do know very well, Le Rocquier, they built the canteen there so small that they have to have 2 lunch sittings where I think each child is allowed about 30 minutes inside the canteen to purchase, in a long queue, and eat their food. Let us say the caterers pull out of Le Rocquier, where does any child there go in 30 minutes to find something to eat? Yes, there is packed lunch, but I really have concerns about children who leave for school before 8.00 a.m. because they want to help the nice Minister for Transport and Technical Services and they do not want to clog-up his buses and they will walk the 15 or 20 minutes, so they have to walk and they walk home. So, they are out of the house between about 7.50 a.m. and 4.30 p.m. and they are getting no hot food in the winter and in many facilities they have no chilled drinks or anything in the summer. So, there is a lot to be said for this, which is only a small amendment and I think the Minister for Treasury and Resources called it some sort of G.S.T.-creep. Well, I think there is some creeping going on in here, but I would not necessarily say it is this amendment. I fully support this and for anybody who will try and convince me, because I have been to all the other presentations, this would also help ... obviously I will support this amendment, but if Members could support the main proposition of food this would also help the suppliers who are feeding our children and the food that they purchase and will keep it down in cost and it will give people on low incomes ... I know children who get very embarrassed who cannot be given ... There are 3 children going to one senior school and the parents cannot give them £8 or £9 a day - £3 a child - to feed them, so they are always excluded from the canteen. They have to take a packed lunch and if these prices go up the parents will definitely not be able to do this. So, I think it is an easy amendment to support and I thank Deputy Green for bringing it.

The Deputy of St. Ouen:

As a point of information just to advise the Deputy, out of a total of 9 secondary schools on the Island 8 provide a school meal service.

Deputy J.A. Martin:

I said there is no obligation under the law. I did not say that they did not provide. I think the Minister for Education, Sport and Culture missed the point as usual.

8.2.10 Deputy S. Power:

I will be very, very brief at this stage because I would like to get back to the main proposition. I want to say at this stage that I am not going to support this amendment and the reason I am not going to support this amendment, I will remind new Members, is that last year I voted against G.S.T. all the way through. Now, when G.S.T. was approved and accepted by this Assembly in a democratic way I accepted that democratic decision. I accepted it and I did not expect to have to revisit it twice in 6 months. When G.S.T. came in, in my simple mind I decided that we have to keep it simple and the only way we keep it simple is by not having exemptions. I remember Minister after Minister lecturing us last year on how that model had to be introduced, and again that was not so long ago. Some things, as the Deputy of Grouville has said, have changed in the recent past. We have had some price increases, some of them induced by factors way outside the Island and not really related at all in percentage terms to G.S.T. We have had a global meltdown and I think Senator Ferguson said on Sunday that the U.K. was akin to a banana republic. Well, we do not have those problems at the moment in Jersey. We do have some problems. We have to address what may be financial stimuli and other areas like that, but the economy of the Island is no way comparable to the economy of some other European countries and for that we should be grateful and perhaps if we say it every now and then; we do not say it often enough. So, some things have

changed in the recent past. Some of us - all of us Deputies - stood for election as did some of the Senators and I knocked on nearly 3,000 doors last November. I tried to contact almost 7,000 people and there were 8 candidates in St. Brelade and as far as I can remember G.S.T. was not an issue. I do not know whether St. Brelade is very different to other Parishes, but in my view St. Brelade is not that different to Grouville or any other Parish and G.S.T. was not an issue. The parishioners did not make it an issue and I did not make it an issue and I stand by the result of that election. There are 2 of us in this Chamber. Having fought the election I then attended a lot of Christmas functions, and recently Lent lunches and G.S.T. has not become an issue. In actual fact the opposite is happening, please do not introduce exemptions. Please do not complicate the system. Please do not make it more expensive to collect, and please do not pass on what will be a right of passage to go 4, 5, 6, 7, 10 per cent in the not too distant future and not in 3 years but in less than 9 months. So, I will be opposing this amendment and I will be speaking again in much more substantive terms in the main proposition.

8.2.11 The Deputy of St. Mary:

I will be confining my remarks to the amendment and not making a speech about the general proposition. It is mainly a response to what the Minister for Treasury and Resources said. There are 2 points that I wanted to make; one is to reply to the point he made about complexity. I believe we are talking about 9 schools, of which 8 provide some kind of school meal service. I would have thought it is not too difficult to code these organisations and exempt them and I seem to remember that when the problem arose with Meals on Wheels and they complained that they were not exempt that the matter took a matter of hours to resolve by uncoding them so that they did not pay V.A.T. I would be grateful for correction on that, but as far as I know that was the situation. I am not at all sure that the complexity argument applies in this case. The second point is the Minister for Treasury and Resources urged a different solution. He said we should not exempt school meals from G.S.T., we should look for another way. I would like to propose a new angle on this other way and I was pleased to hear the comments of the Minister for Education, Sport and Culture about his efforts to help children to have good school meals. I think that is a very important part of education and there are many spin-off benefits if they do learn about good eating by practising that. I just wonder if we do go ahead and add this amendment and vote for this amendment, whether the fact that school meals would then be exempt from G.S.T. that that would give E.S.C. a little bargaining chip in advance, that the moral persuasion in that this House had helped the school meal providers or the school, whether they are schools or contractors, to deliver healthy eating that that would be some kind of token of our commitment in this area.

8.2.12 Deputy A.T. Dupré:

I would just like to point out to Deputy Martin that I, my children, and my grandchildren, have all survived very well on just packed lunches and we did not need £9 a day to be fed.

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

I would just like to raise the issue of catered food versus uncatered food, i.e. served meals are V.A.T.-able, whereas food from the shelves which are not catered, are not. This just adds complication to our simple modern G.S.T. system. Examples to this fundamental point is the cut-up apple on a plate versus the whole apple; the roll in the polythene versus the roll on the plate; the sandwich from a canteen versus the sandwich from a vending machine. In addition this just adds another layer of complexity to our simple modern G.S.T. system which we can simply do without.

8.2.14 Senator P.F. Routier:

I was not going to speak because I thought this debate was really going to be about trying to help people who could not afford to buy their lunches but what this appears to be is a debate about trying to help the providers protect their profit margin. That is all I have really heard in this debate. Deputy Martin did mention she was worried about people who could not afford if they have 3

children having to pay £9 for their children's school lunches. I am not sure what a lot of difference it would make taking the 3 per cent off because it would still be £8.70 odd still to find to pay for those 3 school meals, so I recognise that it is difficult to find £9 and it is probably still very difficult to find £8.70, and the comments which the Deputy of St. Mary just made about using this as a bargaining tool to renegotiate the deal with the providers I think that just reinforces what I have just come to realise what this debate is about. It is just about trying to protect the school meal providers and it is nothing about helping people who cannot afford the meals.

8.2.15 Senator J.L. Perchard:

That is a point I was going to raise as well as another. This is incredibly emotive: food for children, school meals - and on the face of it of course who would wish to deny the best opportunity to our children to have good value, healthy food? This is not really what this exemption is about. It is about exempting school meals. Coca Cola, crisps, green peas and fruit. Now, if we are serious, and I am very serious about ensuring that children ... and Deputy Martin is right, some of our children perhaps do not have the opportunity for a nicely prepared packed lunch. Some are rushed off in the morning because mum is already at work at 7.00 a.m. - perhaps a single mum - and it is not easy and if we are to take the health and wellbeing of our children seriously it is not by taking 3 per cent off school meals. We have to really address the 'Health for Life' initiatives that we will be bringing forward as a part of *New Directions*: the health promotion, the education of children and better equipped schools. That is the way we do it. Do not pretend that if we take 3 per cent off the cost of a school dinner we have solved the problem. Of course we have not. So, the real issue here is about addressing the pressing need to properly ensure that our children at school are nourished and have the opportunity to have at least one proper meal a day, and so please do not be sidetracked into pretending taking 3 per cent off the value of a school dinner has solved the problem and your conscience is clear because it is not.

8.2.16 Deputy G.P. Southern:

Oh, what a joy it is to hear what is going on in the playground at the moment. Here we have Ministers and Assistant Ministers all trying desperately to show what good corporate players they are. The Council of Ministers had a line on this and we are opposing it so, yes, indeed fresh-faced Ministers and Assistant Ministers are all lining up to say to teacher: "Pat me on the head. See, I am a good corporate player and I will join in even on this."

Deputy S. Power:

A point of clarification. I made exactly the same speech last September when I was on Scrutiny.

Deputy G.P. Southern:

I am on my feet. I am on my feet and you are now an Assistant Minister trying to show what a good Assistant Minister you are. The Member is an Assistant Minister trying to show what a good Assistant Minister he is, to put it correctly. So, what we have here is a series of complete red, purple, yellow, and green herrings thrown into the pot. The Minister for Treasury and Resources brings out a set of spurious arguments to say: "Well, if we are going to do this, why do we not do that?" To which the answer, as Deputy Tadier correctly spotted was: "Okay, let us do it. Both are good ideas. Why do we not do it?" The Minister for Education, Sport and Culture in his inimitable way shows that he is a corporate player and says: "Trust the Education Department. We are devising a policy." Well, we have been devising that policy, to my knowledge, for the last 3 years. Certainly I was involved in it about 2 years ago. Certainly 2 years and still we have no policy, but no doubt when we get the policy the children will be able to eat the policy and very nutritional it will be. Another red herring. The fact is that if we are - as we will move on to later - to remove G.S.T. from food it makes absolute logical and consistent sense to do the same for school meals and that is what we should be doing, and all the spin and all the waffle around it, all the red herrings do not make that central argument any different. The illustration was very simply provided when

we discovered that we were taxing Meals on Wheels. Within a very short time it was decided that was not the thing we wanted to do and it was removed, I believe I am correct in saying, within hours. As soon as it came to notice it was removed. Exactly the same principle should apply to school meals. Let us get on with it.

Senator P.F.C. Ozouf:

May I just make a point of correction to the Deputy? The issue of Meals on Wheels is very different to that of school meals. Meals on Wheels is a charity providing meals at a non-profit making cost to old age pensioners in their homes. It is completely different from commercial undertakings providing school meals at commercial rates at the schools.

8.2.17 The Deputy of St. John:

Meals at school. Those which are being undertaken by the private sector, i.e. these companies that supply meals at school are private companies and therefore have to make a profit. If the parents can afford that particular type of help, or that kind of thing for their children, then therefore I think they can afford to pay the G.S.T. If the meals from school are those which are taken from home, i.e. by way of sandwiches in a box or whatever pre-prepared lunches from home, then therefore they will fall under the main proposition and therefore I am minded to not support this particular amendment because I think those people who ... I do not believe it would be hitting the right people, so therefore I will support the main proposition, but I will not support the amendment.

The Deputy Bailiff:

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

8.2.18 Deputy A.K.F. Green:

I thank the Minister for Treasury and Resources for clarifying the thing on Meals on Wheels. It is totally different. The problem with Meals on Wheels was, as the Minister said, they are a registered charity and therefore are entitled to claim back any G.S.T. paid. What we did there between us was to make it easier for them so that we did not add G.S.T. and then claim it back. It was a totally different situation. A few comments to make; I picked up a few. The only difference between what I want and what my Minister wants in terms of school meals is I want quality meals like him and we are working on that. I just do not want to charge G.S.T. for my quality meals. Some people have thrown in red herrings around a contractor and maybe I am to blame for that because I used one contractor as an example. What I am trying to show there is that very soon there is going to have to be significant price increases on behalf of contractors in order to be able to provide the service. I was not making a case for contractors *per se*. What I was trying to do was to make a case to keep the cost of meals down to ordinary families. I have made a few other comments here. Members may not be aware, but those of us who do the shopping will be, that food in Jersey is 15 per cent plus higher than that in the U.K. and if I can use the term in a former life ... [Aside] In a former life when I was a school caterer and I did some work also for the Welsh Office, it might interest Members to know at the time we were then receiving an allowance of about £3 a day to feed old folk, and this is about 27 years ago, and at the time a police dog was receiving an allowance of £9 a day so it just shows how complex the whole issue is. The Minister for Treasury and Resources mentioned schools in the U.K. We only have a small number of schools here. It is not as complex as the U.K. Certainly having worked in the service in the U.K. I appreciate how complex it is there but this is simple. I think the question was asked about how many of the secondary schools have school meals and I thought I had covered it in my report. Of the 9 schools 8 have a school meal service but 2 of them are in-house, and Le Rocquier school is one that is in-house and currently this year for the first time they have just about covered their costs but they have done that by charging the children more for the meals. The officers have clearly said in Treasury there are no manpower implications and to use their terms: "The impact in terms of lost

revenue is minimal.” I think we should show support for our young people, ignore the red herrings and support the amendment.

The Deputy Bailiff:

The appel is called for in relation to the amendment lodged by Deputy Green so I invite Members to return to their seats and the Greffier will open the voting.

POUR: 19		CONTRE: 32		ABSTAIN: 0
Senator S. Syvret		Senator T.A. Le Sueur		
Senator B.E. Shenton		Senator P.F. Routier		
Senator B.I. Le Marquand		Senator P.F.C. Ozouf		
Connétable of St. Helier		Senator T.J. Le Main		
Deputy R.G. Le Hérisier (S)		Senator F.E. Cohen		
Deputy J.A. Martin (H)		Senator J.L. Perchard		
Deputy G.P. Southern (H)		Senator S.C. Ferguson		
Deputy of Grouville		Senator A.J.D. Maclean		
Deputy of St. Peter		Connétable of St. Ouen		
Deputy J.A. Hilton (H)		Connétable of Trinity		
Deputy P.V.F. Le Claire (H)		Connétable of Grouville		
Deputy S. Pitman (H)		Connétable of St. Brelade		
Deputy K.C. Lewis (S)		Connétable of St. Martin		
Deputy of St. John		Connétable of St. John		
Deputy M. Tadier (B)		Connétable of St. Saviour		
Deputy of St. Mary		Connétable of St. Clement		
Deputy T.M. Pitman (H)		Connétable of St. Peter		
Deputy M.R. Higgins (H)		Connétable of St. Lawrence		
Deputy A.K.F. Green (H)		Connétable of St. Mary		
		Deputy R.C. Duhamel (S)		
		Deputy of St. Martin		
		Deputy J.B. Fox (H)		
		Deputy of St. Ouen		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy I.J. Gorst (C)		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy J.M. Maçon (S)		

Goods and Services Tax: exemption or zero-rating for foodstuffs and domestic energy (P.28/2009) - continued

The Deputy Bailiff:

Now we return to the debate on the main proposition. Does any Member wish to speak on the main proposition?

8.3 Deputy T.M. Pitman:

Firstly, I would like to congratulate the Deputy of Grouville on an excellent speech. She covered a great deal and it is good when someone does that because you do not have to try and say too much, or repeat it. I thought about a lot of different angles that I might talk about today. The first thing I thought about talking about was how simply deeply immoral it is to tax food in the first place. The poorest within our community who have no choice but to buy that food - no choice - while we let

some in the Island pay tax, and not 6 per cent, but more like 2 per cent, and that is even if they pay tax at all. Progressive taxation in Jersey? I think that is a bit of a joke, but then I am sure someone will correct me, but was it Leona Helmsley or someone who observed: "Tax is just for little people." I thought about talking about the need to avoid at all costs falling foul of the establishment party disease, i.e. consigning more and more ordinary working people to the second-class citizen poverty trap of life on income support, that is what we will be doing. I thought about talking about the need for the Constables to play their time-honoured role of being father or mother of their Parish, again fighting to ensure that this establishment party disease is not allowed to swallow up their parishioners. I think that is important because that is where the Constable's name is really made on looking after their parishioners. I did briefly consider talking about how strange it is that 99 per cent of politicians who seem to champion G.S.T. have quite possibly, almost certainly, never had a more difficult economic decision to make than whether they should order the Dom Perignon or the Rothschild. I might have got those wrong; I do not know much about champagne, being a peasant. I briefly considered talking about peak oil and global food inflation and the way that, regardless of the head-in-the-sand mentality that infects so many wealthy Members pretending that it is still 1983 and that the iron lady has not gone rusty yet, the politics of greed just do not cut it any more. The world has changed. We need to change, too. Finally, I thought I would talk about how amazing it would be if we had an election law that was really useful, one that meant anyone caught lying about their policy could be dragged off to the Royal Court and fined a few thousand quid. That would be really useful. Still, it is only 4 months since that election; surely no one would have the bare-faced cheek to turn tail and vote the other way so closely to that event. So, if we could, I thought maybe it would be different to have a little game, with the Chair's permission. We obviously do not have buzzers but I thought from my research and the *J.E.P.* - well, it must be true if it is written in the *J.E.P.* - and from my experience on the hustings, if we just went through the newly-elected people and we highlighted if they had supported exemptions in some way... Being a fair kind of a guy, if I am wrong about anything please flash your lights on and I will withdraw the statement with the caveat that I will come back tomorrow and do some research and see which one of us is right. So, Senators, because they are the most important people: Senator Breckon, well, I think I can safely say that he supported G.S.T. It is a shame he is not here, indeed. **[Interruption]** He supported it, sorry, absolutely. Did I need to say that? **[Interruption]** Thank you. I am not. Senator Routier, now, he needs a really special mention here because he paid some G.S.T. because he took out a very expensive advert on the front of the *J.E.P.* just before polling day proclaiming how he had voted for exemptions. I really cannot imagine any way that Senator Routier would now change his mind and vote against exemptions. He would just look like some kind of charlatan, would he not? Senator Le Marquand, now, I shared the hustings with Senator Le Marquand and quite enjoyed it. I am absolutely convinced I heard him declare his unhappiness about G.S.T. on food. Indeed, I think we talked about that was something he had in common with the J.D.A. (Jersey Democratic Alliance) so I hope we are going to have some solidarity, comrade. **[Laughter]** Senator Maclean, now, he fudged his support a bit, as I recall. He said he would fight G.S.T. but as long as it could be kept to 3 per cent ... obviously he was not quite as familiar with the J.D.A. manifesto as he thought. But he represented a really working class constituency last time so I am sure that he will do the right thing. Let me come to the Constables. Now, not many of them faced election. The Constable of St. Helier earlier in the year, now he definitely said he would support exemptions. I had a mole earlier to tell me that the Constable of St. Clement did, but I am happy for him to run in and correct me if I am wrong. I was also told by a parishioner that the Constable of St. Peter did, but he is here so perhaps he could correct me if I am wrong and I am happy to withdraw. Then we get to the real peasants, the lowest of the low, the Deputies. Now, I just know that none of these would tell porkies so I do not expect to see any red lights going on. Deputy Shona Pitman, well, she is a paragon of telling the truth on G.S.T. so ... Deputy Southern, Deputy De Sousa, sadly not here and we all understand why, I think. Deputy Trevor Pitman, well, I am not going to change my mind. All 4 of us published highly workable alternatives on our websites. As the Deputy of Grouville has pointed out, many of

those just do not seem to get looked at. Why, I cannot imagine. Deputy Martin, Deputy Le Claire, Deputy Hilton, Deputy Higgins and Deputy Green, correct me if I am wrong, please, but you all supported exemptions on G.S.T. Blimey, that only leaves Deputy Fox. We will have to take him outside later. Then in St. Saviour we had Deputy Lewis who definitely did support exemptions. Deputy Maçon and - I hope I am right - Deputy Vallois, because otherwise I am going to get slapped round the back of the head. Deputy Dupré was definitely opposed to G.S.T. I think it is still on her website. I hope I am correct. Deputy Gorst, I hope that is not a misprint. Deputy Tadier must have gone against the strange malaise affecting St. Brelade because he was definitely for exemptions. The Deputy of St. John and the Deputy of St. Mary. So I will be looking to all those people to do the right thing and stick to their word because, as I say, this is ...

The Deputy of St. Mary:

On a point of information ...

Deputy T.M. Pitman:

I will give way, certainly.

The Deputy of St. Mary:

I am not sure that I have said or put it on record in leaflets ... I have not checked my Senatorial one. I think I have looked at my Parish one and I have put on record that I am against G.S.T.

Deputy T.M. Pitman:

I will accept that and withdraw it, but I will be coming back tomorrow.

The Deputy of St. Mary:

So will I.

Deputy T.M. Pitman:

Good. **[Laughter]** If I do not come back tomorrow it is because I have been beaten up, obviously. Sometimes you have to make difficult decisions, and I think this is one of those that might be difficult for some but it is really not just about money. It is about morality, and I do not think that is something that we have focused on enough. I find it so strange again that nobody bats an eyelid when we waste millions and yet with the Ministers there is no accountability. Yet, as we saw just 2 weeks ago, was it, with the Pound World staff, we haggle over £15,000, but several million, no, not a problem. This is a moral issue. If we want to look after the long-term health and wellbeing of our people, I think we have to back the Deputy of Grouville. I really commend her for bringing this proposition. There will be people who will speak at length on a lot of these issues that I have raised, and I would urge them to do so because I think it is really important we give the Deputy our support.

8.4 Deputy P.V.F. Le Claire:

I will be supporting the proposition. I congratulate the Deputy of Grouville for an excellent speech. I particularly was interested to hear that in New Zealand when they considered the other options for taxation that their income tax ranged from 12.5 per cent to 39 per cent. That is very interesting. Also, if one takes into account the cost of property and the cost of rents, *et cetera*, and the affordability of those things in this community, then one starts to look at the pounds, shillings and the pence that one has to make it through the month or the week, depending on how you are living. For most of us that enjoy good incomes - and although I am probably one of the least wealthy of States Members I do enjoy a considerably good income, in my opinion, in Jersey - I feel that a lot of Members, unfortunately, do not realise or do not appreciate or can never really appreciate what it is like to have to live on a very low income. I think that unfortunately ... I would not wish that upon States Members to experience, but once you have experienced it then you do look down to the last few pence. I am not convinced and I think it was a sop last year to bring in a range of measures

and to say that we have covered everybody through a package of low income support to offset this. I do not think we have done it. I do not think it is adequate and I think that we have a lot of work to do on taxation in Jersey and I think we need some simple revision of our tax laws to include lifting such things as social security to a decent level. I heard yesterday on the radio that the ceiling in Guernsey is something like £98,000, something like that, for social security and in Jersey it is something like £40,000-odd. So there are obviously ways that we can make money for taxation that we are not trying to. We are definitely impacting upon the very poor. Even though 3 per cent sounds like nothing to States Members because we are all relatively well off or very well off, I can assure Members quite sincerely that sometimes it does come down to the last few pence in the house to be able to afford the bread and milk. I am sure some Members have experienced that, but I would like to remind us all that there are people in our community today that are experiencing it.

The Deputy Bailiff:

Is some Member going to admit to the telephone infraction? There was a loud noise over here somewhere. **[Interruption]** Constable of St. Martin.

The Constable of St. Martin:

It is nice to see everybody being so honourable and admitting it.

The Deputy Bailiff:

Well, I was hoping we would get a plea of guilty from someone. **[Interruption]** Sorry. Does any other Member wish to speak? Deputy Le Fondré.

8.5 Deputy J.A.N. Le Fondré of St. Lawrence:

If you will give me one minute ... Members may remember a speech from last year **[Members: Oh!]** and for the sake of their sweet tooth they may be interested that I do have a couple of props.

The Deputy of St. Mary:

He is out-propping me. I was going to do this at the E.F.W. (Energy from Waste) debate.

Deputy J.A.N. Le Fondré:

I think it is fair to say that we all recognise that times have changed, but if 6 months ago someone had suggested to me that Lehman Brothers would have gone bust, that Merrill Lynch would no longer exist as an independent entity, that Lloyds TSB would be significantly owned by the U.K. Government or that Royal Bank of Scotland shares would have lost, let us say, 90 per cent of their value in the last year, even I might have suggested they might have been a little bit pessimistic. It is absolutely right that times have changed and in my mind we need to be focusing on matters that will help this Island ride out the present storm. This is not one of those matters and in case there is any doubt, I will not be supporting this proposition. I have to say I do not consider it wise or even remotely prudent to be re-entering this discussion at this time. In my view, this has proved that today we will be taking on the guise of a confused Robin Hood and giving more money to the better off and, potentially, making even those who need most assistance proportionately worse off. Now, consider the reports by the Fiscal Policy Panel. In January they commended the States for not exempting food. It is regarded as a very poor way of providing benefit to those who need it. It is not targeted, it is not temporary and it will not be timely. The 3 T's are not met by this proposition. Now, I am sure there will be certain Members who will try to blur this vote, to distort it a little, to try and find a chink in this part of the argument, who will perhaps even just ignore it, to ignore the advice from such highly qualified individuals who have vast international experience behind them, including advising the Bank of England and the European Commission. I would like to quote from a very recent F.P.P. letter to the Minister for Treasury and Resources which was sent to States Members last week: "This option of indirect tax cuts carries a serious risk of aggravating medium-term budget problems and a real risk of undermining the tax base. Changes to G.S.T. so soon after introduction should be avoided." That is the quote from this letter. You cannot misquote

it. You cannot caveat it. It is absolutely clear. Now, Members may or may not have noticed some headlines relatively recently in the local press concerning Guernsey. They have spent a large chunk of their 'Rainy Day' fund; they are forecasting huge budget deficits; they will potentially need to borrow to fund their capital programme. They may well be looking at introducing G.S.T. but in my opinion they are probably regretting not doing so earlier. That is very different to our own position, and I do think Senator Le Sueur and the former Finance and Economics Committee need significant recognition as to where we are today and that the fiscal strategy was a reasonable way forward. Let us look at the alternatives if this proposition is approved. For example, land value taxes have been suggested as a relatively painless way of recouping the revenue lost from exempting food. There are problems with this view. Will it just push up house prices, including sheltered housing and first time buyers? Is the likely revenue generated going to be consistent, regular and reliable? Because that is what it needs to be. It is no good having a couple of million in one year then nothing for 5 years. It needs to be a consistent amount each and every year, bearing in mind G.S.T. as a whole is somewhere around £50 million a year. Most importantly, I do not want lots of money coming in from a land value tax. Why not? Because that will mean the land is being developed, more green fields are being developed. That is what we need to restrict, the actual development, not the uplift in value. But any fiscal disincentives towards green field development - which I would support by the way - will not raise huge chunks of money. That is not the idea and that is a discussion for another day. You cannot have revenue from a land value tax and prevent green field development. You cannot have both. Equally, it has been suggested a higher rate of income tax, particularly for higher earners, would solve the problem. Now, the difficulty with this approach as applied to our particular system of income tax is it is not straightforward and the end result would probably be that lower and middle earners who are paying tax would be worse off as a result. It is complicated but that is the reality. There is no quick fix. We could, of course, reverse the measures already in place to assist those who needed assistance. Despite the assurances of those in favour of food exemptions, that would leave people worse off. Or we could put up the rate of G.S.T. - to me again not a particularly attractive option and self-defeating again in the context of this proposition. I endorse the views of Deputy Power. I think that people's views are changing, that they are accepting the system and want us to stop forever debating this subject and get on and deal with the very real problems that are facing this Island at the moment. **[Approbation]** I believe they want it kept simple. As an example - and I have included it in the pack that I left on Members' desks this morning - one of the sections of Christians Together in Jersey that looks at social and political matters has the following in its minutes: "We hope that G.S.T. will not be removed from food. It introduces more complexity. Instead, an increase in income support is much better targeted." As I said, there is a copy on Members' desks. Those are not my words. There is a better way of doing things and up until now we have followed that way. This might be an opportune moment for me to remind Members what has been done and, in fact, I believe it is the Deputy of St. Martin who asked me last week to remind Members what has been done to assist people, not only as a result of the principles supported by this Assembly in the last debate, which is sometimes referred to as the Le Fondré proposals, but also from earlier measures. Now, in the 2008 budget, Senator Le Sueur increased tax threshold limits by a total of 6.5 per cent, and that was a combination of a 3 per cent increase already agreed and a 3.5 per cent increase in respect of G.S.T. It was the simpler way of doing things and specifically targeted middle Jersey. Last autumn I lodged an alternative to the proposed exemption of food. That was to use all 3 of the existing systems available to us at the time - income support, the G.S.T. rebate scheme and income tax exemptions - to achieve a far more equitable result to target those most in need of assistance and to give further assistance to middle Jersey to avoid the added nightmare of administrative costs on local business which do have to be paid for somewhere, and also to save the additional cross of bureaucracy to the States of Jersey. We need to remember that the G.S.T. bonus scheme is the first time we have had a way of getting assistance to those who up until now have always missed out, those who do not pay tax, yet do not qualify for income support. So how have the initial principles panned-out? I think I would like to refer Members, if they have it to hand, to the document I left on people's desks. I will go between

page 2 and page 4. Basically, remember we have previously added 3.5 per cent to the 2008 tax thresholds. Anyone on I.T.I.S. (Income Tax Instalment Scheme) has already had that benefit and that means approximately 10,000 taxpayers. My proposals ended up with £3.4 million extra going to social security and £2.4 million going to income tax. That is on top of the 2008 monies. Now, page 2 gives some examples of the additional benefits generated in income support, and that is straight out of the proposition as approved by the States last year. If you look at the bottom of the page at the bullet points, you can see an example of a working family with 2 children has received an additional assistance of just over £1,000 extra per year. If we go to page 4 of the document - and I hope Deputy Gorst will keep his hands off the marshmallows for the moment - it is a summary of certain numeric examples. Those figures are both from the Statistics Department and from the Social Security Department; they are not from me. If you look at the table at the top, we start with a saving to household if food and energy were excluded from G.S.T. As requested by the Deputy of St. Mary and Deputy Tadier, we have shown this figure as a percentage of annual income. If you look at the sub-total line there, you see figures of £90, £100, £130, £185, £245. That is the average gain per year of excluding food and energy from G.S.T. to each quintile of the population, each fifth of the population. That means the people at the lowest end of our society in terms of earning capacity would only benefit from £90, whereas the wealthiest would benefit from £245, significantly more. The percentages figure immediately under those, the ones not in bold, show that taken in isolation the impact of food and energy is very slightly regressive in that the lowest quintile will benefit by 0.7 per cent, top quintile 0.3 per cent. These are very small numbers we are dealing with but it gives a trend. However, if you look immediately underneath at the figures in bold, which are larger percentages, they show the measures that we have already agreed and have in place that they provide proportionately more assistance, proportionately. Households eligible for the G.S.T. bonus, according to the Social Security Department, include those with average incomes of about £17,000. If you look at the statistics, that means they would get from exempting food £90, but they can currently claim £150. That is better for everyone up to somewhere in the third quintile. Just to note the £150 is double before the amount of last year and this was implemented and accessible this month, so it has kept pace with inflation. If we are looking at the income support system, they are far better off under the present measures. Think about the earlier example: £1,000 versus £90, probably. What about middle Jersey? It is facts and figures, I am afraid, and it is tax - it is not very exciting - but it is the ultimate financial consequence of what is happening. If you look down the numbered examples, we have numbers 2, 3, 4 and 5 where we have calculated their tax liabilities under their various scenarios. Because they are in a particular tax band and because those bands have been increased by 11.5 per cent in the last 2 budgets, of which 5.5 per cent specifically related to offsetting G.S.T., it is absolutely clear that middle Jersey is also better off under the current system. That is a fact. We have helped middle Jersey already, i.e. the measures are in place. Therefore, 2 pensioners, household income approximately £26,000 - this is example 3 - are just over £200 better off, £216 if you like. That is the difference between £316 that they get now or they get under the measures that have been proposed, and the £100 they would get from exempting food and energy. That is not a regressive package and that is the important factor. It is the package that counts, not the individual components, and I make no apologies for labouring the point. That was the principle: keep it simple; keep it at a low rate; keep it as a modern, simple system - something of this century not the last - something that is adaptive, not reactive; something that targets money in the right direction. That was the overwhelming response from the consultation on the fiscal strategy. Food exemptions do not do this. They move us into adopting an archaic V.A.T. which is universally regarded as one of the worst and most complex V.A.T./G.S.T. schemes in the world. I hope that assists in clarifying how the measures have acted and worked thus far. I would contend that my proposals did put money in the pockets of those who needed it and that can be justified. My aim was to achieve a greater proportionate benefit than just exempting food and at the same time to avoid the costs of added bureaucracy. I have to say I think that is what the public expects of us, to rationally consider the issues, to identify where the greatest benefit falls, to vote what is good for the Island tomorrow for its future. How many times have we

been told in this Assembly we are here as representatives, not delegates, to make tough decisions because we are the ones with the better information to make those decisions? Tough but rational decisions. Sometimes they are unpopular; that is what it is about. It is about fiscal policy. It is about money and finance. If we get it wrong, it is people who suffer. I contend that this proposition gets it wrong. If the proposition is adopted, one of the options has to be reversing the existing measures of relief. It has to be because you cannot spend the money twice. That was the purpose of the second part of my proposition which was adopted by the States last year. This proposition asks the Minister to consider whether there is an alternative to their removal. That is to explore the options but the fallback is reversing the proposals. I do not think we can debate this proposition or the principles of exempting food in isolation from the potential consequences. I would ask how Members can claim to have any control of States expenditure if they blow between £200,000 and £300,000 a year at the stroke of a pen when there is a better way, just because it might be popular. That is money on bureaucracy, of no benefit to anyone. Therefore, if Members claim to want to have any hope of controlling expenditure, they will not be supporting this proposition. Now, various supporters of exempting food have consistently denied the validity of the issue over the complexity of exempting food. They have refuted this with reference to self-declaring tax, to simply swiping the product being purchased. There are significant flaws in those arguments. Firstly, if one is to adapt the business systems and coding necessary to handle V.A.T. food exclusions, you have to go out and buy the systems. You cannot simply swipe the item if you do not have a bar code system to read the data and you also need new accounting software and other software to implement it. The large supermarkets have those systems, but not everyone does. There are 400 businesses and even more outlets that would be affected by this. It is not just about the 2 biggest suppliers of food. After that, we suddenly appear to be living in a world where everyone is honest and where everyone is infallible. At a flat rate of 3 per cent it is very easy to check that the sums being declared are correct and reasonable. If one now has to check whether the systems have been set up correctly, that a chocolate digestive biscuit has been treated differently to a plain digestive biscuit, then this is going to take a lot longer and errors, whether deliberate or not, will arise. The checks and inspections are an ongoing process; they are not just one-off events. In the U.K. experience, it is something in the order of one in 2 visits detects mistakes, many of which are to do with misinterpretation of what goods are taxable. That is why the complexity and administration costs increase and that is why bureaucracy increases. In this case, the estimate is between a 20 and 30 per cent increase from £1 million to collect approximately £50 million, so let us say £1.25 million to collect less. That is excluding loss of revenue from errors, loss of revenue from increased cost to business. If this was a charity with 25 per cent extra admin costs, would you give money to it? The U.K. V.A.T. rules are absurd; they are widely regarded as being archaic. Now, reference has been made to existing exclusions. That is because they are mainly services and it is very easy to identify services, particularly medical services. You can easily say an optician can be excluded because implicitly you identify the individuals registered under the Opticians Registration (Jersey) Law 1962 are excluded. That is easy to define and easy in terms of administration. Food is a complete nightmare and it is not just about whether we tax essentials or not. We have had the comments from the Minister about the examples of complexity. I kid you not, it can range from ... for newer Members - former Members will have heard some of these comments previously - these complexities can range from frozen yoghurt being treated differently depending whether it is eaten like an ice cream or whether it has been frozen just for storage purposes. Takeaway food, depending whether it is hot, cold or just warmed up, is treated differently. A cup of tea with a biscuit can cause a problem. Toffee apples are excluded from V.A.T. under the U.K. rules and I am sure Members will be delighted to know chocolate body paint is as well. Now, it gets better and I hope Members have a sweet tooth because we are coming on to the more fun bit now. Yesterday I went shopping. I went shopping on a G.S.T. shopping trip to a variety of Jersey stores, including the Co-Op. I do like marshmallows, and obviously Deputy Gorst does because he was fiddling with them as well. These are obviously healthy because they are fat free. Well, they are confectionary; they are subject to V.A.T. So, that is logical, confectionary is

subject to V.A.T. However, these things, which are called tea cakes, which are also marshmallows but covered in chocolate and sitting on a biscuit, are not subject to V.A.T. Exactly. Now, who likes shortbread? Ordinary shortbread: excluded from V.A.T. Chocolate covered ones - I could not find it in the shop, I have to say - are taxed. What then happens is if you get a bakery to take that shortbread, whack on some caramel, cover it in chocolate to produce what I would call a yummy and gungy item called either a millionaire's slice or a caramel slice, and we are back to being zero-rated. That is one of those. So, are we following closely here? We will ask questions later. These are excluded. Chocolate covered ones are taxable, but the really toffee covered things are not. I am so pleased because these are obviously healthier because they are tax free. Now, this exemption will only assist the larger retail outlets. Administratively, all the smaller outlets, the specialist outlets or the ones importing food from anywhere other than the U.K. - and that could be France, Portugal or Poland - will have a double problem. That is why the view of the economists, both local and international, is you do not exempt food if you want a simple system. All that happens is the administration is suffered by the entire economy and it is a dead weight. It would benefit the rich more than the poor and it achieves nothing. So, as an accountant, I have listened to the professionals who have put systems in all over the world and who have practical, global experience in these matters. They say keep it simple. We in Jersey are simply unprepared for the difficulties these proposals would unleash. There is the issue over the morality of taxing food, which I am sure speakers will relate to as we go through, no doubt, tomorrow. They will try to ignore the very many countries that do already tax food, and I again refer to the table of tax rates that again is in the pack that we supplied to Members. Only 4 of the 27 countries of Europe zero-rate food. The rest range from 3 to 25 per cent. So does that make the French, the Germans or the Danish immoral? Members will be delighted to know I am nearly finished. Therefore, is it better to give more money to those who need it than would arise from this proposition? Is it better to give less money to the wealthy and more to the lower earners and those on middle incomes, and that will include a lot of pensioners and families. What is the more moral position? Food has been subject to tax for many, many centuries; in fact, it goes back to the days of Magna Carta and before. Indeed, even in Old Testament times there was a direct link between taxation and the uses to which it was put, and one of those purposes was to provide for the vulnerable in society. That was the social contract of the day. Therefore, is it morally wrong to tax food? Well, I have to say when I think when we are aiming for a simple system, a reasonable system designed for Jersey, I do not think it is wrong to tax food when we are already protecting those who need protection. I think we are deluding ourselves if we think it will have no impact on the administration burden or if we think it will mainly help the less well off. By exempting food, we are imposing a burdensome, weird system on the food retailers, garden centres, bakeries, animal feed suppliers and pet shops, all well-known food retailers. A system whereby garden centres are caught because they have to distinguish between tomato seeds and seeds for growing geraniums, a simple system? I think not. A complicated system? Yes. To whom? Everyone. Likely to lead to increased administration costs throughout Jersey? Yes. Likely to increase prices? I would say so. I am going to conclude by quoting from an article in the local press very recently. It is obviously an opinion of the writer, but it may be worth repeating. It said: "In these turbulent times, second-fix meddling of legislation to release cash, which will inevitably have to be raised somewhere else, seems at best capricious and at worst...", well, he then carries on in some fairly unflattering terms, particularly on politicians. He then continues: "It is far better to focus on the bigger, more serious issues confronting our longer term prosperity." Those are not my words, that is from someone else commenting on us. To me, good government should be about introducing good systems and good policy. Bad government introduces flawed systems and it is patently the case, as demonstrated in the U.K. courts time and time again ... and the most recent case I believe was crisps versus Pringles and which is which, so the cases have not been all sorted out, they are still carrying on. It has been demonstrated that the V.A.T. system is fundamentally flawed in this area. The results of previous debates is that we have focused on those people who need assistance and we have also helped middle Jersey. Just giving a blanket exemption will not assist those in need. It does nothing to sort the very real problems we

are presently facing. Given that this will have to be paid for, potentially the outcome of this proposition could be to put those people in a worse position. To reiterate the F.P.P.: “It runs a real risk of undermining the tax base, a serious risk of aggravating medium-term budget problems, and changes to G.S.T. so soon after introduction should be avoided.” I rest my case and I urge Members not to support any part of the proposition.

Deputy J.A. Martin:

Can I just ask the Deputy because he did quote from ... I think he says they are his figures. On page 4, the question with quintile 3, the couple both pensioners, are these figures right? £25,000, I am presuming to £38,000, if the food is excluded they will be £100, but under “existing benefits” you have quoted £316, which already makes them £216 a year better off. Then all the other quintiles are in the £60s and the £90s. This seems a very high figure.

Deputy J.A.N. Le Fondré:

Yes, if the Deputy goes on to page 6, it shows how that benefit is calculated. That is the tax computation and it is the result of the marginal relief band. Essentially, if taxpayers fall into the marginal relief band, it always depends on personal circumstances, which is why it is very difficult to say: “Can we not tax people at £60,000 at the 30 per cent rate?” It is far more difficult than that on the current system because it is dependent on individual circumstances. Therefore, as long as people fall into the marginal band at 27 per cent, they get the benefits of what we have put through already. Those are middle Jersey because that can go up quite high in terms of income levels.

8.6 Deputy C.H. Egré of St. Peter:

I do not think I confuse easily, but I think I am somewhat confused, especially by the comments made by the last speaker, especially as he went into so much detail. When we first brought G.S.T. in I pressed the “pour” button knowing full well when I did that that there would be people in my Parish who would be concerned about me having made that decision. I also made sure that I went “pour” on food exemptions and I have been consistent in that view. I think it is a little less than 6 months ago, certainly just before the election period, as I recollect the majority of Ministers voted for food exemptions. The reason why I am confused is because it would appear that they were in full knowledge 6 months ago of all the complexities that have been set by Deputy Le Fondré. Those have not changed. Neither, by the way, has the advice of the Fiscal Advisory Group because they said prior to that vote when we were 25/25 when the majority of Ministers voted for food exemptions, the fiscal group had already advised that we should not play around with G.S.T. So, yes, I am confused. Talk has been how are we going to make up the shortfall? I can offer a few suggestions, not increasing tax. Perhaps we ought to be a little bit more careful in the way we deal with our civil servants because at the moment - and this has been discussed at other meetings - we have many civil servants suspended, who are not offering any productive work to us as an Island. Perhaps we ought to look at some savings there. Perhaps we ought to look at the fact that we need to have people who are a little bit more careful in the way they deal with currency exchanges. Perhaps we could make some savings there. I believe we have just recruited a new Deputy Chief Executive for the Council of Ministers. There is a view at fairly senior level: why do we need this post? So perhaps we need to manage what we are doing a little bit better. I still think that food exemptions are a very effective means to help those people who are least able to deal with the current recession, especially in food costs. I will just remind people the main point of this speech is that nothing that has been described in the last speech has changed since the majority of the Council of Ministers voted for food exemptions.

8.7 Connétable P.F.M. Hanning of St. Saviour:

Deputy Pitman said that the Constables should look after their parishioners and he is absolutely right. That was why I voted for the Le Fondré proposition last time when it came up because, although I thought initially that food exemption was correct, it was quite clear that lower and

middle earners were going to be better off with the Le Fondré proposition. So I voted for it. The idea of exempting food has all sorts of attractive feelings to it. It has a moral feeling. Everyone said: "This is good, we should not be doing the tax." I am sorry, I want to look at it in a practical way. I voted for the Le Fondré principles because they actually helped. Now, if we go to what we are going to do with this and we exempt food, we know that the big supermarkets will probably take the food off. I saw an interview on television with the manager of the Co-Op and I believe him when he says he will take the food off, but I have also spoken to quite a number of other shopkeepers and one in particular, who I know well and I do believe and trust him, has told me that he has done his sums and he cannot do these exemptions for 3 per cent. He will be putting the price of food up if these exemptions come in. This is exactly the opposite of what we are trying to do, exactly the opposite, and this happens time and again. We have well-meaning propositions and we end up doing the wrong thing. I really do not think we should be doing this. I cannot support something that is going to have this opposite effect and I certainly cannot afford something that I believe will make food prices dearer.

8.8 Deputy J.A. Martin:

I am quite glad I asked that question of Deputy Le Fondré because I am even more confused now. **[Laughter]** Are figures not a lovely thing, especially when you get the piece of paper shoved in front of you about 10 minutes before the debate and you cannot really dig down into them? What I will say, if anybody really wants to return ... and just for a confused soul like me who has probably just got a ... **[Interruption]** I was going to say, I need a G.C.S.E. (General Certificate in Secondary Education) in maths anyway. **[Laughter]** Remember, the only one we are talking about that gets the G.S.T. bonus is quintile one because you have to be in a certain bracket where you are not on income support. Now, at £17,000 depending on your rent, we are talking about a couple here or even if we are talking about a single person living in a one-bedroom flat - an average States flat - £120, £140 a week, I would not be sure if somebody on £17,000 was not getting some form of income support, even if it was not just help with their rent. So, I am not sure about that one. Then we have clear contrasts of means average total savings if food and energy are exempted, but existing benefits already provided. The other line we have not got ... now, yes, we did up the tax exemptions slightly to cover ... people who were not paying tax we gave a G.S.T. rebate and we upped the tax exemptions slightly. We have not got that line in here what they would be getting before the tax exemptions went up. So, we are not comparing £100 to £192. Before the benefit went up, they were probably getting £190 anyway. There is a line missing and figures will tell you what they want to tell you. That figure in the middle, the 3, does not correspond to any of the top. It quotes £25,900 and your second earner, well, that is in between quintile 2 and 3 but then, as I said, these people are very, very much better off under this system already with exemptions and the Deputy's answer was: "But it is an average and we are talking middle Jersey." Well, on my figures this only goes up to £38,000, which middle Jersey, price of food, price of housing, I am not so sure. We have another paper and why I am speaking early and I am speaking before the end of the debate, probably - I am presuming - I have a question here because we have another paper. It says it is from Deputy Vallois and it gives a lovely portrayal of how easy G.S.T. bonus payment is and how available. What happens? It is a fixed payment. Who can claim? A household where at least - now listen to this - one adult member has been resident in Jersey for the last 5 years and no members of the household are liable to pay Jersey income tax for the year 2007 and the household is not receiving income support during the 7 days before the date of the application for a G.S.T. bonus or the household is receiving a transition income support payment during the 7 days before the date of the application for the G.S.T. bonus. As clear as mud, as most people have told me who have applied for it say. It all goes through. Households who are not receiving income support we are now told a G.S.T. bonus form will automatically be sent out. But then what happens next? If are you entitled to a G.S.T. bonus, you will be sent a cheque for £150; (b) if you are not entitled to a G.S.T. bonus because you have not met all the other 6 criteria over board, you will receive a disallowance letter explaining why you are not entitled to a G.S.T. bonus. If you are not satisfied

with the decision on your claim you may challenge it and we will explain your rights again, as overleaf, why you cannot have it. What I would suggest, and I really need the answer to this question in clear fashion from the Minister for Social Security when he speaks, how many poor households ... well, if he does not want to speak that is entirely up to him. Maybe he could get somebody else. He has been quite quiet on providing information, which makes me even more suspicious, **[Members: Oh!]** so it is entirely up to him if he does not speak. My question to anybody who would like to answer me, then, is how many households who could apply, who thought they were entitled, did apply between October last year and 19th December, which was the cut-off date last year for the bonus, and how many of those were paid? I want the monetary sum and the total. It is quite simple. I do not think it is a figure you can play with, like Deputy Le Fondré has on many sheets of paper that he has given us earlier. Then again, I could not disprove that; as I say, we have only had them in our hands for 10 minutes. So, do I support the exemption on food and fuel? I think it was Deputy Trevor Pitman who said I have always ... in fact, yes, I think I have been quite consistent. I did not vote for G.S.T. I have always voted for exemptions. I have not been able to change my mind. We did also hear from Deputy Le Fondré the world seems to have gone mad in the last 12 months. I look at my shopping basket bill and I do not see 3 per cent on it, I see more like 15 to 20 per cent it has gone up. Has food gone up across the world? Yes, it has. Will it stop going up? No, it will not. You can delude yourself as much as you like. If you really think that not taking G.S.T. especially off of food, which apparently is the hard one, and I will just stick with food for a minute, that you are really helping the less well off, because the less well off ... and many seem to find themselves in the single parents, they have 2 or 3 children, many who are teenagers, and they will eat and eat and eat and this is one thing they have to supply. If they do not, they are bad parents. What was that we had earlier? Do not send them down to McDonald's for a cheap happy meal, supply some good food. Well, that might come at a cost but take 3 per cent off that cost and people ... it really does add up. I am really upset ... and in the last debate where they said: "Well, do not expect retailers to give this back to the public." I know we do not have much in the way of, let us say, shopping with your feet in Jersey because if somebody did not do that for me or I see it creeping up ... and you can see it going on because I question prices all the time. I say: "That does not say that." "Oh, yes, but you have not counted the 3 per cent." "Oh, yes, you can put that on at the till, that is fine." So then I find out that quite a few of the special offers are not as special as they look when I started out to buy them, and sometimes I send them back and out of embarrassment most of the times I just think: "Oh, okay, yes, fine, get on with it." But then so food is going up and we all know that. Looking at the figures again, there is £60, £92, there is £216 around this quintile 3 where we seem to need to be helping everybody else, and then the higher people. Again, we go back to just £92. So we may be helping them slightly, a bit more. I do not know because I do not know their circumstances. Most of the people who talk to me ... and, God, I would love to have been on Deputy Power's campaign knocking on those 3,000 doors. I would like to ask him a question: how many people were in when he knocked on the door? **[Laughter]** Because in St. Helier they were not happy chappies, I can assure you. I know it is a big divide between us poor peasants in St. Helier. We find it even hard to keep confidence in the Companies Law let alone having confidence in G.S.T., but there you go. So, different again in St. Helier. I am passionate about this food but I am even more ... and it will be, I presume, in Deputy Labey ... I am fully supportive of the food exemption, but domestic energy, even the professor himself and everyone we met at the town hall last week said it would not be too complicated to do that because it is quite easy. You just state domestic energy, you do not put the 3 per cent on, done. There will be a loss in revenue. Well, do it, then, that is what I say. It is absolutely ... we have elderly. We have heard it. They are living in one room. Even I have not put my heating on because my gas went from £65 standard to £100 they wanted, which fair enough, that is what it is. I said: "No, I am not, you can take £65." "Oh, you will be ..." I said: "No, I will not because me and my kids will sit here with quilts on", which we have done. But we are under the 85 range, age group I mean. **[Laughter]** You might not believe it and I know I am wearing well for over-75 age group, but these people we are talking about are between 85, 75, and once

their body temperature - proven fact - gets low they find it very hard. Not only that, why should they sit there frightened that we ... and all right, energy is going up, we cannot stop that ... well, we can try because apparently we have a very high percentage share in most of the energy companies in Jersey but, again, sit on our hands, and we cannot do anything about that, but apparently we can do something about G.S.T. on the domestic energy. I for one want to do that. I for one have never changed my mind. I do not suppose, maybe he was, Deputy Southern said a lot of Assistant Ministers who crossed the divide from Scrutiny to Assistant Ministers did seem to be finding excuses to now not support these exemptions. Entirely up to them, as I say. If they have any morals, if they had any morals, well, they probably would vote for the exemptions like they did last time, and I am sure they will still vote for the exemptions like ... hopefully they will this time. I think I have really said enough. My question is there for Social Security. I do not believe this G.S.T. bonus for the lowest quintile is working and I need the figures to be shown that it is working. If the Minister has the faith of the Le Fondré proposition, he will bring the figures in like Deputy Le Fondré has and put them on our desk at least 5 minutes before the debate resumes tomorrow morning. I suppose this proposition and I thank the Deputy of Grouville for bringing it so we can at least let all the new Members who did say on their manifestos, on their election platforms and on the doorsteps where they found people in that were concerned, that they would support the exemptions.

8.9 The Connétable of St. Peter:

I hope I am rather less confused than my colleague from St. Peter and certainly Deputy Martin as well. I have been confused over the last few months and certainly, as Deputy Pitman alluded to in his conversation earlier on, I did stand at the hustings last September and say that I would support the removal of G.S.T. from food. I have been quite robust in that for some time, until we started losing the banks; we started seeing an impending recession; I was starting to make enquiries in preparation for my proposition on Members' pay; I was finding out more people were out of work; the recession was getting deeper; the deeper it gets the more people go out of work, the longer it is going to be for us to recover. I also have since then found out that we have this G.S.T. bonus which I was totally unaware of last September. Since having heard about it I have asked a number of people how that affects them, how the removal of that would equally affect them. Virtually all of them have said that they would rather have the bonus than have that removed. I found very few people more recently that are in favour for removing G.S.T. from the people I have spoken to and, in fact, when I knocked on the doors in St. Peter - and whether the Deputy from St. Peter had the same experience - the concerns in the Parish of St. Peter were more about traffic issues and planning issues and there were virtually no issues whatsoever regarding G.S.T. It was only raised in the hustings in the community centre where both the Deputy and I were present on that evening. I will say again, if Deputy Pitman was here, yes, I did say then that I would support the removal of G.S.T. However, in the light of experience in this changed world that we are in just 6 months further on, I do not feel it is in the best interests of all of my parishioners to support the removal on this occasion. **[Approbation]**

8.10 The Deputy of St. John:

Unlike the previous speaker, I do support G.S.T. removal on food. At the time of election and on the platform I did state that I would at any future debate vote for the removal of food. Because I have spoken to a lot of people in the last week or 2 from middle Jersey who are suffering - they are suffering - and in fact a number of them have raised the issue of what happens when G.S.T. over the next 3 or 5 years goes up to 5 or 7 or 8 per cent? It means that your food is going to be 8 per cent more expensive. So, take it off now and put the extra 1 per cent or whatever we are going to lose on the other items and leave your food and your energy free of G.S.T. Another area that has come to light, the £150 that is paid to a single person who does not pay any income tax but does not fall into the lower quintile, in fact, it is paid per household, not per person. So if that household is a household of something in the region of, shall we say, 6 or 8 people, or a couple, that £150 ...

[Interruption] Getting back to the £150, if it has to be spread by 2, 3, 4 or 5 people, that in fact is totally unacceptable. It is barely acceptable at £150 for one person, but if it has to be shared by a number ... I think the Minister or one of the members of his department who have not spoken, if they could say something on that particular item because, having spoken to Senator Routier in the Members' Room just a few moments ago, in fact, he said this was given to them by the Statistics Unit, this figure, and it was rushed through. That was his comments in the Members' Room so, therefore, that being the case ... I have not given way. I am not giving way because that is what the Member told me in the Members' Room a few moments ago when I was making enquiries. So, that being the case, I think if the Minister for Treasury and Resources or somebody from within that department could give us the actual details of where we stand on that, it would be useful for Members when they come to vote. I am supporting the removal of G.S.T. in those areas because of the reasons I have said. Middle Jersey are the people who are suffering. There is nothing for the low area of middle Jersey, no help at all, so, therefore, if we can help them in this way at this time, I think it could be very useful.

Senator T.J. Le Main:

Could I call for the adjournment and perhaps ask the Assembly if we ought to start at 9.00 a.m. in the morning?

The Deputy Bailiff:

It looks as if the first part of your request is probably ... **[Laughter]** So, the Assembly will adjourn and reconvene at 9.30 a.m. tomorrow morning.

ADJOURNMENT