

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 25th MAY 2010

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[9:30]

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

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

1. The Greffier of the States (in the Chair):

We come therefore to F, Appointment of Ministers, Committees and Panels and, firstly, I understand the Chairman of the Education and Home Affairs Scrutiny Panel has a nomination to make for membership of that panel. Deputy Le Hérisssier.

1.1 Deputy R.G. Le Hérisssier of St. Saviour (Chairman, Education and Home Affairs Scrutiny Panel):

The panel has never quite recovered from the departure of the Constable of St. John who is still not with us. That said, we are very pleased to be able to recommend Deputy Maçon as an additional member. Thank you.

The Greffier of the States (in the Chair):

Is that nomination seconded? **[Seconded]** Are there any other nominations for membership of the Education and Home Affairs Scrutiny Panel? Very well, I therefore declare that Deputy Maçon has been appointed as a member of that panel. **[Approbation]**

Senator J.L. Perchard:

Members have on their desks a picture of a coconut and a picture of a coconut lampshade. I do not know if it is an attempt at satire by a Member but there is no notification as to who delivered this sheet, what it is, and I thought we had agreed that Members would not receive papers on their desks without notification of who they came from.

The Greffier of the States (in the Chair):

It certainly is good practice, Senator.

Senator B.I. Le Marquand:

I apologise if I am at fault here. I could otherwise have left things in the pigeon holes but this is to give detailed information in relation to one of the questions that I am shortly to answer. I apologise to Members for any confusion caused.

The Greffier of the States (in the Chair):

Thank you for the clarification, Minister. Very well, returning to F on the Order Paper. Following the decision of the States at the last meeting relating to the membership of the States Employment Board there is a requirement to appoint 2 members who are neither Ministers nor Assistant Ministers as members of that board. I firstly invite the Chief Minister to make his 2 nominations.

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

In accordance with the decision of the States and in accordance with my email yesterday, I have pleasure in nominating the Constable of St. Lawrence and Deputy De Sousa as members of the State Employment Board who are not Ministers or Assistant Ministers.

The Greffier of the States (in the Chair):

Are those 2 nominations seconded? **[Seconded]** Are there any further nominations?

1.2.1 Deputy R.G. Le Hérisssier:

Yes, I would like to propose Deputy F.J. Hill.

The Greffier of the States (in the Chair):

The Deputy of St. Martin is proposed. Is that nomination seconded? **[Seconded]** Are there any further nominations? Very well, as there are 3 nominations for 2 positions the States will proceed to a ballot and I will ask that ballot papers be distributed. Members can vote for 2 candidates or may choose to only vote for one. I remind Members the 3 candidates are the Connétable of St. Lawrence, Deputy De Sousa and the Deputy of St. Martin.

Deputy J.A. Martin of St. Helier:

Just a clarification, and I am not giving away who I could be voting for, the Deputy of St. Martin or Deputy Hill, would be either ... I know there is some confusion sometimes.

The Greffier of the States (in the Chair):

I am sure the scrutineers will be able to understand “Hill” or “St. Martin” or “Mezbourian” or “St. Lawrence”. We will ask the usher and the Viscount substitute to collect the ballot papers. Now have all Members placed their votes in the ballot boxes? Very well, I will ask the Solicitor General and the Viscount substitute to act as scrutineers, please.

[9:45]

QUESTIONS

The Greffier of the States (in the Chair):

While the votes are being counted we will proceed to I, Questions; firstly, written questions.

2. Written Questions

2.1 DEPUTY J.M. MACON OF ST. SAVIOUR OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING FIRST-TIME VOTERS:

Question

What measures, if any, are being put in place within schools to raise awareness amongst first-time voters on the voting process and the importance of being on the electoral register before the 2011 elections and, if none, why not?

Answer

In accordance with the terms of reference of the Privileges and Procedures Committee, as set out under Standing Order 128(b), it is the Committee’s responsibility to: “keep under review the rules for enfranchisement and for the conduct of elections and to bring forward for approval by the States amendments to the Public Elections (Jersey) Law 2002, as considered appropriate.”

As with the 2008 elections, the Privileges and Procedures Committee will undertake an advertising campaign in advance of the 2011 elections in order to raise awareness and encourage potential voters to register to vote. This will be followed by further advertising to promote polling day.

The Committee would encourage all potential voters to enrol on the electoral register, including those who have recently reached voting age, those who have been in the Island for the required 2-year period, those who have returned to the Island following a period of absence, and indeed any possible voter whose name does not appear on the electoral register at present. It is important that all eligible sectors of the community are aware of the need to register, irrespective of age, and it is appropriate that all such voters are treated equally and are made aware through the advertising campaign.

Education, Sport and Culture have advised that amendments were made to the curriculum to take account of the revised voting age in 2008, and the Personal, Social and Health Education citizenship programme now prepares young students for voting. A leaflet has also been produced entitled: “*Are you 16 or over: do you know how to vote?*” which is distributed to schools in the run-up to elections.

The Education and Home Affairs Scrutiny Panel is currently undertaking a review into political education in Jersey and the engagement of young people in politics. That review will examine the current policy for political education and how it is delivered in Jersey. Should any recommendations arise from that review which refer to the role of the Privileges and Procedures Committee they will be considered by the Committee in due course.

2.2 SENATOR J.L. PERCHARD OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE FORMER ODEON CINEMA SITE:

Question

With the introduction of a grading system for the Historic Buildings Register and the lodging of the draft North of Town Master Plan, will the Minister agree to undertake a review of the historic buildings listing of the former Odeon Cinema building and will he outline the timescale for such a review?

Answer

The Minister is prepared to review the Listing of the Odeon Cinema as a Site of Special Interest, as requested by Senator Perchard and has already requested that Jersey Heritage initiate this process. The work, of necessity, will involve the engagement of specialist advice.

On the basis of specialist advice, complemented by that of Jersey Heritage and the Ministerial Registration and Listing Advisory Group (MRLAG) and, allowing for the statutory period of time for the owners of the building to express their own view about the special interest of the building, it is envisaged that the outcome of the review would be concluded as soon as possible.

2.3 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE AMOUNT SPENT ON TAXI FARES BY 4 STATES DEPARTMENTS:

Question

Would the Minister advise the cost to the taxpayer of taxi and taxi cabs by the following four Departments over the last 12 months –

- (a) Chief Minister’s Department
- (b) Education, Sport and Culture
- (c) Health and Social Services
- (d) Social Security?

Answer

Total expenditure on taxis for the period 1 May 2009 to 30 April 2010 for the following departments was:-

Department	Year to 30 April 2010 £
Chief Minister's	3,219
Education, Sport and Culture	69,000
Health and Social Services	93,996
Social Security	518
Total Expenditure	<u>166,733</u>

Education, Sport and Culture

97 per cent of total expenditure relates to pupil transport mainly special needs students. Due to the dispersed nature of the students' residence it is considered more cost effective to use taxis rather than to purchase buses and employ a large fleet of drivers.

Health and Social Services

62 per cent of total expenditure relates to patient travel.

Additional Treasury Minister's comment:

The answers to these questions have been requested to Treasury even though authorisation for expenditure is made at departmental level. As the question has been asked I have asked the departments to justify their level of expenditure. Whilst understanding there is a justified need for travel and efforts to control use are recognised, I have concluded from the answers submitted that procedures could be strengthened to achieve better value for scale of States purchasing of on-Island transport. This is one good example where a properly resourced and centralised procurement department could save the States money on the £100 million non-staff costs. This will be essential to delivering the Comprehensive Spending Review and thank the Deputy for his interest.

2.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING A REVIEW OF INCOME SUPPORT:

Question

Will the Minister inform members how many families were in receipt of transition protection for Family Allowance when Income Support was introduced on 28th January 2008?

How many of these households have been reviewed since and how many have lost their protection because they are above the income levels set by the old Family Allowance Law?

Does the Minister consider it is appropriate in conducting such reviews of those on Income Support and receiving Transition Protection to use income levels which were last up-rated in 2001, when average earnings have risen by 49% over this period?

Can the Minister state whether the previous calculation disregarded Long Term Invalidity Allowance (LTIA) awards as income and whether in review today LTIA is now regarded? Will he explain what effect, if any, this has on households affected?

Answer

The exact breakdown of historical transitional protection is only available on a case-by-case basis. I can confirm that there are currently 89 families receiving transitional protection that includes an element in respect of Family Allowance.

Claims are reviewed on a regular basis and there are many reasons why transitional protection is no longer required. In respect of families previously claiming Family Allowance, the Income Support system provides additional support over a range of incomes and many Family Allowance claimants now qualify for Income Support at a higher level than the previous benefit so transition protection is not required. In other cases transitional protection is removed when a child reaches the age of eighteen, goes into care or leaves full time education. Under the previous system when these changes occurred Family Allowance ended in respect of that child. In the same way transitional protection is withdrawn in these circumstances. The other main reason for ending transitional protection is an increase in household income. To identify the specific reason for each change in transitional protection, the history of each individual case would need to be examined.

Transitional protection is applied correctly to all IS claims in accordance with the IS (Transitional Provisions) (Jersey) Order 2008. The rates and income levels used are those that were in force in January 2008.

I can confirm that Long Term Incapacity Allowance (LTIA) was excluded as income for Family Allowance calculation purposes. Assessments of Family Allowance transitional protected payments are made in the same way and LTIA income continues to be disregarded when reviewing the ongoing entitlement to transitional payments based on Family Allowance legacy.

Under the previous system there were many different rules for assessing income and different benefits were regarded, partially disregarded or wholly disregarded in the calculation of other benefits. This created a confusing system which has now been replaced by the consistent approach of Income Support.

2.5 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING VOLUNTARY REDUNDANCY ARRANGEMENTS:

Question

Will the Chief Minister inform members of the terms of the Voluntary Redundancy (VR) package currently in place for public sector workers?

Will he agree to release the terms of reference for the review of terms and conditions to be conducted as part of the Comprehensive Spending Review when they are finalised, along with the name of the person appointed to conduct the review?

Will he assure members that any changes to terms and conditions, including VR will be subject to full negotiations with employee representatives and will not be imposed on public sector workers?

Will he also explain to members why he considers that “it would not be appropriate” to bring any changes to terms and conditions to the States for ratification?

Answer

The terms currently in place for Voluntary Redundancy for public sector workers are as follows:-

- More than 5 years service 18 months pay

- More than 10 years service 20 months pay
- More than 15 years service 22 months pay
- More than 20 years service 24 months pay
- More than 25 years service 26 months pay
- More than 30 years service 28 months pay
- More than 35 years service 30 months pay

Employees with less than 5 years service would receive 2 weeks pay for each full year of service under age 40 and 3 weeks pay for each full year of service over age 40.

I am prepared to release the terms of reference for the review of terms and conditions to be conducted as part of the Comprehensive Spending Review when they are finalised, along with the name of whoever is appointed to conduct the review.

It is the States Employment Board's intention to fully negotiate and consult with the employee representatives on those matters which form part of current agreements with trade unions and staff associations. Voluntary Redundancy terms have never been negotiated with staff representatives – they are incorporated in a policy which applies equally to all pay groups. But it is the Board's intention to consult with staff representatives on any changes it might propose to make. There is no intention to impose changes without prior negotiation or consultation.

The reason why I said that it would not be appropriate to bring any changes to terms and conditions of States employees to the States for ratification is because under the Employment of States of Jersey Employees (Jersey) Law of 2005, it is the States Employment Board, and not the States Assembly, which is the employer, and it is the employer which determines, after negotiation and consultation, the terms and conditions of employment of States employees. This is consistent with law and practice in the public sector for many years now.

2.6 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE TOWN PARK:

Question

Will the Minister explain to members whether he considers the provision of underground parking beneath the Town Park for up to 200 cars at a cost of around £9/10m to be good value for money?

Notwithstanding the above response will he state why he considers that the provision of underground parking on this site is essential to the North of Town Masterplan?

Will the Minister inform members where the exact site of this underground parking is; what depth of the contaminated soil is on this location; what depth of the impermeable clay layer below this is, and what depth of excavation is required for the underground car park?

Can he assure members that the costs of remediation of the site are not significantly increased by the additional excavation needed for the underground car park?

Will the Minister further assure members that the excavation of an underground car park will not require a new Environmental or Health Impact Assessment, or otherwise cause any delay in the completion of the Park?

Will the Minister further assure members that the cost of provision of the underground car park will not be taken from the £10m already allocated to the creation of the Park?

Answer

1. While the costs are provisional and will be refined, I consider that, although it would be cheaper to provide car parks above ground, the benefits of placing them underground are the significant urban design improvements that result, and it allows the space above to be used for another purpose. Whether it represents good value for money will no doubt be taken into account by the States when they debate the Masterplan
2. It is imperative that most of the displaced existing shopper and commuter parking needs to be replaced, and if it is provided on another site at grade or above ground, it negates any return the States might achieve through alternative development of that site. The States has already rejected the development of an above-ground multi-storey car park at Ann Court. As long as the cost of underground provision is recovered by the receipts from development of States land then providing underground parking is worthwhile.
3. Now that I have assured Members that there will not be housing on the eastern end of the Town Park, the manner in which the car parking will be configured has to be reconsidered. Until this is done, the question cannot be answered.
4. There is contamination in only two areas of the Gas Place site. The impermeable clay layer is variable between 1 and 8 metres below the surface. The depth of excavation is likely to be no more than 5 metres.
5. It is proposed that remediation of the whole Gas Place and Talman sites will be undertaken as the first step in delivering the Town Park. That work has been tendered and will commence later this year, and will be followed by construction of most the Town Park in 2011.
6. I cannot give an assurance at this stage that the provision of a partial or wholly underground level of car parking will not necessitate further Environmental or Health Impact Assessment.
7. The £10m States contribution to the Town Park will not be taken from the cost of providing the Town Park.

2.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE RENTAL COMPONENT OF INCOME SUPPORT:

Question

Will the Minister inform members how many persons aged under 25 are claiming the rental component of Income Support?

Will the Minister explain under what circumstances under 25's are eligible for this component?

Will he further inform members how the current rules for eligibility are working in terms of alleviating hardship amongst under 25's in Jersey's expensive rental market?

Answer

Income Support (IS) is providing assistance with the cost of accommodation to a total of 378 individuals under the age of 25 (as at 10 May 2010).

The circumstances in which an individual under 25 is eligible for the rental component were set out in the departmental response (P.90/2007 Amd(2) Com) to a number of amendments proposed by the Scrutiny Panel to the Income Support regulations in October 2007. For ease of reference the relevant extract is reproduced below:

“8. Page 51, Schedule 1, Paragraph 3 – Housing Component

The draft copy of policy guidelines issued to the Sub-Panel on 10th August included the following (in the current version this is section 7.3.1).

“The main rule to be able to claim a housing component is that the claimant is aged at least 25 and is the tenant, licensee or owner of the property in which the IS Unit lives.

There are some exceptions to the age limit of 25:-

- *A claimant who has responsibility for a child. This can be the parent of the child or someone else (example an elder brother or sister) that has the main responsibility for the child*
- *A young person referred by Social Services as needing to live away from the family home (e.g. someone leaving care or being removed from an abusive family situation)*
- *A young person that cannot be expected to return to their previous family home because either*
 - *Their parents (or the person that had previously looked after them) are unable to help them – for example: the individual is an orphan, their parents are in prison or occupying unsuitable accommodation or*
 - *The young person has been living independently for at least one year and had reasonable prospects of remaining independent – the reason for claiming Income Support is an unexpected change in circumstance (illness, unexpected redundancy etc)”.*

Having taken advice, it is noted that these Regulations would meet the requirements of the Human Rights (Jersey) Law 2000.”

For individuals under the age of 25 who do not have the option of living with their parents this support works very well.

2.8 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING 1(1)(k) CATEGORY RESIDENTS' TAX PAYMENTS:

Question

Will the Minister advise whether he views the low degree of taxation (as outlined in response to my question on 23rd March 2010) amongst current 1(1)(k) residents - several of whom are paying between £5,000 and £10,000 tax; and a further ten paying less than £5,000 tax - in comparison with many lower and middle earners as acceptable within the present, highly challenging economic climate, and what measures, if any, he is currently examining to tackle this within the agreed Strategic Plan commitment to creating a fairer, more equal society in Jersey?

Answer

There is clearly a degree of misinterpretation and misunderstanding concerning the 1(1)(k) policy. In addition, I have received numerous questions on the subject even after making a clear commitment to a review ahead of the 2011 Budget.

However in order to further assist member's understanding, and clarify the position on the tax paid by those granted a 1(1)(k) consent since 1970, I will be publishing a document entitled 'History of 1(1)(k) policy' within the next few weeks. This should assist members and the public's understanding of 1(1)(k)s.

APPENDIX A

HISTORY OF THE 1(1)(k) POLICY

1. In 1970 the present Housing Regulations were adopted and those seeking to retire or otherwise move to Jersey to take advantage of the Island's favourable tax arrangements, who had entered Jersey in large numbers in the 1960's, were faced with the requirement that a consent to purchase a property was only possible if they satisfied the Housing Committee that they were of economic or social benefit (i.e. Regulation 1(1)(k)).
2. In the years immediately following the introduction of the Regulations the controls were not too tightly applied and in 1973, for example, there were 66 1(1)(k) consents granted. Although there was a minimum tax requirement it was at £3,000 in 1972 and £4,000 in 1973, not too much of a restriction.
3. In 1974 there was the first of a succession of reports on immigration policy and population growth restraint produced by the Policy Advisory Committee initially and subsequently by the Policy and Resources Committee.
4. In 1974 it was decided that the number of the new 1(1)(k)s should be restricted to 15 a year, and to help to secure this limit the tax requirement was raised to £10,000 per annum. During the debate by the States in February, 1974 of the Policy Advisory Committee's Report and Proposition on the scale and pattern of development in the Island over the next five years (P.2/74) an amendment to one of the Propositions was approved in the following terms –

“Before directing the Housing Committee in respect of the admission of wealthy immigrants, the States called for a Report and Recommendations from that Committee.”

A Report and Proposition regarding wealthy immigrants was presented to the States in May 1974, together with a note by the Economic Adviser on the “costs” of wealthy immigrants. That note concluded that “with proper restrictions over the type of property that can be acquired and over the redevelopment and extension of properties it is difficult to argue that 15 consents a year (in addition to the straight forward replacement of former wealthy immigrants who have died or left the Island) would be unacceptable, provided all those receiving consent

have a certain minimum potential local tax liability which at the present time would be a figure of £10,000 per annum”.

5. In 1979 the States approved a report of the Policy Advisory Committee and agreed that a greater degree of restraint should be exercised over the number of 1(1)(k) consents. The number of consents considered appropriate was closer to 10 a year rather than the 15 previously accepted, and the tax yield required was increased to some £20,000 per annum.
6. In 1987 in the Economic Adviser’s Annual Report on the Budget reference was made to the package of proposals adopted by the States in January 1987 which included a significant reduction in the number of consents to be granted by the Housing Committee under Regulation 1(1)(k). Whereas for many years the policy had been to grant 10-15 consents a year, the policy then introduced restricted the number of consents to 5 a year.
7. In 1989 the number of consents remained at 5 a year and the Housing Committee in deciding whether or not to grant a consent took account of the following factors –
 - (i) the extent and nature of assets held, and the degree of certainty with which a substantial income liable to Jersey tax would arise;
 - (ii) the applicant’s business and personal background;
 - (iii) the number of children likely to establish residential qualifications in the future;
 - (iv) the age of the applicant;
 - (v) the likelihood and nature of any active involvement in business interests including business within the Island.

To ensure that the number of consents remained at around 5 a year the minimum tax requirement was increased at the end of the 1980’s and into the 1990’s firstly to £50,000 and then to £100,000.

8. In the early 1990’s when a recession was experienced there was some flexibility introduced into the 1(1)(k) policy. The States in June 1992 adopted a proposition of the Policy and Resources Committee requesting the Housing Committee to adopt a more flexible policy in considering applications for consent under Regulation 1(1)(k) with the number of additional consents no longer being limited to 5 per annum.
9. The Budget Report presented to the States by the Chief Adviser in 1993 referred to the 1(1)(k) policy as follows: –

“The number of immigrants granted consent under Regulation 1(1)(k)s was limited in number. In the past this policy was designed to limit the pressure on the Island from the demands those immigrants placed on the construction industry and other service trades in the Island which, in conditions of overfull employment, could only be satisfied by further immigration. In the current climate however the impact of the purchasing power of those concerned, and in particular the support given to the employment of local persons in the construction industry, retail distribution and service trades such as vehicle maintenance, should be more welcome.

There is sometimes criticism of a process of selection of new immigrants according to their wealth, although the fact that businesses new to the Island are also selected on grounds of economic benefit appears to be readily accepted. If however there are considered to be

benefits from the granting of consents under Regulation 1(1)(k) in terms of the contribution to tax revenues and the “multiplier” effect of the spending power of those concerned, and at the same time there is a wish to limit the number of immigrants, it would seem to follow that other things being equal the higher the likely taxable income the greater the net advantage to the Island. It is on this basis that existing policy is founded.

The present requirement is for an applicant to have sufficient assets to yield an income liable to Jersey tax of £500,000 or more per annum. This has the effect of limiting the number of consents to a level consistent with current States’ policy.

While there have been one or two examples where adverse market conditions have affected the value of an individual’s assets and the return obtained on those assets, the evidence shows clearly that in almost all cases the contribution made to tax revenues significantly exceeds that expected when consent was originally granted.”

10. As the economy picked up again and the immigration pressures recurred so a tougher policy on 1(1)(k)s was re-established. The Housing Committee in 1998 considered the tax benefits received by the Island which resulted from the granting of consents under Regulation 1(1)(k). The Committee noted that of the 21 consents granted between 1992 and 1995 only 1 resident had under-performed. In total, for the year of assessment in 1996, the 21 1(1)(k) residents had paid tax of £2.5 million. Of those who had taken up residence in 1996, and had finalised their 1997 tax, all had paid sufficient tax apart from 1 who was about 10% below target. The Housing Committee was advised at that time that there were no grounds for withdrawing a consent, as it was granted for a property, but that a person’s tax contribution could be reviewed if they applied to move to another property. The Committee was also informed that 1(1)(k) residents were not legally required to make the tax requirement, which was then £200,000 per year, but that the majority were keen to meet the obligations and that any exceptions were reported to the Comptroller of Income Tax. The Committee noted that the minimum annual income which each applicant undertook to meet was expected to be adjusted upwards each year in line with the increase in the Retail Prices Index plus 2.5%. This ensured that, where a consent was granted on the basis of an undertaking from an individual’s trustees that the required level of income would be paid to the 1(1)(k) resident, the Island benefited from an adjustment which not only ensured that the sum involved increased in line with inflation, but also incorporated some element of real growth.
11. Throughout the 1970’s, 1980’s and 1990’s the tax requirement was used for the main part as a “rationing tool”. The idea was that if the States only wished to have, say, 15, 10 or 5 consents granted the tax requirement should be set to achieve this number. That is, those who were granted consent were those most likely to make the biggest contribution to the Island’s tax revenues. The principle was that if only 5 consents were to be granted they should be the best in terms of the tax contribution to be made.
12. There has been some misleading language used in describing the policy adopted in the 1970’s, 1980’s and 1990’s. There were no “deals” struck or negotiations that led to any agreement that a person paid less than 20% on the income they received that was liable to tax in accordance with the provisions of the Income Tax Law. All applicants were required to show that they would have sufficient income liable to Jersey tax at 20% to more than meet the minimum requirements set. That requirement was set as the basis for limiting the number of consents each year. Generally speaking the “hurdle” heights set had the desired effect of producing the number of applications and subsequent consents in line with the States’ policy of limiting the total number of consents in each year. All applicants had to satisfy the Housing Committee, with advice from the Economic Adviser and subsequently the Chief Adviser, that they would have sufficient taxable income to meet the requirements. The

objective was also to seek to establish a degree of certainty by looking for a sufficient capital base which applying a conservative rate of return yielded a sufficient income liable to Jersey tax. Applicants whose income was in the form of employment or trading income which was susceptible to the influences of trading conditions were unlikely to obtain a consent. Most applicants were seeking to avoid a capital gains tax liability in the United Kingdom at a time when they were seeking to retire from business and sell their businesses or property assets. Because those individuals could not sell their assets before they took up residence if they were going to escape the UK tax liability the housing consents issued had to rely upon a written undertaking from the individual applicant that they would dispose of their assets and create the taxable income required. From the analysis that was undertaken subsequent to consents having been granted there were few cases where this undertaking was not met.

13. Some applicants had structured the disposition of their assets prior to applying for a consent to limit their exposure to UK tax. For example, many years before thinking of taking up residence in Jersey some UK residents had established an offshore trust in a jurisdiction other than Jersey into which they had placed a substantial proportion of their assets of which they and their family were beneficiaries. The Comptroller of Income Tax had no ability to tax the income of the offshore trust which was established well before an individual had thought of taking up residence in Jersey unless the income of the trust was distributed to the individual concerned when resident in Jersey. The effect of this was that the income received in Jersey would have been relatively low unless the trustees of the offshore trusts gave an undertaking to pay an amount from the trust to the individual applicants sufficient to meet the Housing Committee's minimum tax requirements. The trustees were called upon to give a letter of undertaking that they would make the required income payments. This arrangement was often better in some respects than where an individual did not have an offshore trust because the undertaking from the trustees ensured that the income payments were made and the income received was less likely to be affected by the impact on an individual's assets and income arising from changes in the economic climate, falling interest rates etc.
14. In the recent years the policy has shifted to one of being more encouraging of 1(1)(k) applicants and the previous approach of relying on undertakings has been replaced by a statutory requirement whereby those granted 1(1)(k) status are taxed at the following rates:
 - the first £1 million of foreign income at 20%;
 - the next £500,000 of foreign income at 10%;
 - the balance of foreign income at 1%;
 - all Jersey's source income at 20%.

It is too early to say what the impact of this will be on each individual's contribution to tax revenues in comparison with the position prior to 2005 when the new arrangements came into force. Certainly the position remains that if an individual has legitimate ways of reducing foreign source income the tax yield could be lower than that being paid by many who gave undertakings in previous years.

15. When looking at the tax receipts obtained from those granted consent under Regulation 1(1)(k) since 1970 account must be taken of the undertaking that those individuals were required to give at the time the consent was granted. Thus, for example those granted consent in the 1970's faced the requirement of £3-£4,000 of tax initially and £10,000 subsequently. As many of those who were taking up residence were doing so on the back of the realisation of capital gains, and were in receipt of income derived from a certain capital sum, it should not be of surprise if a number of those who came in the 1970s are now paying tax of little if

any more than that promised at the time. However, what the tax figures showed for 2007 was that 30 1(1)(k)s who were granted consent in the 1970's produced tax of £1.75 million, an average of £58,000 per individual. This shows that many of those concerned were paying a sum in tax significantly greater than that which they gave an undertaking to do when they were first granted consent. There were only 7 paying tax of less than £10,000, and if some of those came in the early 1970s they were only required to pay £3-4,000 per annum when granted consent. A number of those will have seen their capital eroded over time through factors outside their control, and have seen their income eroded by falling interest rates. Having been resident in the Island for more than 30 years it may also be questioned whether they should still be considered as 1(1)(k)s rather than residentially qualified.

16. In the 1980's the tax requirement increased from £10,000 to £20,000 and subsequently to £50,000 at the end of the decade. The tax figures for 2007 showed that the 34 1(1)(k)s granted consent in the 1980's produced tax of £1.34 million, an average of some £40,000 of tax per individual. The figures show that the average was ahead of the undertakings given. Of the 34, there were 12 who were possibly falling short of their initial undertaking.
17. In the 1990's the tax undertaking increased from £100,000 to £150,000 and at the very end of the decade to £200,000. The tax figures for 2007 show that the 38 1(1)(k)s granted consent in the 1990's produced tax of £3.77 million, an average of £100,000 per individual. Some 50% of those concerned fell short of the undertaking but the economic conditions prevailing since they were granted consent could be expected to have had the effect of reducing their taxable incomes. For those granted consent in the 2000's the tax figures for 2007 show an average tax payment for the 14 concerned of £120,000.
18. It is to be expected that among those granted a 1(1)(k) consent over the past 40 years there will be those who performed extremely well with tax returns very substantially greater than the undertakings given at the time consent was obtained, and those who will have seen their circumstances change for the worst particularly in the light of recent events and whose taxable income will have reduced below that required to yield the tax that they gave an undertaking to meet.
19. There is no reason to suppose that in nearly all cases the undertakings given were not given in good faith. However, at the end of the day an individual cannot be taxed other than on that income that is liable to Jersey tax of 20%. The capital sum in the possession of many individuals may not have changed but the return on that capital sum can have reduced quite significantly because of lower interest rates and dividend payments. A reduction in the capital values from which income was generated could also have had an effect on an individual's liability to Jersey tax. The fact that on average the figures for tax in 2007 showed that the majority of those granted consent were more than meeting their undertakings should be seen as indicative of the success of the policy pursuit over the past 40 years. In the past consideration was given to the adoption of a different approach to the granting of consents, such as identifying a limited number of properties that could be purchased on the basis of first come first served, but it was thought unlikely that this would have yielded a tax contribution from the 1(1)(k)s as good as that obtained through the policy pursued over the past 40 years.
20. Through the 1970's, 1980's and 1990's there were no "deals" struck. The undertakings sought, and the evidence that had to be provided to support the undertakings, was intended to achieve the States policy of limiting the number of consents against the background of a wish to ensure that those granted consent were those most likely to make a significant contribution to the Island's tax revenues. A gentleman's undertaking was given by the individuals concerned that they would meet that obligation but this was no legal requirement. The figures show that for the most part the undertakings were honoured by those concerned.

Individual cases can no doubt be referred to as evidence that an undertaking was not complied with but it would be wrong to use the particular as evidence of a general failure on the part of those granted consent under 1(1)(k). In addition, before criticising those who have fallen short of their undertaking, regard should be had for the reasons for this outcome. For example, it is known that some granted consent in the early years were Lloyds names who suffered from major calls on their assets as a result of major insurance claims; others suffered from stock market collapses as in 1987; and one or two saw their capital reduced through divorce settlements.

21. Future policy regarding 1(1)(k) consents should be determined having regard to the costs/benefits of those making application currently. The fact that information provided with regard to past 1(1)(k)s shows the following picture on the payment of tax –

Up to £20,000	-	32
£20-£50,000	-	29
£50-£70,000	-	5
£70-£90,000	-	13
£100,000 plus	-	38

Total- 117

needs to be related to the fact that of those covered by this analysis –

30 were granted consent in the 1970's

34 were granted consent in the 1980's

38 were granted consent in the 1990's

14 were granted consent in the 2000's

and account taken of the undertakings required, and given, at the time a 1(1)(k consent was granted and the personal experience of the individuals concerned subsequent to their being granted consent.

2.9 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING WRITTEN EVIDENCE RELATING TO THE HAUT DE LA GARENNE INVESTIGATION:

Question

Following my questions on 11th May 2010, when the Minister informed the Assembly that he did not know whether or not the former senior investigating officer of the Historic Abuse Inquiry had invited a number of the Haut de la Garenne survivors to the police station in November 2008, where they were shown evidence recovered from the cellars, will he advise whether this event can now be corroborated by the States of Jersey Police; why and for what purpose such an action took place; and advise whether showing evidence to individuals alleging abuse/assault would have, as a consequence, made all such evidence inadmissible in a Court of law?

Answer

This event took place on 18 November 2008, following the press conference on 12 November at which some items were shown to the national media which were assessed as non-suspicious and non-evidential.

The items were shown to members of the Jersey Care Leavers Association in an effort to be open and transparent and to build their confidence in the police investigation team.

Ultimately it resulted in the JCLA undertaking a joint press conference with the police later that year.

It should be noted that such an event is not unusual when dealing with special interest groups in major enquiries.

As the items had been assessed as non-suspicious and non-evidential, the Police took the view that they would not be used in any subsequent criminal proceedings and that, therefore, issues of admissibility in subsequent proceedings would not arise.

2.10 THE DEPUTY OF ST. MARY OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING WRITTEN GUIDANCE FOR THE COMPREHENSIVE SPENDING REVIEW PROCESS:

Question

Given the evident importance of the Comprehensive Spending Review process can the Minister tell members where they can find the written guidance, authorised by himself and/or agreed by the Council of Ministers and issued to Departments, outlining exactly how they were to approach and carry out their duties under this review?

Answer

The Council of Ministers approved the principles of the Comprehensive Spending Review in late 2009 and in February this year agreed the rules and framework which would deliver longer term financial and business planning, improvements in financial management and control of States spending

After the Council of Ministers approved the parameters of the CSR, it was, and is, for officers to develop a process to achieve the agreed principles and parameters. At the beginning of 2010, a dedicated team of seconded officers was brought together to work with departments to deliver the CSR and developed a toolkit and templates for departments to complete for 2011, 2012 and 2013 targets. The written guidance was sent out by officers and, although both I, as Treasury and Resources Minister, and the Council of Ministers are kept up-to-date with progress, we do not get involved in the process of the CSR.

2.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING INCOME SUPPORT:

Question

Further to his response to a question on 20th April 2010 regarding impairment (personal care) components in Income Support and, given that the personal care component is paid as compensation for increased costs associated with an impairment, does the Minister not consider that to reduce transition protection negates any compensation received?

Answer

The calculation of Income Support is based on the financial needs of the household being identified through a number of components. Each component is in respect of a particular aspect of the circumstances of the household - for example, a child joining the household gives rise to an additional child component. In the same way, the deterioration of someone's health leading to the need for additional personal care gives rise to eligibility for a personal care component.

Every component of Income Support could be classed as a "compensation" for the increased cost associated with that component. In this respect there is no difference between the personal care component and any other component within the system.

As previously explained, there are three elements of the Income Support (IS) impairment component which provide financial assistance at different levels, depending on the nature and severity of the person's condition, towards the following costs:

Clinical cost

General practitioner visits for people with chronic or progressive medical conditions

Personal care

Care needs, for example: washing, dressing, cooking

Mobility

Transport for people with a medical condition that seriously affects their ability to get around outdoors

The table below details the component type and the weekly rate from 1 October 2009.

Impairment component types	Weekly rate
Personal care level 1	£22.26
Personal care level 2	£98.14
Personal care level 3	£140.91
Mobility (working person)	£44.52
Mobility	£22.26
Clinical cost level 1 (5+ annual consultations)	£2.87
Clinical cost level 2 (9+ annual consultations)	£5.74

In my answer to question 5298 on 20 April 2010 I explained that transition protection exists to provide a phased transfer between previous benefit entitlement and Income Support (IS) entitlement.

To re-iterate, all transition protection is paid above current IS entitlement.

If IS is increased, the need for transition protection reduces. A successful applicant for an additional impairment component (or any other type of component) will have their Income Support entitlement adjusted in respect of the full value of their new component. In some cases this will result in an adjustment of transition protection.

2.12 THE DEPUTY OF ST. MARY OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING CONTAMINATION FROM THE TALMAN/GAS PLACE CAR PARK SITES:

Question

Can the Minister advise members precisely what measures are in place to monitor on a continuing basis the pollution from the Gas Place/Talman site as it moves under the town and out into St. Aubin's Bay?

In particular, will the Minister tell members where, on what schedules and by whom this monitoring is carried out; what contaminants are measured; where this data is held and how it can be accessed?

Answer

Consultants contracted to Transport and Technical Services are monitoring groundwater from a number of boreholes around the proposed Town Park site. This commenced in October 2008 following discussions with Regulators from Planning and Environment, and is ongoing.

Eight monitoring locations are sampled on a quarterly basis. Monitoring locations comprise seven dual installations (shallow and deep), representing up-gradient and down-gradient off-site locations, and a single standard installation located on the northern edge of the Gas Place site.

Contaminants of Concern (COCs) are identified from the testing suite and constitute Ammonium, Sulphate, Total Cyanide, Benzene, Benzo(a)pyrene and Total PAHs. The data is owned by TTS and can be accessed by request. I have arranged for a copy of the graphed datasets and a "Review of Groundwater Quality Data – Town Park, Jersey" to Deputy Wimberley to support this response to his question and further copies can be readily provided to other Members on request.

2.13 THE DEPUTY OF ST. MARY OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING STATES INSURANCE:

Question

Given the Minister's assurances that he is fully aware of 'where the money goes' can he advise members the insurance bill for each Department of the States?

Can he further inform members how much of that insurance bill relates to liability insurance payments covering each Department's duties and responsibilities towards the public and possible failures or damages caused in carrying out such duties?

Answer

The main States' insurance programme is managed centrally by the Treasury to enable the States to achieve economies of scale within the insurance market. A summary of the type of insurance cover purchased and the Departmental allocations is detailed below:

States Insurance Programme

	2009	2010
		to 17 May
Premiums:	£	£
Property	279,474	291,210
Motor	85,320	90,540
Liability	1,023,994	985,840
Excess Liability	312,000	312,000
Personal Accident & Travel	135,219	129,635
Engineering Inspections	282,833	290,215
Miscellaneous Marine	6,000	6,000
	2,124,840	2,105,440
Services:		
Claim Management Fee	32,500	34,250
Insurance Service Fee	105,000	105,000
	137,500	139,250
Self Insurance:		
Self Insurance	1,656,957	1,561,615
	1,656,957	1,561,615
Total Insurance Costs¹	3,919,297	3,806,305

The self insurance allocations detailed above are held within the Consolidated Fund to meet the costs of self-insurance claims. A report and Proposition regarding the States self insurance arrangements will be presented to the States in the second half of the year.

	2009	2010
<u>Departments Insurance</u>		to 17 May
	£	£
Corporate States Insurance (Treasury)	2,488,927	2,369,581
Bailiff's Chamber	9	9
Chief Minister's	6,501	6,664
Data Protection	19	20
Economic Development ²	173,663	178,930
Employment & Social Security	28,626	29,342
Education, Sport & Culture	292,285	299,593
Health & Social Services	189,286	194,018
Home Affairs	97,440	99,876
Housing	346,494	355,156
Judicial Greffe	225	231
Law Officers'	83	85
Office of the Lieutenant Governor	532	545
Official Analyst	233	238
Planning & Environment	35,186	36,066
Probation	1,232	1,263
States Assembly	1,523	1,561
Transport & Technical Services	181,582	186,122
Treasury & Resources	74,340	45,868
Viscounts	1,110	1,138
Total Insurance Costs¹	3,919,297	3,806,305

Notes

1. 'Total Insurance Costs' do not include £30k HSBC Risk Management Fee

2. Includes Airport and Harbours.

In addition to the insurance expenditure detailed above, Departments may chose to purchase additional specific insurance to provide cover for their particular risk exposures. These include:

Education, Sport & Culture - Pupil Travel Policy, Work Experience Contingent Liability

Airport	-	Airside Insurance and Contractors Airside Excess Infill
Health & Social Services	-	Consultants Insurance - Medical Defence Union
Home Affairs	-	Police Authority Legal Expenses
Harbours	-	Public Liability Excess Layer
Treasury & Resources	-	JPH Rock Stabilisation Insurance

I wish to add a comment on "where the money goes". As Treasury Minister I want to be held accountable to ensure there is an environment where Accounting Officers can assure members they have an appropriate control structure in place to control public money. I have set out a policy programme to significantly strengthen financial management across the States. This is designed to ensure that all departments improve their financial management and controls. The Treasury restructuring plan has been worked on by the Interim Treasurer of the States since his appointment earlier this year. The Interim Treasurer is now well under way with the new departmental structure taking effect from 1 June at a senior level with the rest of the organisation being strengthened over the coming months.

I would envisage that by the end of the year I will be able to report a significant improvement in the financial management across the organisation.

2.14 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING PRIVATELY-OWNED DEVELOPMENT SITES IN ST. HELIER:

Question

What discussions, if any, have taken place with the owners of the private sites identified for development within the North of Town Master Plan (P.57/2010) in Appendix 3; who are the beneficial owners of these sites and does the Masonic Temple Car Park belong to the Masons as a Society or to an individual or company?

What are the financial implications arising out of endorsing the development rights of the different sites individually?

What are the likely financial gains to the States of Jersey for these sites?

What are the likely financial costs in building just an underground car park on the Gas Place site without any buildings on top?

Answer

1. Discussions have taken place with C. Le Masurier Ltd, Comprop, Jersey Gas Company Ltd, the Freemasons, Jersey Property Holdings, the Housing Department, the Constable of St Helier, and the Morvan Hotels Group, all of which own one or more of the sites listed in Appendix 3 of the proposition. I have no information on the beneficial ownership of the companies concerned, which has no relevance to planning considerations.
2. There are no financial implications to the States whatsoever. Advice is given to developers directly or through published advice, but such advice is only one of the considerations that are

taken into account as part of the planning application process, and thus is given without prejudice to any legal decision made through that process.

3. There are no direct financial benefits to the States from these sites that can be quantified. The eventual development of these sites may well trigger planning obligations relating to items such as infrastructure improvements, affordable housing and so on, which will have indirect benefit to the States.
4. This will depend on the extent and configuration of the car park, which is currently being worked on as part of the Masterplan review. The cost of the car park is likely to be around £10m.

2.15 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE EXISTENCE OF THE 'METROPOLITAN POLICE INTERIM REPORT':

Question

Given that the Minister has previously stated that he has never personally seen the 'Metropolitan Police Interim Report' but only an electronic version of an e-mail apparently attached to this document; will he investigate and clarify whether this 'report' actually exists as a physical (paper) document or just in electronic format; whether it exists in the accepted 'report' format most professionals would be familiar with i.e. a detailed document of several pages; or whether this is in the form of just a simple e-mail of a small number of paragraphs; and whether, irrespective of the format the 'report' takes, the words 'Metropolitan Police Interim Report' appear as a title?

Answer

Yes, I will investigate and clarify as requested.

3. Oral Questions

3.1 Deputy G.P. Southern of St. Helier of the Minister for Planning and Environment regarding the impact of the decision not to build on the Millennium Town Park site on the North of Town Masterplan:

Will the Minister inform Members what impact, if any, his decision not to build on the Millennium Town Park site has on the North of Town Masterplan and advise when he intends to bring forward an amended plan for debate?

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

The decision not to build on the town park site and deliver an unencumbered park over the whole of the site will have a significant impact on the Masterplan. I am presently engaged in discussions with the various States departments involved in the project together with the Parish to ascertain the best options to ensure the delivery of the key objectives of regeneration, parking and housing provision. We are working on a very promising possible solution involving a key site but this must remain confidential at this stage. I take this opportunity of advising Members that if we are to deliver the key objectives at anything like cost neutrality we will need to consider the introduction of a developer levy on the privately-owned sites in the area. I will bring forward the revised Masterplan in a few weeks, however, I can say there will be no delay to the commencement of the

town park. T.T.S. (Transport and Technical Services) will shortly be making a planning application which will be fast-tracked.

3.1.1 Deputy G.P. Southern:

Is the Minister prepared to give at this stage any details of the developer levy that he referred to?

Senator F.E. Cohen:

I am unable to give precise details. It is very much in the embryonic stage but, very clearly, if the public is providing regeneration benefits to the north of the town area it is appropriate, as has been the case in many other jurisdictions, to expect developers to provide something back into the central pot for the benefits that they will receive through an improved regeneration.

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

It is an interesting answer the Minister has given us because in my written question to him this morning in relation to my question: "What are the financial implications arising out of endorsing the development rights of different sites individually?" the answer is: "There are no financial implications to the States whatsoever" and he goes on to say that there may be ancillary benefits. Does the Minister stand by the written answers he has given me?

Senator F.E. Cohen:

The oral answer I have given is an update based on a meeting that was held with the various States departments in the Parish yesterday and provides the very latest position. Thank you.

3.1.3 Deputy G.P. Southern:

Can the Minister assure the House that the changes to the North of Town Masterplan, including changing the arrangement for making underground parking on the site, will cause no further delay in the development of at least the town park site as a park?

Senator F.E. Cohen:

I can give that assurance.

3.1.4 Deputy G.P. Southern:

That rather contradicts with item 6 in his written answer earlier which says that he may require a further environmental or health impact assessment and that the restructuring or rearrangement of the parking that he envisages, underground, on the car park site has not even been drawn up. We do not even know where we are going to dig. Is the Minister sure that there will be no further delay in delivering a town park?

Senator F.E. Cohen:

Yes. As I have explained, the oral answer that I have provided is based on an update that emerged from a meeting that was held yesterday involving most of the interested parties, although not all the interested parties, and I stand by the oral answer.

Deputy G.P. Southern:

A final if I may? Penultimately, perhaps?

The Greffier of the States (in the Chair):

I saw Deputy Martin; I will come back to you.

3.1.5 Deputy J.A. Martin:

Deputy Southern has learned how to listen in Scrutiny. If you listen to the Minister he says: "It will not stop the start of the town park" it does not say anything about how long it would take. My question is around the parking. I notice, as I am around the area a lot, the old Ann Court site, which

is out to private parking... I have never seen it more than at least a third full in the day and at weekends it is completely empty. Is the Minister working with an updated plan from Transport and Technical Services? Because I feel that maybe the message is getting through now that people can park a little bit further out and there may be not so much parking needed in this immediate area. That is what I think we should be aiming for. Does the Minister not agree?

Senator F.E. Cohen:

We are working very closely with T.T.S. and, yes, I do agree with the principles of the comments made by the Deputy.

3.1.6 Deputy G.P. Southern:

In that case I will ask the final question which is: when does the Minister expect to be cutting the tape on the Millennium Town Park? Can he give us a date because my diary is filling up?

Senator F.E. Cohen:

One thing I can assure the Deputy is that it will not be me cutting the tape. **[Laughter]**

3.2 Deputy P.V.F. Le Claire of the Minister for Planning and Environment regarding the potential impact on Jersey of the oil spill off the coast of Louisiana:

What advice, if any, has the Minister sought and what preparations, if any, has the Minister made in relation to the potential impact on Jersey and the Channel Islands should oil from the recent BP oil spill off the coast of Louisiana reach us via tidal currents?

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

Deputy Duhamel will answer this question as he has special responsibility for that.

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

The Minister is keeping a general weather eye on the situation and doing, as the rest of us are doing, reading the media reports that are appearing day-to-day. There are provisions for civil emergencies in this Island and obviously if the worst did happen and oil of a significant quantity and toxic nature did arrive on these shores then extraordinary circumstances would require extraordinary measures. I would have thought that a proposition would be brought to this House in order to take monies perhaps from the Rainy Day Fund in order to bring about the security to the environment that one would expect from the Minister for Planning and Environment and all those concerned with the environment.

3.2.1 Deputy P.V.F. Le Claire:

After the last oil spill off of the British Isles the Ecology Fund was set up with money from the States to deal with such contingencies and while I appreciate the States are quick to act to spend money, I am wondering what other measures the Minister has identified in relation to equipment, personnel and vessels, *et cetera*, that might be needed in the very unlikely eventuality that this does come our way.

Deputy R.C. Duhamel:

As one can appreciate from reading the newspaper and media reports this is very, very early days. One item that appeared in the *Baltimore News* as of yesterday from Professor Michael Kearney, Professor of Geology at the University of Maryland, who is also keeping a close eye on the situation, has suggested that if indeed the oil does get into the Gulf Stream it is not likely to happen until the end of July. He goes on further to say that if the Florida Keys are impacted within the next several weeks that would provide a good indication of how much oil is moving up the east coast. The Deputy is aware of the substantial distance between ourselves and the Gulf of Mexico. The oil

spill is in the Gulf of Mexico, albeit there are transport mechanisms that will take some of the oil outside of that loop and put it into the Gulf Stream. One further comment that the Professor from the university made is that one benefit Maryland might see is the oil to start to break down by the action of wind and tide, and experts are saying at the moment that the most toxic components of the crude oil should evaporate along the way.

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

The last time we had a spill in this area was the *Torrey Canyon* in the 1960s; we had many, many hundreds of metres of booms. Could the Assistant Minister give us an indication what amount of booms we have in stock at the moment and also other disbursement equipment like the liquid which would need to be sprayed on to any oil spill?

Deputy R.C. Duhamel:

I am not aware of a stockpile of any booms and certainly to put a boom or several booms around the Island would be a prohibitively expensive exercise. I should imagine that it would not just be Jersey that would be affected. The *Torrey Canyon* and the *Amoco Cadiz* spills were substantially closer to the Island and therefore the oil did not have a chance to break up in a way that perhaps will happen all the way from the Gulf of Mexico. I think it is probably foolhardy of the Island to think itself into a situation where we would have a stockpile in some agricultural shed somewhere of several thousand booms and tens of millions of pounds of equipment which would not necessarily be used except in very, very rare circumstances.

3.2.3 The Deputy of St. John:

Can I come back in on to that? I would have expected the Assistant Minister for Planning and Environment to have had some indication of what is held in stock in the event of an oil spill. We have oil tankers up and down the English Channel daily going up to Rotterdam and beyond and therefore I would expect to have some equipment and for him and his department to be aware of that.

The Greffier of the States (in the Chair):

That is not a question, Deputy.

The Deputy of St. John:

Will the Minister please look and notify Members later in the day of what equipment is held in the Island in the event of an oil spill?

Deputy R.C. Duhamel:

I am happy to do that.

3.2.4 Deputy J.A. Martin:

I think this does follow on from the Deputy of St. John. I think what we have heard - and the Assistant Minister may correct me, - is that, yes, this oil spill may be quite a way away but we could get an oil spill off the coast coming our way any time. Is he telling us his department does not have a strategy or a plan that he can call to action? I would like to hear his remarks.

Deputy R.C. Duhamel:

That is not a question that necessarily comes out of the question because specifically Deputy Le Claire asked: "What were the preparations that the Minister has made in relation to the potential impact on Jersey and the Channel Islands should oil from the recent BP oil spill off the coast of Louisiana reach us via tidal currents?" If indeed a longer-term emergency situation event, recovery or whatever the jargon is, a programme is required then I do agree with the questioner that perhaps it should be looked at but at the moment with monies being spread very, very thinly around, I should imagine that the likelihood of having monies set aside from the general pot and put into a

general situation to provide for equipment that might not be used over a substantial number of years would not rank very high on the priority list. But I am happy to advise the questioner of whatever emergency procedures we have got for spills other than the ones that have been referenced by Deputy Le Claire.

3.2.5 Deputy J.A. Martin:

The Assistant Minister for Planning and Environment, every answer he has given - forgive the pun - has been totally a slippery answer. He is telling us we have got no plan and if I would like to meet him for a coffee he will tell me some sort of thing he could pull out of the back of the hat. The question is I would hope, as the Assistant Minister for Planning and Environment, he would put this at a much higher priority. It is not about money; it is having a plan and a plan that is costed but something that we can put into action at short ... I know what I mean. **[Laughter]**

[10:00]

The Greffier of the States (in the Chair):

I am not sure that was a question.

Deputy R.C. Duhamel:

I thank the Deputy for her suggestion.

The Greffier of the States (in the Chair):

Do you wish a final supplementary, Deputy?

3.2.6 Deputy P.V.F. Le Claire:

I did find the Assistant Minister's answers akin to something that I would be hearing from perhaps BP or somebody. I did specifically put this question to elucidate from the Minister and the Ministerial benches some kind of understanding as to our preparedness for containment of an oil spill. I would like to repeat the question and get a more responsible answer if I can from the Deputy that the Deputy of St. John put: will he undertake to investigate immediately what resources are available and circulate a paper to States Members to allay any concerns that there are not adequate facilities to deal with an oil spill should it come to Jersey from wherever?

Deputy R.C. Duhamel:

I am happy to do that.

The Greffier of the States (in the Chair):

Very well. Just before I call the next question I am able to announce the result of the ballot for the membership of the States Employment Board. The Connétable of St. Lawrence received 29 votes; Deputy De Sousa received 29 votes; the Deputy of St. Martin received 26 votes and accordingly Deputy De Sousa and the Connétable of St. Lawrence are elected as Members of the Board. We come now to question 3. Members will note from the Supplementary and Consolidated Order Paper this question was redirected to the Minister with responsibility who is the Minister for Economic Development. I will ask the Deputy of St. John to ask the question.

3.3 The Deputy of St. John of the Minister for Economic Development regarding area payments to the agricultural industry:

Is the Minister satisfied that the necessary checks are in place to ensure that area payments to the agricultural industry are not subject to abuse and, what action, if any, would the Minister be able to take towards those who administer this funding and any persons or company found to be taking money under false pretences?

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

I am delighted to invite my Assistant Minister, the Constable of St. Clement, who has responsibility for the agricultural industry.

The Deputy of St. John:

I asked the Minister the question. I made a note at the time that I wanted Ministers - and I have always said it - to answer my question; not an Assistant Minister.

The Greffier of the States (in the Chair):

Well, that is noted but I think on this occasion no doubt the Assistant Minister is briefed to answer.

Connétable L. Norman of St. Clement:

Yes, my understanding is that Members are required to notify the Greffe at the time they place a question if they specifically want the Minister to answer it. I have had no notification of that.

The Greffier of the States (in the Chair):

I think you will have to answer it, Assistant Minister, but we will look into the matter. I do not think it is fair to expect the Minister at short notice to pick up the mantle.

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

I am sure he would be extremely competent to do so but I am fully briefed. I can say that I am satisfied that the necessary checks were in place, or perhaps I should say I was satisfied until I saw this question which rather intrigues me but perhaps we will find out a bit more. But any persons or company found to be attempting to obtain payment on false pretences would likely be committing a criminal offence and therefore be investigated by the police and subject to the full rigours of the law.

3.3.1 The Deputy of St. John:

Is the Assistant Minister aware of anybody at present, or over the last 12 months, who may have committed one of these offences?

The Connétable of St. Clement:

No, I am not. As far as I am aware there has been no police investigation or prosecution.

3.3.2 Deputy J.A. Martin:

Could the Assistant Minister advise us, compared to the amount of money paid out - and we are always hearing in the House that enforcement officers in Social Security are needed to, i.e. stamp out fraud; they used to be employed under the Housing Department, i.e. to stamp out fraud - how many equivalent enforcement officers are employed by Economic Development, i.e. to stamp out fraud, in fraudulent claims in the agricultural section?

The Connétable of St. Clement:

The amount paid in the single area of payment is considerably less than benefits paid by Social Security. The amount paid last year in the single area of payment was marginally over £1 million. But checks are in place every year: claimants' field plans are checked that they are being used for what they are said they are going to be used for; fields are checked against Planning and Environment's global information system database which includes the size of the field and what they are going to be used for and the whole scheme is audited by the States of Jersey Internal Audit. Of course, the claimants themselves are fully aware of the terms and conditions of the payment and if they tried to be a little bit naughty or a little bit economical with the truth then penalties are imposed. They would lose their financial benefit, which would not be in their interest, although there have been times when penalties have been imposed.

3.3.3 Deputy R.G. Le Hérisssier:

Partly answered; but could the Assistant Minister tell us what are the main areas of possible dishonesty or fraud that his department is looking at continually?

The Connétable of St. Clement:

Well obviously we are always concerned about fraud but quite honestly it is at the very lowest level. Errors made in calculating the size of fields would be the main thing. But as I say this is why they are always checked each year; every claimant. Every claim has to be signed, not only by the claimant themselves, but also by his accountant, so there is a double-check there. There is a reputational danger if someone puts in a false claim or a misleading claim; certainly they will receive penalties and that could go on for a number of years as well or they could indeed lose the ...

3.3.4 Deputy R.G. Le Hérisssier:

Are there any spot checks carried out?

The Connétable of St. Clement:

Yes.

3.3.5 Senator A. Breckon:

I wonder if the Assistant Minister could advise the House whether he is aware of an internal audit report done in 2005 which revealed that 2 growers claimed for the same field but different crops at the same time. If not, could he report back to the House and have a look at it?

The Connétable of St. Clement:

I was not involved with the department in the year 2005 and I do not have a copy of that report but I could certainly have a look at it, but we are talking about something which occurred 5 years ago.

3.3.6 The Deputy of St. John:

I am very disappointed in the Assistant Minister not being fully briefed as to what has happened in his department currently and in the past. In the answer he gave to my earlier question that no police investigation is ongoing, that being the case, is an inquiry within the department ongoing as to anybody receiving area payments that should not be receiving them?

The Connétable of St. Clement:

I am not aware of such an investigation.

The Deputy of St. John:

In future when I ask the questions to be put - and it is recorded in Hansard - that I ask always the Minister. I do not wish to ask an Assistant Minister. I always insist on that when I put my questions into the department.

The Greffier of the States (in the Chair):

Deputy, just to clarify for all Members, Standing Orders require that if you wish the question to be answered by the Minister you must, when submitting it to the Greffier, give that specific notice on every occasion. So if you wish to do that in future, and other Members do that, the Ministers are notified but in the absence of that notification as required by Standing Order 13(3A), the questions can be answered by the Assistant Minister.

The Deputy of St. John:

I accept what you are saying but I always put on the top of my thing: "To be answered by the Minister."

The Greffier of the States (in the Chair):

Yes. You need to specify it specifically, Deputy. Very well, we come now to the next question - number 4 - which Deputy Shona Pitman will ask of the Chief Minister.

3.4 Deputy S. Pitman of St. Helier of the Chief Minister regarding negotiations with teachers' representatives:

Given that the terms and conditions of Jersey's teachers have fallen significantly behind that of their U.K. (United Kingdom) counterparts, and highly damaging potential industrial action is now likely as a result, what steps, if any, will the Chief Minister, in his capacity as Chairman of the States Employment Board, be taking to reach a compromise and rectify this?

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

Firstly, I challenge the statement that Jersey's teachers' terms and conditions have significantly fallen behind those of their U.K. counterparts. There are terms and conditions, like pay, where we are ahead of the U.K.; there are others where the U.K. is ahead of us. In terms of actions to try to resolve the current dispute, senior officers of the States Employment Board and Education, Sport and Culture Department met with the Teachers' Panel and U.K. trade union officials on 20th May 2010 to discuss conditions of service and by all accounts a very constructive meeting was held. In addition, I have agreed to meet with the full-time officials of the trade unions concerned to review all the factors in the dispute and it is hoped that this meeting will take place very soon.

Deputy S. Pitman:

I would suggest that the Chief Minister has not had constructive meetings with the Teachers' Union if he still questions terms and conditions have fallen behind the U.K. I would like to ... sorry, I have forgotten what I was going to ask.

The Greffier of the States (in the Chair):

I will come back to you. Deputy Southern.

3.4.1 Deputy G.P. Southern:

Is the Minister aware that in terms of non-contact protected time, lunch duties and particularly pension rights, Jersey's teachers have fallen seriously behind the U.K. and that this will eventually lead to problems with recruitment? Is he also aware that while superficial progress was made on items which contained absolutely no cost, no progress was made in resolving the substantial differences between the positions of the teachers and S.E.B. (State Employment Board)?

Senator T.A. Le Sueur:

Firstly, I would say that there is no evidence at the moment of any recruitment difficulties. I did say that there were cases where Jersey was behind the U.K. and others where Jersey was ahead of the U.K. I would also question the remark made by the Deputy that no progress was made at the recent meeting with the Teachers' Panel and U.K. officials. I believe a very constructive meeting was held and that was the view that I understood was also expressed by those officials who were there.

3.4.2 Deputy G.P. Southern:

Will the Chief Minister return to the House with details of how many non-specialists are teaching specialist subjects like maths and science in our secondary schools before he makes statements that there are no recruitment problems?

Senator T.A. Le Sueur:

That is a question probably better directed to the Minister for Education, Sport and Culture who would have a better knowledge of who is teaching what subject, where and for how long.

The Greffier of the States (in the Chair):

Any final questions, Deputy Southern?

3.4.3 Deputy G.P. Southern:

Yes. What initiatives is the Minister prepared to take in order to find a resolution to this dispute before 11th June and certainly before 17th June when he has been given notice that teachers intend to strike?

Senator T.A. Le Sueur:

Initiatives or discussions remain ongoing, as I have said. I am to meet the Teachers' Union representatives next week. I shall also meet with the Minister for Education, Sport and Culture and representatives of the Education Department as to what initiatives I might take. We will just have to wait and see the results of ongoing discussions. The situation, as I say, remains open. The Deputy earlier suggested that there were various matters which we do not know costs. Those are being discussed and many of them I believe are being accepted but that remains an ongoing discussion which I will be pleased to participate in.

3.5 Deputy S. Power of St. Brelade of the Minister for Treasury and Resources regarding the participation of States trading departments in the comprehensive spending review:

Can the Minister confirm whether States trading departments are omitted from the comprehensive spending review and if so, explain why?

The Greffier of the States (in the Chair):

Now who is answering this question?

Deputy E.J. Noel of St. Lawrence (Assistant Minister for Treasury and Resources - rapporteur):

I can confirm that the Minister had decided that all States trading departments will take part in the comprehensive spending review. Discussions are ongoing with both Harbours and Airport as to how the objectives will be achieved.

3.5.1 Deputy S. Power:

The Assistant Minister would be as aware, as I am, having taken part in the inter-departmental discussions with senior officers and Ministers with the comprehensive spending review, that little or no reference has been made to States trading departments. Would he care to comment?

Deputy E.J. Noel:

I can agree with Deputy Power that up until recently the detailed work for both the trading departments have not been included in the C.S.R. (Comprehensive Spending Review) but I can again repeat that the Minister has decided that all States departments will take part in the comprehensive spending review.

3.5.2 Senator P.F. Routier:

Could the Assistant Minister confirm that the Harbours and the Airport have submitted responses to the C.S.R. team? It was done so under my instruction for it to be involved in the C.S.R. process right from the outset.

Deputy E.J. Noel:

Yes, I can confirm that.

3.5.3 Deputy R.G. Le Hérisier:

The Assistant Minister talked of ongoing discussions. Could he tell us the precise subjects that are being discussed at these ongoing discussions?

Deputy E.J. Noel:

It is a range of topics primarily on the income-generating side of their respective businesses and also on saving costs. Substantial costs have already been squeezed-out of these departments over the last 5 years but they can produce more.

[10:15]

3.5.4 Deputy S. Power:

Sometimes when I focus my mind on one of the States trading departments it is like trying to deal with a full moon in a fog. My next question to the Assistant Minister: is it not time to restructure these departments so that there is a board of commissioners that will take ...

The Greffier of the States (in the Chair):

I think you are straying well away from the comprehensive spending review, Deputy.

Deputy S. Power:

All right, well I will rephrase it then. Does the Assistant Minister not think it is time that the 2 departments referred to should be brought into line with the comprehensive spending review and that bringing information late to the table is not appropriate?

Deputy E.J. Noel:

I am quite happy to answer the first part of the Deputy's question.

The Greffier of the States (in the Chair):

Please do not. [Laughter]

Deputy E.J. Noel:

Well I will. A shadow board is being discussed and the exact makeup of that board is being worked on at this present moment in time.

3.5.5 Deputy R.G. Le Hérissier:

In these ongoing discussions, could the Assistant Minister outline - given the post office problem of universal service obligations - what happens with core services that are, by their very nature, uneconomic like outlying harbours?

Deputy E.J. Noel:

Well I think the Deputy has answered his own question; they are core services that are required.

3.6 Deputy T.M. Pitman of St. Helier of the Minister for Home Affairs regarding the 'Metropolitan Police Interim Report':

Given that the Minister has consistently advised the Assembly that he has not personally seen the Metropolitan Police interim report relating to the process leading to the suspension of the Chief Officer of the States of Jersey Police, will he advise whether he has now been able to obtain a copy and confirm that the report does exist as a physical document?

The Greffier of the States (in the Chair):

Minister, is this a question you are content to answer in the public ...?

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

Yes. The position is that I have not seen the contents of the relevant document. I have twice made inquiries in order to check the existence of documents. On the first occasion I saw an email and I saw an attachment to the email which purported to be this very document but I did not look at the

contents. On the second occasion, I saw a document but I cannot remember whether that document was the interim report or the final report. I have, since the asking of the written question, been attempting to obtain access to the document because I accept that I should now look at its contents. Unfortunately, I have been utterly thwarted by the fact that the Acting Chief Officer has been away on holiday and only he has access to the safe where the document, I understand, is kept and access to his private computer area but I will look at it as soon as I can.

3.6.1 Deputy T.M. Pitman:

I would like to refer to my answer to written question 15 if only there was an answer. But can I then put it to the Minister that the Metropolitan Police Interim Report does not, and has never, existed in the suggested official form? Could I further suggest that all that does exist are some rough and preparatory notes without any such official title *Metropolitan Police Interim Report*; that does not exist and perhaps they were, as has been suggested, purely to legitimise suspending the Chief of Police?

Senator B.I. Le Marquand:

What is being suggested to me is completely contrary to what I have been told and what I have previously set out in written answers, namely that a document was requested for reasons which I set out previously in written answers prior to the completion of the full report. There was, as I understand it, one additional witness to be seen before the production of the full report. There was great concern, as I have set out in written answers before, with the current acting leadership as to risks of whole cases being dismissed for abuse of process. It was felt necessary to correct impressions which had previously been given in the public arena and for that reason an earlier report was requested. That is my information; that I stand by.

3.6.2 Senator J.L. Perchard:

One report that we know does exist is the Wiltshire report. When will the Minister be releasing the Wiltshire report into the public domain?

Senator B.I. Le Marquand:

As soon as possible but I cannot say in precisely what form because the reports contain names of individuals; those names may need to be deleted. I have not yet had an opportunity to take advice on the precise form but the answer is: as soon as possible. I would hope to do so at the end of July after the expiry of the term of office of the current Chief Officer of Police.

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

I can understand Deputy Pitman's frustration about the lack of information about the police interim report because I do believe it does not exist and I am disappointed that the Minister cannot say so. Just to get back to the Wiltshire report with the answer we have just had, does the Minister not think it important that that Wiltshire report is available as soon as possible and preferably before the suspended police officer retires? Can the Minister give really justified reasons as to why it is not presented now and also ask when he received the report? So how long has he had it and why is it not now available to States Members?

Senator B.I. Le Marquand:

The Deputy of St. Martin should well know, as he purports to represent the Chief Officer of Police, that there is a confidentiality clause in the Disciplinary Code. That I have sought to abide by as far as I have been able so to do and to release the reports at this stage would be a blatant breach of that confidentiality clause. I am afraid I have now forgotten the ending part of the question.

The Greffier of the States (in the Chair):

Could you repeat the end of the question, Deputy?

The Deputy of St. Martin:

Will the Minister now accept that there will not be any disciplinary action because the Chief Officer will have retired, resigned, whatever, but he will not be here? So does it not make sense for the States Members to have that part of the report which deals with the actual suspension and forget the discipline because it is a non-starter?

Senator B.I. Le Marquand:

If the Deputy of St. Martin could prevail upon the Chief Officer of Police to agree to that, then I would be very happy to agree to that. The fact is what I have said is that a full-run disciplinary process would take a great deal of time - it is clearly not going to be sufficient time in relation to the first disciplinary matter - to achieve a final completion of that. That I have known for some time. In terms of the dates of receipt of reports, in relation to the first report I received the interim report in November, I think. I am not certain whether it was October or November. [Aside] Autumn. [Laughter] I have to anticipate questions on this point; the final report a month later. I then had to wait a further period until February until the relevant documents were produced. I then had to wait a further month until the report of the Deputy Chief Executive was produced. I then had to read and consider the documents and I have since then been trying to arrange a date to meet with Mr. Power. I have not been delaying things in any way whatsoever.

3.6.4 Deputy R.G. Le Hérisier:

As the Minister knows, and I am not blaming him, there is among the public a state of obviously considerable confusion about the sequence of events. Could the Minister clarify perhaps yet again, did the interim report play a crucial role in the suspension, and if that were the case, would he revisit it in order to examine that role?

Senator B.I. Le Marquand:

I have agreed in the written answer to the written question of Deputy Trevor Pitman that I would now look at the document. Clearly, that is what a significant number of Members would like me to do. I tried to avoid doing that in the past because of the danger of this impinging upon the disciplinary process on the one hand and, secondly, because the information I have is that that document contains a great deal of information and advice about individual prosecutions. Now I, as the Minister for Home Affairs, try to distance myself from the operational side of matters and therefore do not really want to do that. Those are purely the reasons why I have not looked at detail. I accept that I now need so to do and I am frustrated by the fact that I have not been able to do it despite all my efforts in the last few days.

The Greffier of the States (in the Chair):

A final question, Deputy Trevor Pitman.

3.6.5 Deputy T.M. Pitman:

I have to say as a States Member I find it really appalling that we can laugh about issues. This is a man's life and his reputation. The Chief Officer was, I believe, suspended under 2.33 of the Disciplinary Code; this demands a serious breach of conduct, as I understand it. Will the Minister clarify what this breach is or confirm that, in fact, nothing in the notes previously spun to the public as the Metropolitan Police interim report match this action at all?

Senator B.I. Le Marquand:

The suspension of the Police Chief on both counts is fully justified both in relation to the information I had at that time and also in relation to subsequent information.

The Greffier of the States (in the Chair):

I said that was the final question; I did see the light of the Deputy of Grouville. Perhaps we will allow one more supplementary.

3.6.6 Deputy C.F. Labey of Grouville:

The Minister spoke about a disciplinary process. Could he expand on this? What disciplinary process and when is this going to take place?

Senator B.I. Le Marquand:

The disciplinary process in this case started before my time. It started with a process by which the Chief Officer was suspended before my time. At that time a report was requested from Wiltshire: this is the first Wiltshire report; I have just given dates as to when that was produced and so on. That is the disciplinary process. The process which follows through from the stage where the report of the Deputy Chief Executive is received is that the Minister then has to consider the matters. He then has a meeting with the Chief Officer of Police and subsequently, and only subsequently, can the Minister decide what, if any, disciplinary charges are being faced. That is the point that we are at in relation to the first set of disciplinary matters. I am at the point of arranging dates for such a meeting. I think I have altogether given details of the total thing but I have answered many questions in writing before where I have set this out in great detail.

Deputy T.M. Pitman:

Can I just seek clarification from this?

The Greffier of the States (in the Chair):

Briefly, Deputy.

3.6.7 Deputy T.M. Pitman:

Did the Minister clarify when he will have an answer as to whether there is an official document: the *Metropolitan Police Interim Report* with those words?

Senator B.I. Le Marquand:

No, I did not. I am going to get access as soon as the Acting Chief Officer is back and I can get access to the documents and look at the contents which I have not done so far to check that they correspond - I expect they will - with the information I have previously provided.

3.7 The Deputy of St. Martin of the Minister for Home Affairs regarding positive identification of the fragment found at Haut de la Garenne in 2008 as a piece of coconut shell:

I must say, I find this is rather in bad taste before I start my question. Would the Minister advise whether the fragment found at Haut de la Garenne in 2008 has been positively identified at Kew Gardens; whether it is a piece of coconut shell, and if it is not, will he inform Members what it is and confirm that it is still in police possession?

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

The fragment referred to has been positively identified by 2 experts at Kew Gardens as being from a coconut endocarp. This diagram is not in the least in bad taste. This is a diagram to show Members what an endocarp is and it does that in 2 ways. Firstly, the top diagram shows that the outside skin of a coconut has 3 different levels. This is the inner level of the 3 and the bottom picture demonstrates - the bottom half of it - what an endocarp looks like, so this is purely information for Members. If I said "endocarp", people would have said: "What is an endocarp?" and I would not have been able to explain. There it is; both diagrammatically at the top and a picture of what a coconut endocarp looks like at the bottom. My information is that that identification was on 12th May 2009.

3.7.1 The Deputy of St. Martin:

I did ask whether it was still in possession. Can the Minister inform Members whether the alleged fragment, or whatever it is, is still in police possession?

Senator B.I. Le Marquand:

It is indeed still in police possession, yes.

3.7.2 The Deputy of St. Martin:

Obviously the Minister might not want to make the names of the people - the anthropologists at Kew Gardens - available to Members on the floor but could I ask the Minister whether he could make those names available to me at some other time? I think it is very important that we know when this fragment was identified as a piece of coconut.

[10:30]

Senator B.I. Le Marquand:

It is not customary to provide the names of experts in relation to such matters and I do not propose to depart from the normal practice.

3.8 Deputy D.J.A. Wimberley of St. Mary of the Minister for Planning and Environment regarding the costs and benefits of building underground parking spaces within the North of Town Masterplan:

In view of the need to seek out best value for money, can the Minister advise Members what he has done to evaluate the costs and benefits of building underground parking spaces within the North of Town Masterplan, against the costs and benefits of providing spaces above ground and avoiding the need for so many spaces by measures such as reducing car commuting and creating car clubs.

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

Most modern urban planning and regeneration accepts the principle that car parking in towns is best delivered underground or semi-underground or out of town. I intend to pursue the revisions to the Masterplan with this ideal in mind. I would point out, of course, that costs of underground car parking vary from site to site. Car clubs and car sharing can be a help in providing a solution, but they play only a small part. My department is working with other departments and the Parish to deliver a holistic solution to car parking in the north of town. As I previously stated in my earlier answer, a privately-owned site has emerged as a possible solution to delivering some of the key principles of the Masterplan, including car parking. Thank you.

3.8.1 The Deputy of St. Mary:

Thank you for that answer, which does not answer the question. It is nice to know that we are going to have a modern approach, but I did ask whether the Minister has undertaken any analysis of the costs of building underground versus the cost of providing spaces over ground, or against the cost of initiating and promoting car clubs, or the cost of promoting a move away from car commuting towards other modes, which is part of the Sustainable Transport Policy? Has he done any work on the comparative costs and benefits?

Senator F.E. Cohen:

Some comparative cost work has been done in relation to underground car parking as opposed to over ground car parking. As I said in my answer, this is very much on a site-specific basis and we are currently looking at a new site for the provision of some of the car parking. Thank you.

3.8.2 Deputy G.P. Southern:

In a previously written answer the Minister said that he could not give an assurance that the creation of underground car parking will not necessitate a further environmental or health impact assessment. Can the Minister firm-up on that and can he confirm to Members today that going down up to 5 metres, which was never planned previously, in a major part of this area, it will be certain that a new environmental and health impact assessment will have to be done?

Senator F.E. Cohen:

It seems that whatever one says the Deputy always views the matter from a half-empty perspective. As I have previously said, we are looking at a new site for the provision of some of the key elements of the Masterplan. That will be properly costed in relation to the delivery of car parking and at that time I will make the information available to States Members. Thank you.

3.8.3 Deputy G.P. Southern:

I will repeat my question in a different form. Will digging out up to 5 metres depth on this site require a new environmental and health impact assessment?

Senator F.E. Cohen:

If the Deputy wishes to dig out 5 metres, that is up to him. I do not intend to do so. Thank you.

3.8.4 Deputy G.P. Southern:

He really cannot get away with that. In his written answer then, which rather contradicts it, it says: "There is contamination in only 2 areas of the Gas Place site. The impermeable clay layer is variable between 1 and 8 metres [notice 1 and 8 metres] below the surface. The depth of excavation is likely to be no more than 5 metres." If it is 5 metres then he will require an environmental impact assessment, will he not? Otherwise he endangers the health and the environment all around this site and could open up to the States being sued for millions.

Senator F.E. Cohen:

For the final time, can I express to the Deputy a very simple principle: we are looking at another site. Thank you.

The Greffier of the States (in the Chair):

Do you wish a final question, Deputy?

3.8.5 The Deputy of St. Mary:

Yes, indeed. I am astonished that the Minister is not aware of how this looks, to be spending £10 million on one underground car park and more than that on another underground car park with no evaluation of the alternatives. He has not offered a single shred of evidence that he has looked at the alternatives, the costs and the benefits, of doing the same job in another way. Does he not accept the gravity of this in the light of the financial constraints that we are all told we are under? Here he is spending over £20 million without any looking at alternatives. Will he assure the House that he will do this cost-benefit analysis before we come to debate this matter?

Senator F.E. Cohen:

I am endeavouring to deliver a Masterplan that will be cost-neutral. I have expressed a view this morning that this may result in a requirement for developer levies, which is normal in this sort of programme. I will most certainly evaluate all possible car parking alternatives, but at the end of the day, underground or semi-underground car parking is more expensive than above-ground car parking, but in urban planning terms it is better and it will be a decision of this House which route we take. Thank you.

3.9 Deputy M. Tadier of St. Brelade of the Minister for Home Affairs regarding disciplinary action against the suspended Chief Officer of the States of Jersey Police regarding Operation Blast:

Will the Minister inform the Assembly if any disciplinary action is going to be brought against the suspended Chief Officer of the States of Jersey Police regarding Operation Blast?

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

It is already in the public domain that the Chief Officer of Police is suspended in relation to the issue and investigation in relation to his involvement, if any, in Operation Blast. The current position is that I have now received the report from Wiltshire in relation to the investigation of Operation Blast, but not the documents in support of that report. The next stage is that I will receive a report from the Deputy Chief Executive to the Council of Ministers. The stage after that is I will decide if I want to meet with Mr. Power in order to discuss matters before deciding whether I proceed with formal disciplinary procedures against him on this. That is the procedure set out in our disciplinary code; that is the procedure that I am contractually bound to follow. It follows from that, in short, that I have not arrived at the stage at which I can properly formally make a decision on that.

3.9.1 Deputy M. Tadier:

In an email sent to Senator Breckon on 1st March, but also copied into all States Members, the Minister did say that he supports the inquiry and he supports it taking place rapidly. I think this is the very core of the problem here. We have a Chief Officer who is up for retirement on 21st July 2010, so my question would simply be is it likely that any further action, apart from the suspension, if any disciplinary action likely to be brought before that date? If that is not the case, what are the implications as to what will happen one way or the other to this man after that date?

Senator B.I. Le Marquand:

We are at the stage at which I will make decisions as to which disciplinary charges would be appropriate in relation to the matter, but because of the timescales involved and the complexity of matters there is really no prospect of a full disciplinary hearing before the July date. What I said before in relation to information being put out to Members and into the public domain applies equally for the second disciplinary matter, as it did to the first.

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

The Minister just told us that although he has received the Wiltshire report regarding it, he did not have the documents that he needs to make a final determination. He also mentioned the Deputy Chief Executive. Can he confirm if the Deputy Chief Executive has had the documents and when he received them and when the Minister expects to receive them?

Senator B.I. Le Marquand:

No, the Deputy Chief Executive does not have the documents. If he had I would treat myself as effectively having access to them. There is a delay pending some discussions with Wiltshire Police in relation to a particular matter which I cannot go into.

3.9.3 Connétable D.J. Murphy of Grouville:

If ever there was a case for open and transparent government this is surely it. Would the Minister please confirm that he will release as much data as is possible regarding the contents of these alleged files that were kept on this? Thank you.

Senator B.I. Le Marquand:

That is absolutely right. That has consistently been my position, but I am consistently hamstrung by the contractual arrangements. If I had attempted to then I would be blatantly in breach of the

contract and that is not something that would be proper or appropriate. As soon as I can the information will go out. That has always been my commitment. There is no reason whatsoever why I would want there to be secrecy about anything. But I have to check exactly in what format it can go out because there are matters, particularly in relation to the second matter, it was not just a disciplinary investigation in relation to the Chief Officer of Police; it was also in relation to other police officers. Also, there were possible criminal issues that arose as well. It is a 3-part investigation, which slightly complicates the matter.

3.9.4 The Deputy of Grouville:

Other civil servants who were also involved in Operation Blast, is it the intention of the Minister to also suspend them?

Senator B.I. Le Marquand:

Decisions in relation to matters relating to other police officers involved are not my decision; they are matters for the Acting Chief Officer of Police and the Deputy Acting Chief Officer of Police.

The Deputy of Grouville:

No, not other police officers; civil servants, I said.

The Greffier of the States (in the Chair):

I do not think that is a matter for the Minister for Home Affairs, but he will no doubt answer.

Senator B.I. Le Marquand:

I am not aware of the involvement of any civil servants in relation to the potential disciplinary matters. It is only police officers.

The Greffier of the States (in the Chair):

Do you wish any final question, Deputy Tadier?

3.9.5 Deputy M. Tadier:

I do. I think we all know who the Deputy of Grouville is alluding to and I am sure that the Minister knows that as well. **[Aside]** No? I think she is clearly talking about the Chief Executive Officer of the States of Jersey who allegedly has had some involvement in Operation Blast. I mean, let us not beat around the bush here. **[Interruption]** That is obviously the case. The final question, if the heckling would stop from Senator Le Main, is that obviously justice must be done swiftly. Clearly it has not been done here even if under the Minister's own admission previously the initial process was rushed. The question is will justice be done either way if the matter is not brought to a close before 21st July? How can justice be done satisfactorily either way? Does the Minister agree that in this case we are not likely to get a satisfactory conclusion to this matter?

Senator B.I. Le Marquand:

In my opinion, whatever procedure had been followed here, even if it had gone to full disciplinary hearings, even if it had gone to appeals, even if it had gone to the States itself, at the end of the day, members of the public of the Island would still continue to argue over this and individuals involved for many years to come. That was apparent to me right from the start of my involvement in this. It is regrettable that the formal procedures have not occurred, but the members of the public and Members of the States will receive information and they will then have to make up their own minds.

3.10 Deputy R.G. Le Hérissier of the Minister for Health and Social Services regarding the provision for persons under 65 requiring residential/nursing care:

I am on the board of an organisation that does accommodate under-65s - Roseneath. Question: would the Minister identify whether the provisions for persons under 65 requiring residential/nursing care is sufficient?

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

The provision of care for people under 65 is very wide-ranging. The services we provide include children and young people with special needs, adults with very complex mental health problems, and people with learning disabilities who are unable to live independently. In some areas, such as care for people with learning difficulties, we do very well as these services are very well developed. However, availability of appropriate services in some other areas, which include high-end residential care for people, some of whom have mental health problems, is under significant pressure and we could always do better.

3.10.1 Deputy R.G. Le Hérisssier:

Given the Minister's answer and given the fact that there appears to be emerging a group who are ironically on the wrong side of the 65 age barrier but quite clearly cannot stay in a home situation for a variety of reasons - they present multiple causes to the authorities - would the Minister acknowledge whether or not she is making provision for that group before the situation gets even worse than it is?

[10:45]

The Deputy of Trinity:

As I said, there are different areas of difficulties for people under 65 and our range is quite specialised, all of which have very specialised needs. Health and Social Services are very much aware of it. We had a workshop back in 2005 which involved both the community and residential settings just to look at these issues. From that workshop, we worked in partnership with a small number of service providers to successfully develop high-end residential nursing care for under-65s with complex needs. The intention is to repeat these workshops on a 2-year cycle and one is planned for the end of this year so that present and future needs can be effectively met.

3.10.2 Deputy R.G. Le Hérisssier:

It is a final question. Would the Minister tell the House when the workshops will be finished and when she and the Minister for Social Security will work out a financial arrangement to deal with what, at the moment, is a very serious anomaly? In other words, the inability often to finance such people in the under-65 group.

The Deputy of Trinity:

As I said, the workshop is planned for this autumn, so it will be work after that. Adding to this workshop too is the long-term care Green Paper results that have just gone out and we will always work in partnership with Social Security to look at these very important issues.

The Greffier of the States (in the Chair):

We come to question 11 that Deputy Power will ask of the Assistant Minister for Treasury and Resources.

Deputy S. Power:

I wonder, could I withdraw this question? I have had a discussion with the Assistant Minister who was going to answer this and I feel it would be a better question if it was resubmitted as a written question.

The Greffier of the States (in the Chair):

Very well; that seems logical, Deputy. So we come to question 12 that the Deputy of St. Martin will ask the Chief Minister.

3.11 The Deputy of St. Martin of the Chief Minister regarding the arrangements for the briefing for States Members relating to the suspension of a hospital consultant in 2006:

Will the Chief Minister inform Members why the only convenient time to arrange a briefing for States Members to discuss the review into the circumstances relating to the suspension of a hospital consultant in 2006 is immediately after today's sitting and why copies of the report have not been made available to Members before the briefing?

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

Copies of the report, which has only just been finalised, will be available before the meeting. Arrangements have been made for copies to be placed in States Members pigeon holes before the States lunch break today. The reason for the meeting being this evening is that due to other commitments the Review Panel members were not available to travel to Jersey either in the week before or for several weeks after the current date. Therefore, taking into account these commitments, and the desire to publish the findings, this was the earliest date it was possible to meet. The author only arrives this afternoon and hence a lunchtime presentation was not possible.

3.11.1 The Deputy of St. John:

Given this evening is a nomination meeting at the Town Hall where Members, *et cetera*, will be attending and all 12 Constables are due to be there, does he consider that he is being a bit unfair to all Members of the Chamber to try and rush something like this through on a States day?

Senator T.A. Le Sueur:

This meeting was planned for immediately after the States sitting at 5.30 p.m. It should finish by 6.15 p.m. or 6.30 p.m. at the latest, which will give Members time to arrive at the Senatorial Nomination Meeting well in advance of 7.30 p.m.

3.11.2 The Deputy of St. Martin:

Will the Minister confirm that following the debate on 11th September the Minister said this report would be available within 4 and 6 weeks? Will the Minister inform Members as to why it has taken 4 to 6 months? Also, bearing in mind the body that was carrying out the review is being paid by the States, surely they owe it to the States to be here at a convenient time for States Members to have the briefing?

Senator T.A. Le Sueur:

I think 2 questions there. The review has taken longer than I anticipated. The report was drafted in the middle of January of this year. It has taken another 4 months to iron out all the legal niceties and the parties concerned before it can be published. I am sorry it has taken that long. I had not anticipated that, but on the other hand the procedure has to be done properly. As to the second question, I have forgotten that now, if the Deputy can repeat it?

The Deputy of St. Martin:

The reviewers are being paid at taxpayers' expense. Do they not consider it their duty to be here at a convenient time for the States Members?

Senator T.A. Le Sueur:

They are not full-time employees of the States; they have other duties to do as well as this. It has been difficult enough to get them today, but I have asked that they did come today in order that we can do this without further delay. I am as conscious as the Deputy of St. Martin that this has gone on longer than any of us would have liked and hence my desire to have them at the earliest possible opportunity, even if it clashes with other arrangements.

3.11.3 The Deputy of St. John:

Will the Minister agree he is being very disingenuous to all States Members in the manner in which he is answering these questions? By only allowing us up to 2 hours for this particular review this evening for Members and these advisers that have done this report; it is not being fair to the Members, it is not being fair to the people who are mentioned within this report, and this is yet another cover-up from within his department.

The Greffier of the States (in the Chair):

Sorry, we are not quorate, Chief Minister, so the Assembly will have to await the arrival of one Member. I will ask the usher to summon Members from the empty rooms so the Assembly can become quorate?

The Deputy of St. Martin:

Can I suggest if the other half of us in here would like to go out for tea we adjourn for 10 minutes?

The Greffier of the States (in the Chair):

Very well, Chief Minister, you are able to ask the question asked.

Senator T.A. Le Sueur:

No, I am refuting a suggestion I am being disingenuous; far from it. I am trying to be as clear as I can about the reason for the meeting having to be today and having to be this evening. The Deputy seems to think it will not be long enough to answer all his questions. I think that is a premature judgment of him to make. Let him see the report first, let him hear the presentation from the consultants, and then decide whether it has been long enough or not.

The Greffier of the States (in the Chair):

Do you wish a final question, Deputy?

3.11.4 The Deputy of St. Martin:

Yes. I think most of those people who followed the investigation will know that it is likely to be quite critical of the management. Bearing in mind the current Minister for Health will not apologise to the consultant it concerned, will the Chief Minister feel big enough to apologise to the doctor in this particular case?

Senator T.A. Le Sueur:

I suggest that is a question better answered after the presentation this evening. I would be happy to answer that question at that time.

3.12 Deputy G.P. Southern of the Minister for Social Security regarding the differences between the definitions of incapacity in Long Term Incapacity Allowance (L.T.I.A.) and impairment contained in the medical components of Income Support:

Will the Minister inform Members what differences, if any, there are between the definitions of incapacity in L.T.I.A. (Long Term Incapacity Allowance) and impairment contained in the medical components of income support and whether it is appropriate to regard L.T.I.A. awards as income?

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

The definition of incapacity and long-term incapacity allowance is set out in the Social Security (Assessment of Long-term Incapacity) (Jersey) Order 2004. The definition of impairment in Income Support is given in the Income Support (Jersey) Regulations 2007. In summary, the L.T.I.A. assessment is based on the loss of faculty of the individual. The impairment component in income support is based on the loss of function experienced by the individual. L.T.I.A. is a contributory benefit paid under the social security system and as with all other contributory benefits

it is appropriate that it should be included as part of the household income when assessing the needs of the household for additional financial support.

3.12.1 Deputy G.P. Southern:

Is it not the case that until recently impairment and the payment attached was defined as compensation for loss of faculty and therefore, until recently, was not regarded as income? If that is no longer the case and justified, is it not the case that impairment components are designed to cover the additional costs of the impairment and, again, should not be defined as income?

Deputy I.J. Gorst:

I am not sure whether the Deputy is confused by his question, but I certainly was. The income support regards income under L.T.I.A. It was a historical transfer in ... As I said, under L.T.I.A. it looks at loss of faculty; income support looks at loss of function. There are impairment components within income support, which those who are receiving L.T.I.A., if it is extremely severe and they also have loss of function, might be entitled to. So I am not sure what point the Deputy is trying to make.

3.12.2 The Deputy of St. John:

Household income: where a person is a tenant or a lodger within the house that is claiming income support, would the tenant or the lodger's income be taken as the overall within the household income?

Deputy I.J. Gorst:

Income Support looks at the household as a whole. I am not certain whether in that case a lodger might be classed as a separate household within their own right. If the Deputy has a particular case that he would like to speak to me about then I would be more than happy to discuss that with him.

3.12.3 Deputy G.P. Southern:

Does the Minister accept that payment for incapacity is defined as compensation for loss of faculty? Equally, does he not accept that the award of an impairment component is to cover the additional costs - the extra costs - for that person of that impairment?

Deputy I.J. Gorst:

I do accept that under L.T.I.A. if payments are made for loss of faculty, if that person is also entitled to income support they might be entitled to impairment components under income support. The Deputy well knows that how we calculate income support is we look at all the components that an individual might be entitled to. They are all based around what the cost might be to that individual who is entitled to that component. This component is no different to any other component within our system in that respect.

3.12.4 Deputy J.A. Martin:

The Minister said he is slightly confused and I am slightly confused. Could he explain simply what is the difference between loss under either scheme ... involved in either scheme? The loss of faculty or the loss of function? A simple example would do, please.

Deputy I.J. Gorst:

I was not confused by my legislation or my schemes. What I was confused by was the Deputy's question because it seemed to me that she was confused as well. These are obviously determined in the case of L.T.I.A. by medical boards; in the case of income support, a self-declaration and then a medical form submitted by the G.P. (general practitioner). Quite simply, under L.T.I.A. if an individual were to lose a finger there is a percentage that the medical board can look down and say: "Okay, you have lost a faculty, as it were [i.e. a finger or a body part]. You are entitled to a set percentage" and that is what they look at. Under income support what we look at is: "Okay, you

might have lost that faculty, but are you still able to function?" So are you still able to perhaps go out to work, are you able to hold things? Does it influence whether you are able to work or what function you can carry out? It does involve G.P.s and doctors; I am not saying that that makes it complicated, but it is quite difficult to give a straightforward explanation.

3.13 The Deputy of St. John of the Minister for Social Security regarding the employees working on the Energy from Waste Plant site:

What is the total number of employees working on the Energy from Waste Plant site; how many are paying Jersey Social Security contributions and, if any are not, in the event of an accident on the site, who meets the necessary medical costs?

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

Social Security collects information by the name of the employer rather than the location of the employee, so it is not possible for me as Minister for Social Security to answer this question directly. Information provided by the main contractor indicates that there are currently 331 employees engaged on this project of whom 195 are paying Jersey Social Security contributions.

[11:00]

Where non-Jersey subcontractors have been employed they are obliged to hold employer's liability insurance. The social security system, of course, in Jersey does not cover hospital treatment.

3.13.1 The Deputy of St. John:

Will the Minister undertake to ask his inspectors to visit the site and carry out an actual audit of those people who are not on the social security list of paying contributions and come back to this House giving us full figures of that audit and details of how these people are properly insured? Because many of them will be coming from E.U. (European Union) countries where no reciprocal health agreement is held.

Deputy I.J. Gorst:

There is absolutely no need for me to do that. My inspectors have already visited the site and therefore I am happy to confirm those numbers that I have just given to the Deputy. It would have been remiss of me to submit those numbers without some form of verification. The Deputy is absolutely right if an individual there comes from a country where there is no reciprocal health agreement and they are not employed by a Jersey subcontractor and therefore not paying social security contributions then it is my understanding that on this particular contract they were, in the first instance, expected to hold their own insurance. If, for some reason, that has not been the case then the employer has a liability insurance. If for some reason should they unfortunately sustain an injury, should it not be covered under that, then I understand that the actual Jersey subcontractor, as a matter of last resort, is prepared to fund those health costs.

3.13.2 Deputy J.A. Martin:

It is interesting to hear that the majority - I think you said 195 - are paying local social security, but would the Minister not agree that possibly this question would have been better directed to the Minister for Economic Development and find out how many of the 331 employed are over 5 years?

The Greffier of the States (in the Chair):

That would have been a different question, Deputy, I think.

Deputy I.J. Gorst:

I could not agree more with the Deputy; I am always happy if a questioner prefers to question someone else rather than myself. **[Laughter]** I cannot say how many of the 195 are under or over the 5-year licence requirement; that would have to be addressed to the Minister for Economic

Development. I suspect, of course, on the other part, they are employed by a subcontractor and employed in a different jurisdiction. So perhaps the Deputy of St. John would like to address a future question to the Minister for Economic Development.

3.13.3 The Deputy of St. John:

The question would always go to Social Security. This is a Social Security problem. Will the Minister give me details or give Members details of that 136 who are not paying social security in Jersey, where are they paying social security? If they are not paying social security, will he ensure that anybody working on Island, and particularly on building sites, must have Jersey social security, if they are not paying, whether it is in France or wherever their native insurance stamp would be paid?

Deputy I.J. Gorst:

I am not sure why the Deputy thinks it is a Social Security problem. The licences to operate are granted by the Economic Development Department. Of course we have a duty to undertake from time to time inspections to make sure that people are appropriately paying where there is a liability to pay a Jersey social security contribution, but we cannot be held responsible for individuals who are employed under contract outside of the Island, whether they are paying contributions in their home jurisdictions or not. The fact that they are not paying contributions in Jersey means that they are not entitled to benefits under the Jersey Social Security Fund, unless of course we have a Social Security Reciprocal Agreement with that jurisdiction, but then we get into a much more complex area, which I do not think we really want to touch on today.

3.13.4 The Deputy of St. John:

Given that the Minister is as slippery as the Constable of St. Clement, will the Minister please look up the Social Security Law because I am given to understand in my days as an employer if you employed anybody on Island who did not come over with their own social security arrangements in their own country they had to, under Jersey law, have a Jersey social security registration. It appears that that is not happening and therefore will he agree the States of Jersey, through their contractors, could be in breach of Jersey Regulations or Jersey law?

Deputy I.J. Gorst:

I am pleased to hear that the Deputy, when he was employing individuals, had employed them and they were paying the appropriate contributions. What he is, I think, failing to grasp when he is asking me questions here is these individuals are not employed by Jersey companies; they are employed by the subcontractor in their home jurisdiction. I am not at liberty to say exactly what contributions ... or I do not have knowledge of exactly what contributions they should be making in their home jurisdictions. I try to hold as much information in as I can. It would not, I do not think, be feasible for me to understand exactly each Social Security Law in every jurisdiction of the world. If the Deputy is driving at another issue and what he is suggesting is that there are individuals who are employed in Jersey by Jersey companies and they are not paying their social security contributions then I would hope that he would let me know straight after we finish this question session and I will certainly have my investigators look at those individual cases, as I asked them to visit the site to confirm that all was in order only earlier this week. Thank you.

3.14 Deputy T.M. Pitman of the Chairman for Comité des Connétables regarding the likely cost of organising and running the forthcoming Senatorial by-election:

Will the Chairman advise the Assembly of the likely cost of organising and running the forthcoming Senatorial by-election?

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

I am unable to answer this question with real certainty because the information is not only held across the 12 Parishes, but by the Judicial Greffe as well as the Treasury. I can say that the Parishes receive approximately £20,000 in expenses; this to cover the manning of each polling station. These expenses do not account for the preparation and dismantling of the polling stations by Parish employees, or for the cost of the paid employees of the Parish who assist with the running of the poll. I am aware that this figure could possibly add a further £6,000 across the 17 polling stations. Over and above this must be added the costs of advertising as well as the administration costs of postal voting. It must also be noted that over 150 volunteers, together with many members of the Honorary Police, give up their day to assist. I am sure that I would not be exaggerating if I say that the forthcoming by-election will cost in the region of £30,000.

3.14.1 Deputy T.M. Pitman:

I hope I am not stretching the issue of costs too far, and I was aware that the Parishes do not in fact get back all the money they outlay, but given the huge and embarrassing problems experienced in the U.K. with people being unable to vote before the polling stations closed, can the Chairman confirm to the Assembly that he and his colleagues would not support the opening times of polling stations being reduced, possibly under the justification of cutting costs in future?

The Connétable of St. Ouen:

I believe that we are bound by the law which this House has passed and until such law is brought for debate then I am not in a position to comment on behalf of all the Connétales.

The Greffier of the States (in the Chair):

Very well. Well, Deputy Tadier who had the last question is not in the Assembly and the question falls away.

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

The Greffier of the States (in the Chair):

So we come to Questions without notice to Ministers and the first question period is to the Minister for Transport and Technical Services. I invite questions. The Deputy of Grouville.

4.1 The Deputy of Grouville:

Could the Minister confirm if public monies are subsidising the purchase of the double-decker buses? If so, at what cost? Which routes will they be assigned to, given their width is 8 feet instead of 7 feet 6 inches, like all other vehicles in the Island?

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

The contractor has a contractual responsibility to replace certain elements of the bus fleet and this is taking place. There will be, we hope, a number of double-decker buses and a number of additional single-decker buses and possibly refurbishment of the existing fleet. The larger double-decker buses... a bus was run on a trial period last month; I am awaiting a report on that. After that report comes and a further report comes on a longer single-decker bus, which we may trial as well, I will take a view on the replacement of the fleet, which should take place towards the end of the year. The cost is funded by Connex.

4.1.1 The Deputy of Grouville:

Could he address the issue about the width of the vehicles? Are they going to be adapted for our roads, or are they just going to run at 8 feet wide, unlike any other large vehicle?

The Connétable of St. Brelade:

It is impractical or extremely costly to adapt individual vehicles to our roads and that is why any wider vehicles could only run on suitable roads. As such, the double-decker trials indicated that the routes from Liberation Station to the airport would be suitable, but regrettably it would be unsuitable on the eastern route where single-deckers would be continued to be utilised and possibly a longer existing-width version.

4.2 Deputy R.C. Duhamel:

Will the Minister support and encourage the provision of new car parking initiatives by public/private partnerships as a way of reducing his department's demands for capital funding through the usual Treasury channel?

The Connétable of St. Brelade:

My transport policy will indicate that we wish to reduce commuter car parking within the parameters of that and within the parameters of maintaining shopper parking; yes, I can agree that would be the case.

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

I wonder if the Minister would just give us an update on where we are at in relation to the subcommittee's work on speeding? Several members of the public are inquiring at this moment in time. Thank you.

The Connétable of St. Brelade:

My department held a meeting with the Comité des Connétables regarding the issue over the green lanes, which was one of the points raised by the sub-committee and further discussion will be had on that. There are conflicting views on whether the speed should be changed from 15 to 20 or remain at 15, which I suspect will probably be the case. We have worked out the costs of the changes as recommended by the sub-panel and we have already distributed some speed indicating devices to the various Parishes with success. I suspect the rest of the plans, as recommended, will be rolled out within the parameters of funding availability. But we certainly expect to get on with the ... firstly, probably the St. Clement's issue and gradually permeate through the rest of the Parishes.

4.4 Deputy S. Power:

Two linked questions related to the contracting on Victoria Avenue. The Minister will be aware of all the delays on the avenue, which have been serious lately. What is his department doing to mitigate the delays and to improve circulation of traffic? Do the contractors have to occupy so many car parks between First Tower?

The Connétable of St. Brelade:

I thought the subject of Victoria Avenue might come up. Indeed the phase 2 of Victoria Avenue resurfacing is now substantially complete. There is phase 3 from First Tower to West Park to be completed by 16th June, I am advised, and I am sure not only States Members but members of the public will be pleased to hear that. In terms of the infrastructure on the lay-bys, clearly there is a lot of infrastructure on phases 2 and 3 and as phase 2 completes that will disappear. The works involved on phase 2 were considerable. The works on phase 3 in terms of realignment are less, although those Members who came in this morning will note that at West Park there are considerable rebuilding works of the road which had to take place. In any engineering project there is always work to be done and changes made as the project progresses.

4.5 Deputy R.G. Le Hérissier:

Regarding Victoria Avenue, is the Minister aware that benches have been removed from the cycle track, possibly because of its repositioning? Is it his intention somehow to return these so that people can gaze upon the road works in quiet solitude? **[Laughter]**

The Connétable of St. Brelade:

Yes, I am aware of the bench removals. In fact, that was not really a result of the road works per se, but as a result of cyclists crashing into them.

[11:15]

There were one or 2 quite serious injuries. So we are reviewing the positioning of the benches, although I understand the need for them. There are other benches in different areas and I think once the works are complete we shall have to decide whether they can be put back in a safe way while considering the safety of cyclists on the cycle route.

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

I wondered if I can seek an assurance from the Minister with regard to the wonderful plethora of Sunday activities which we have, like the marathon and the cycle race and so on, which I am thoroughly in favour of, but can he continue, please, to instruct his officials when negotiating the details of this to have due regard to the tradition and rights, going back in one case at least 1,000 years, of worship in the town centre churches?

The Connétable of St. Brelade:

Yes, indeed. I was aware that there were issues regarding this earlier on and certainly in my consultations with officers at an early stage I have ensured that this does take place. I fully comprehend the needs of our broad society and understand that all elements need to be considered. I thank the Dean for his comment.

4.7 Deputy J.M. Maçon of St. Saviour:

Is the Minister of the opinion that the ability of getting from the countryside into urban areas is just as important as those in urban areas to gain access to the countryside? If not, why not?

The Connétable of St. Brelade:

Perhaps the Deputy could just ... I am not sure of the thrust of his question. I understand the motivation, but what is the question, please?

Deputy J.M. Maçon:

I am basically asking that there is an acknowledgement from the department that the ability of those in urban areas to gain access to the countryside is just as important as those in the countryside to gain access to the urban areas.

The Connétable of St. Brelade:

I presume this is to do with a bus route or such like? Could the Deputy further ...

Deputy J.M. Maçon:

I will clarify. The underlying issue is to do with the Sustainable Transport Policy and the parking provisions that arise from that.

The Connétable of St. Brelade:

Yes, indeed in terms of commuter ... I suggest the Deputy is alluding to commuter parking and clearly there is a need for linkages between urban areas and the countryside and *vice versa*; not only during the week but also weekends. Certainly within my transport policy we shall be taking that on board.

4.8 The Deputy of St. John:

Will the Minister confirm that a report has been written on replacing the festoon lighting along Victoria Avenue, and other lighting, all the way to St. Brelade and also the cost at £48,000?

The Connétable of St. Brelade:

I made a Ministerial Decision on 23rd ... well, the report was on 23rd April; the decisions made would have been afterwards, regarding the replacement of the festoon lights, which are past their sell-by date. We have decided to replace them with L.E.D. (light-emitting diode) lighting, which will involve a considerable saving to the department and of course the general public. The additional advantage of this lighting is it will light up the area better and be an improvement to not only the aesthetics, but also the cyclists who use the cycle track beneath it considerably.

4.8.1 The Deputy of St. John:

At a panel meeting, the Environment and Scrutiny Panel meeting in May, the Minister was asked about the fairy lighting or the festoon lighting on Victoria Avenue and gave us some very negative comments as to whether or not he was aware that anything was happening. Given that he had a report prior to that meeting, will he please tell Members why he failed to notify the panel that a report had been done on this lighting and a figure had been come up with of £48,000? Will he tell Members why he misled the panel, please?

The Connétable of St. Brelade:

I do not recall the matter arising at the panel meeting, but clearly I am always happy to communicate any issues that the department has with the Scrutiny Panel and I do not recall this taking place. But maybe the Deputy would enlighten me?

4.9 The Deputy of St. Mary:

As a fellow Member of the panel, I can assure Members that the issue did come up and at length, for about 10 minutes. My question is about the accidents per year, killed and seriously injured on our roads, is around 32 and is looking to be worse this year. I just wonder whether the Minister would share his thoughts on that accident rate and what proposals he has to reduce it and whether we should not be moving towards zero-tolerance towards road accidents and road injuries?

The Connétable of St. Brelade:

I concur with the Deputy entirely in that we must move towards a zero accident rate. Clearly, any accident, especially those that involve fatalities, is extremely regrettable and needs attention. In terms of numbers, I think it is important to try and clarify the difference between road accidents that we have and those accidents that are influenced by drink-related issues. That is an area that I would certainly like to explore further. But certainly within the structure of the Island and the road layout of the Island, we are always very concerned to address issues where there may be a danger to the public; not only to the pedestrian public, but the cycling public and the motoring public.

4.9.1 The Deputy of St. Mary:

If I could ask a supplementary? Would the Minister agree that, firstly, we do not know in detail what the causes of accidents are in the Island and we should; and, secondly, that speed must be one of the contributing factors as well as alcohol?

The Connétable of St. Brelade:

I think our knowledge is quite good and the Minister for Home Affairs, within the police, has considerable knowledge. Of course, clearly speed is a factor and the review of speed which has taken place has addressed that with the information available and I think has made sensible recommendations.

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

My question stems from the importance in our summer calendar of the Battle of Flowers and back to the Avenue. Did the department liaise at all with the Chairman and the committee of the association of the Battle of Flowers before making alterations to the layout of the parking bays on

the Avenue? As I believe there are some concerns about manoeuvring and turning of floats this year in the Battle.

The Connétable of St. Brelade:

It is my understanding that considerable negotiations took place with all user groups with regard to the Victoria Avenue refurbishment before the design map work took place.

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

Would the Minister agree and therefore commit to providing both the Constable and the Deputies of St. Saviour and the Education, Sport and Culture Department with a paper as to how and what the department will be doing to work with us on the ongoing traffic issues in St. Saviour, in particular school traffic, after our meeting from 9th April this year?

The Connétable of St. Brelade:

Indeed, that whole subject will be included in my Sustainable Transport Policy, which will come to Members before the summer recess. I look forward to being able to discuss this in depth probably in early September. The Deputy has a very valid point and we, I think, have to address with urgency the situation around the multitudinous schools in the St. Saviour area. I am conscious of the issues and I wish I could have an answer to improve the situation overnight, but it is certainly challenging.

4.12 The Deputy of St. Martin:

If we can go back to Victoria Avenue. Considerable delay has been caused by people getting to work and also going home from work. Was consideration ever given to either starting earlier and finishing earlier, therefore you only affected those people going to work, or the other way around; starting later and finishing later, therefore you only affected those people going to work? Was consideration given? If so, why do we have the present hours?

The Connétable of St. Brelade:

To address the issues in 2 parts: the traffic management role is part of the contractor's responsibility in the tendering process. That is analysed by experts and it was reasoned to be the correct way to approach it. I would say that in terms of extending the hours, clearly those who live on the avenue will appreciate that the contractors do work until late at night - certainly until 2.00 a.m. on some occasions - but there has to be a balance between unreasonable disturbance and getting on with the job. I have to say, to do the job quickest we would have closed the Avenue from start to finish and a lot of the delays were caused by having to put the traffic management processes into place. I hope that answers the Deputy's question.

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

This will be a quick one. Given that the Minister could not remember an item that was discussed at the Scrutiny Panel, would the Minister agree that all meetings should be recorded from now on?

The Connétable of St. Brelade:

I think all formal meetings with the panels are recorded and I think we may have discussed initially the festoon lighting issues on Victoria Avenue, but I do not think at that stage I had received the detail from my offices, in all truth. While I supported the replacement of it, I certainly would not have had the detail at that time.

5. Questions to Ministers without notice - The Chief Minister

The Greffier of the States (in the Chair):

Very well. That concludes the question period to the Minister and we now come to the second question period. I invite questions to the Chief Minister.

5.1 Deputy T.M. Pitman:

I am keen today. The Privileges and Procedures Committee Subgroup under, let me say, the towering, colossal intellect of the Deputy of St. Peter, has concluded that Ministerial government is not working. Now, I know first-hand that Scrutiny is not working because it has no teeth. The Executive is not working because it has no heart - some might suggest brains. But rather than just implement another costly and procrastinating review, will the Chief Minister consider putting the issue to the public in a referendum, i.e. Committee or Ministerial; efficiency versus elitist unaccountability?

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

Referendums need to have simple questions. **[Laughter]** Deputy, I would suggest a simple question there. But more seriously, I think anyone recognising the magnitude of the change from the previous system of government to the new Ministerial system will accept the fact that there were likely to be imperfections, teething problems, and issues that needed resolving. That has proved to be the case for this system and I have no doubt that the present arrangements can be improved upon. I would like to work constructively with P.P.C. (Privileges and Procedures Committee) to see how that can be done. The report suggested there may need to be a review of some sort carried out. I would endorse that suggestion. I think it needs to be done in a measured way, but that is something we can discuss as a House generally.

5.2 Senator J.L. Perchard:

Did the Chief Minister notice during the Liberation Day celebrations that the hymn Island Home was introduced as the Jersey anthem? Will he explain why this was the case? Will he give an assurance that this does not happen again at any official function until such time the States have formally approved this anthem or any other anthem?

Senator T.A. Le Sueur:

Sorry, I do not recall on what basis the anthem Island Home was introduced. It was composed as something that could be used in the future to give a unique indication of Jersey's position in culture. Clearly, there are different views about the quality or the volume or the appropriateness of that anthem. Certainly, I am prepared to discuss with the Minister for Education, Sport and Culture how it might best be promoted. I think certainly in terms of having any bar on future performances, that would be an unreasonable request. We want to encourage culture, we want to encourage the widespread use of music and let us have some diversity.

5.2.1 Senator J.L. Perchard:

I must press the Chief Minister. Will he give an assurance to this House that this hymn, the Island Home, will not be introduced as the Jersey anthem until such time the States have approved it?

Senator T.A. Le Sueur:

I do not think it has been labelled as the Jersey anthem. If it was then maybe that would be a step too far. But it is certainly a piece of music that was commissioned and was judged to be the best of a number of pieces. It was judged by a selection panel as the preferred anthem; whether it is the Jersey anthem or the anthem for Jersey. I think we should be looking on the positive side of this and not simply knocking it.

Senator J.L. Perchard:

Will the Chief Minister please give an assurance that it will not be called the Jersey anthem?

The Greffier of the States (in the Chair):

Sorry, Senator Perchard, time is short; we must move on. The Deputy of St. John.

5.3 The Deputy of St. John:

When the Chief Officer moved into the former Chief Minister's office on being elected as Chief Minister, did he have the office redecorated or refurbished? [**Members: Oh!**] If so, will he tell Members what work and refurbishment was undertaken and at what cost?

Senator T.A. Le Sueur:

The offices that are occupied by myself and the Chief Executive are in the same decorative state as they were 3 or 4 years ago. The only change that there has been is that I have brought in a couple of my own pictures to hang on my walls [**Members: Oh!**] to replace those that were previously there.

[11:30]

5.3.1 The Deputy of St. John:

Possibly the decoration has not changed. Has the Minister had any refurbishment done at the cost of the taxpayer?

Senator T.A. Le Sueur:

If the Deputy is referring to the offices occupied by the Chief Executive or myself, the answer is no. If he is talking about the Chief Minister's Department generally then the answer is, yes, there have been some new desks and furniture put in there as a normal part of ongoing refurbishment.

The Deputy of St. John:

Can I just follow that up? Given that we ...

The Greffier of the States (in the Chair):

No, we must limit it because there are a lot of Members waiting.

The Deputy of St. John:

We cannot get to the depth of ... the idea of getting the questions out was to be able to get the Ministers to be accountable, Sir.

[12.00]

The Greffier of the States (in the Chair):

The Chief Minister has answered your question.

The Deputy of St. John:

He is not being accountable, Sir, that is the problem.

The Greffier of the States (in the Chair):

The Chief Minister has answered the question. The Deputy of Grouville?

5.4 The Deputy of Grouville:

Will the Chief Minister inform Members when the review he has commissioned into the reasons for the Police Chief Officer's suspension will be made available to Members?

Senator T.A. Le Sueur:

The reasons for the suspension? I can confirm a review is being carried out into the suspension process. It is being carried out by a Mr. Brian Napier Q.C. (Queen's Counsel) and that will be reported, hopefully, in the next month or so. I cannot comment on the contents of that review until it is presented to me. I have not yet seen it.

5.5 The Deputy of St. Martin:

It has been reported in the local paper that 60 public sector jobs are going to go at the cost of £6 million. Can the Chief Minister inform Members as to why, if we are looking to make people redundant, why we have got to constantly recruit people, particularly for a Health Improvement Officer for Tobacco at the cost of £45,000? Does the Minister not think really we ought to look to see what we need to employ before we start paying people to leave their jobs?

Senator T.A. Le Sueur:

Yes, I certainly agree that we do need to keep recruitment and employment constantly under review and part of the comprehensive spending review will be to see ways in which some jobs may no longer be necessary. The one that the Deputy refers to is the replacement of a previous person so I think it is not a new post but certainly, if we are going to make significant savings in the future, we will have to consider different approaches and certain jobs which are presently being done, certain services currently being provided, such as the one he mentions, may well have to go. That will need to be done on a case by case basis as a result of the detailed reviews which are now underway, particularly in respect of departments like Health, and Education, Sport and Culture, and Home Affairs where there are significant numbers of people employed.

5.6 Deputy R.G. Le Hérissier:

If, and indeed if not, there is an adverse report published today or revealed to Members re the procedure surrounding the suspension of the consultant, would the Chief Minister immediately institute an inquiry into the circumstances surrounding the absence from work of the Magistrate?

Senator T.A. Le Sueur:

The outcome of the review of the suspended consultant is embargoed until tomorrow so it would not be appropriate for me to comment on that at this stage. The employment of the Magistrate is not a matter for the States Employment Board. The Magistrate is appointed by the Crown.

5.7 Deputy D.J. De Sousa:

Would the Chief Minister not agree that the reason and the perception that Ministerial government is not working is because Clothier was cherry-picked and we were warned not to do that. Would he not consider that Deputy Trevor Pitman's idea of a public referendum is a good idea and that maybe should be considered?

Senator T.A. Le Sueur:

I have a personal distaste for referenda generally. We are elected to govern; but in any case, that is a matter which the States would need to debate as a whole, not myself. Although Clothier has been cherry-picked, I do not think that the bits that were not picked would necessarily impact on the success or otherwise of Ministerial government. The bits that were not selected were matters like common election day and a single class of Member and so on. Whether they are in place or not would not affect, in my view, the nature of Ministerial government. What we need to do is to see how Ministerial government in its current form can be improved upon.

5.8 Senator B.E. Shenton:

Is the Chief Minister willing to give an undertaking that he will put a complete freeze on all new public sector posts until the comprehensive spending review has been completed?

Senator T.A. Le Sueur:

No, life has to go on and there will be certain areas, particularly, I think, in Health, where we will need additional staff to deal with new standards, new requirements, in order to provide a proper service to the public. That has to be balanced against the additional costs and the pressures in other departments, but certainly a blanket undertaking would not be appropriate. I would certainly give

an undertaking that any new additional posts should be very clearly and carefully evaluated before agreeing to them.

5.8.1 Senator B.E. Shenton:

Is it correct that you yourself have taken on a new post and taken on a new assistant?

Senator T.A. Le Sueur:

As far as I am aware, the staffing complement in my office has not changed. There has been some reorganisation and there used to be a person employed as a P.A. (personal assistant) to myself who is no longer working and has been replaced. Replacements will take place from time to time. I do not think that numbers have increased but I probably need to have further detail before I am categorical on that one.

5.9 Deputy J.M. Maçon:

Is the Minister satisfied that the H.R. (Human Resources) function is robust and that proper performance indicators exist and that the appraisal process is working properly and, if not, what improvements will be implemented?

Senator T.A. Le Sueur:

The appraisal process is certainly capable of improvement. It started from the top. We have a far better appraisal of the Chief Executive done on a 360-degree basis. That is being carried forward now through other Chief Officers in other departments and carried on further down the organisation. Performance review and appraisal is an important part of career development and making sure that staff are doing their jobs in the best possible way. There is always scope to improve that and we are anxious to keep on doing that.

5.10 The Deputy of St. Mary:

Can the Chief Minister say whether in the C.S.R. review process there is consideration being given to the cost of liability insurance for the different departments to cover when failings happen; failures, for instance, such as a pothole that throws someone into the path of a car. So for those sorts of liabilities across all departments, will the C.S.R. take that into account, the cost of insuring and the cost of dealing with claims like that?

Senator T.A. Le Sueur:

Yes, indeed. C.S.R. is meant to be a totally wide-ranging process and I am aware that the Minister for Treasury and Resources is looking at the implications of insurance as a whole and the extent to which the States might want to self-insure, might want to review its insurance policies, review the extent of its cover, recognising that one can always have a balance in trying to save money and, equally, go a step too far. In general, I simply say yes, that that is being considered as part of the C.S.R.

5.11 Deputy T.A. Vallois:

On the basis of the answer to Deputy Maçon, would the Chief Minister advise what support his department is providing to the H.R. Director who was appointed last year to do her job rather than fire-fighting the current problems within the department and also whether there will be an overhaul of training and development?

Senator T.A. Le Sueur:

I believe that the new Director of Human Resources is well supported but there is certainly scope for further support if that were feasible within the cost pressures that all departments are facing. As far as training and development are concerned, that has been scaled-down in previous years, I think perhaps mistakenly, and it needs to be strengthened. I think that can be done in conjunction, not just with the H.R. Department, but with bodies such as the Skills Executive working in a holistic

way in order to provide training, not just for States employees, but for others seeking to improve their skills.

5.11.1 Deputy T.A. Vallois:

Could the Chief Minister just confirm where on his priority list H.R. departments stand at this precise moment in time?

Senator T.A. Le Sueur:

I try not to have a pecking order because otherwise it suggests that some departments are less important than others and can be downgraded. The key objective at the moment, not just for the Ministers, but for all of us, has to be to try to eliminate the current structural deficit of £50 million by 2013 in order that the States and the public can go forward in a meaningful way. Any other policies really have to fit into that overall requirement.

5.11.2 Deputy T.A. Vallois:

On the basis of the structural deficit, does the Minister not agree that H.R. Department is a very important and vital area to be looking at in this time?

Senator T.A. Le Sueur:

It is an important and vital area to be looking at in this time. The point I was trying to make is that there are other important vital areas as well which have to be balanced against that and I was not going to say that one was more important than another. We have to accept the fact that there are competing pressures all of which will appear to be necessary if not essential.

The Greffier of the States (in the Chair):

That concludes the 15 minutes allowed for the questions without notice.

Senator B.I. Le Marquand:

I wonder if you would allow me to make a correction to some of the information I gave previously and also, for the second time this morning, an apology to the House.

The Greffier of the States (in the Chair):

Very well, yes.

Senator B.I. Le Marquand:

It transpires that we have an expert on coconuts in the House who has taken me to one side and has pointed out to me that, in fact, the lower picture which was produced purely to try and illustrate what I thought an endocarp looked like is, in fact, a picture of an exocarp. So I would ask Members to please totally ignore the lower picture, which I produced in good faith for that reason. Apparently I am told by the expert in the House, who is none other than the Deputy of St. Peter, that an endocarp is, in fact, what we normally see as the outside of a coconut if we buy a coconut because the 2 outer shells beyond that are not normally supplied. So I do apologise for the second time to Members that I misled though it was in good faith and I genuinely thought this was a picture which would help them but it was not.

The Greffier of the States (in the Chair):

Thank you, Minister. Just before we come to Public Business, I would announce to Members that they think they will find in their pigeonholes 2 late matters that have been lodged au Greffe. There is a proposition, P.64, from the Minister for Treasury and Resources - Public Finances (Jersey) Law 2005: funding requests under Article 11(8); and a proposition, P.65, in the name of Deputy Le Claire relating to Delegation of Functions by Ministers: review of reporting procedures. Those have both been lodged today. We come now to Public Business.

Deputy C.H. Egré of St. Peter:

Before we commence Public Business and for the sake of good order, could I seek the Assembly's approval to delay the P.40 debate which comes just after the Health and Social Services Department: Management Improvement Plan until the chairman of P.P.C. returns. People will be aware that the chairman has left the Assembly for the last couple of hours. She is attending a funeral but she will be here after lunch and I would hope that the Assembly would approve that she could be here to present that particular P.40 at the earliest opportunity after lunch.

The Greffier of the States (in the Chair):

Very well. I am sure Members will note that request. Deputy?

The Deputy of St. Martin:

You just made an announcement about certain documents being lodged and put in States Members' pigeonholes. Could I ask if we are going to get the report on the review of the hospital consultant? [Aside] We have now got it, have we? Okay. Could I ask, was the copy made available in electronic version for States Members as well, please?

The Greffier of the States (in the Chair):

Well, it is a matter for the Chief Minister.

PUBLIC BUSINESS

6. Health and Social Services Department: Management Improvement Plan (P.31/2010)

The Greffier of the States (in the Chair):

We come to P.31, Health and Social Services Department: Management Improvement Plan. I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to request the Minister for Health and Social Services to prepare and present to the Assembly for information within 6 months of the date on which the recently appointed Chief Executive takes up her post: (a) a Management Improvement Plan for the Health and Social Services Department which, *inter alia*, provides a structure, and leads to a culture, which underpins implementation of the recommendations of the Verita Report; and (b) plans for the introduction of strengthened and credible whistle-blowing procedures and patient complaint procedures.

The Greffier of the States (in the Chair):

Thank you. Just perhaps to assist the Assembly before I call the Deputy, Minister, you can confirm you are happy to accept both parts of the proposition?

The Deputy of Trinity:

Yes, Sir, very happy to.

The Greffier of the States (in the Chair):

Very well. I nevertheless call on Deputy Le Hérissier.

[11:45]

6.1 Deputy R.G. Le Hérissier:

Thank you for that very subtle hint not to speak at all. Yes, it is a "no-brainer" in many respects and I do thank Senator Le Marquand again for his very useful contribution. The reason this was brought forward was more in sorrow than anger, I should say. I have no qualms whatsoever as to the dedication, the hard work, of the Minister and her team and, indeed, of other Ministers. We all

know in some respects it can be a poisoned chalice but I was very worried at the drift in answer to questions and in answer to other matters. There seems to be developing this sort of quite defensive culture that: "I am not going to respond [for example] to all these pressures to get rid of people." While I can well see why that would be done, and it would not be seen as terribly supportive of staff morale to behave in that fashion, I was hoping that there would be a more open approach and an attempt to say: "Look, these have been difficult times. We are going to put a line under it and we are going to try our hardest in every area for which we are responsible to move things forward." I think people are genuinely trying to do that. I am not sure that the message has come across and I am not sure it has come across in all areas. In a way, the Verita Report was both a strength and a weakness. It was a strength in the sense that it obviously gave us the impetus to get moving and very sadly, as it had to be sadly, it showed us areas where things were in a pretty poor state unfortunately. But it was a weakness in the sense that it took away from other more long-term issues around Health, the kind of issues, for example - and I do not want to get involved in: are there 7 or 8 layers of management in Health, but I will - the kind of issues that Senator Ferguson has been raising that it is about time that somebody really got to grips with the management structure, not only in terms of fiddling about with an organisation chart but the way it works on the ground, the fact that it seems in some respects to be top-heavy, issues that Senator Ferguson and P.A.C. (Public Accounts Committee) and so forth have been pushing for a long time. I was hoping that these issues would really be taken up and really, really attacked almost with a vengeance. I am happy that is happening but I would like to see evidence and I think: "What better time?" We have a fresh start apparently with a new Chief Executive. We have obviously a fresh political start and I would hope that Members will be kept informed and there will be good radical open thinking about these issues. The one issue that has always pained me and I do not think we have got it right as we keep seeing - I do not know what the suspension report will say but I rather suspect it is going to say - because nobody in their right mind, as with the Chief Officers, we are in a place where we would not want to be and I am sure even the Minister for Home Affairs would acknowledge we are in places generally with the consultant and maybe with the Chief Officer of Police, we are in places where we do not want to be and there are clearly major, major issues. One issue that has always worried me in Health, and I know former Ministers have tried to deal with it, is this issue of the independence of the complaints investigation procedure. We find this running throughout a lot of our departments, that we have not got robust independent complaint procedures. I know there was an attempt to do it a few years ago. I know there was an attempt to bring in a U.K. commission to act as the default position, a group of independent people. Then we ended up with some kind of arrangement where they dropped out and we had to go to Guernsey. It essentially ended up with one group of professionals in these cases looking at another group of professionals. So that is an area that I would like some really robust promises and I notice the Minister has mentioned that in her comments, but I would like to see a greater degree of enthusiasm and proactivity. I would like her to say, and I am sure it is there, but I would like it made very, very clear that this is going to be subject to a very bottom-up review. There is going to be a real attempt to see that we can bring in true independence to the complaints procedure. I think even though it is said that the whistle-blowing procedure has been just reviewed, it is not working properly. It will always be a massively difficult issue in a small society where people know each other, where people fear for their careers. It will always be a difficult issue to blow the whistle because there is always a feeling you will at some point be fingered. You will be discovered for who you are or there will be all sorts of gossip and so forth and there somehow have to be incredibly robust procedures to reassure people. So this is given in a positive way rather than yet another diatribe against the Health Service and the Social Services. I am quite prepared to accept that people are working hard to bring change but please bring us, the Members, along. Please do not be defensive about it and please show that you are really prepared to tackle the elephant in the room like the management structure, like the complaints procedure, and like the whistle-blowing. It is not an attempt to lay it down, as the Assistant Minister for Health suggested when he was discussing his vast portfolio, which runs from outlying ports to the management of the Health Service. It is not an attempt to pin people down to

detail but it is an attempt to get Members involved and to convince them that this big oil tanker called the Health and the Social Services Department is at last turning around and that the key issues are being addressed. That is what it amounts to.

The Greffier of the States (in the Chair):

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

6.1.1 Senator P.F. Routier:

Certainly for a number of years now, the issue with regard to the emphasis which is put on to Social Services as opposed to Health has been a concern which I have had for a number of years. Social Services has unfortunately been the Cinderella of the Health and Social Services Department and I am pleased to see in the comments from the Minister that there will be a look at the separation of operational delivery of services from the strategic aspects of Health and Social Services. I really want to emphasise the importance of ensuring that Social Services themselves as a separate entity does get the support that they need because there has been occasion in the past whereby Health and Social Services as a whole have been given their budget. At the beginning of the year, Social Services have been given their slice and then during the year, the acute needs of the hospital have taken priority and the money has slipped over from Social Services into the acute section in the hospital. It is difficult, I understand that; that there are acute needs that need to be dealt with but unfortunately it is to the detriment of people who require Social Services provision. So I would implore the Minister, when this review is being undertaken, to even consider separating out Social Services completely from Health as a step change to ensure that the services which are within Social Services are maintained and not only maintained but improved and brought along to modern-day needs.

6.1.2 The Deputy of Trinity:

I have great pleasure in accepting both parts of the proposition by Deputy Le Hérissier and thanking him for his more positive thoughts rather than being negative, and I would like to think that I am proactive. As you know, it has been a very difficult year and I think we have had a great period of change and upheaval but hopefully we are now looking at turning the corner, shall we say. I, along with our new Chief Executive Officer - and she is due to start on 1st June - are very happy with the timescale that the Deputy has mentioned. The Management Improvement Plan for my department will refocus on the corporate, strategic, and high level of operations. This will take into account the recommendations by both Williamson as well as the Verita Reports. It will be very essential that we really focus on patient and client safety and looking at providing an increase in efficiency and productivity to deliver the important services that we all as Islanders want and demand. It will provide hopefully more strategic delivery of those services that we at Health and Social Services want and I think with the appointment of an Assistant Minister for Children's Services, that is a way of making sure that they are brought into the picture. I take Senator Routier's comments too about Social Services. It has happened in the past that they have been the poor relation, shall we say, but I would like to think that that has changed over the last year especially and they are much more part of the fold. It is interesting that Senator Routier mentioned about splitting Health and Social Services, whereas with the conversations I have with colleagues and with chairs of different Trusts in the U.K., that they say how lucky we are over here that Health and Social Services all come under one umbrella and that is what quite a few Trusts and P.C.T.s (Primary Care Trusts) are looking at doing, putting Health and Social Services together. This area of Social Services will become even more important in the future, as we all know that we are an ageing population and we like to think hopefully that most people can live more independently in their own homes and, with the Social Security Green Paper, that is an important element as well so we must make sure that we have got everything in place from Social Services. In part (b) of the proposition, the whistle-blowing policy: the policy was introduced in 2009 by the States Employment Board and I understand that it has been under review but, having said that, the Chief

Executive - I will make sure she looks, which she has done already - has looked at the whistle-blowing policy and the complaints and that would be part of a report which comes back to the Assembly for information. As you know, within Health and Social Services, there has been a great period of change, let alone change of Ministers, and I really think now is the time for stability and consistency across all Health and Social Services and, as the Deputy said, we must go forward as well. There is a lot of good work done within Health and Social Services and we must build on that to make sure that we are even better. I shall be looking for a more consistent and coherent approach which will make any reform sustainable as we go into the future because that is going to be very important too. So I am very happy to bring the Management Improvement Plan back to this Assembly for information.

6.1.3 Senator S.C. Ferguson:

I cannot let the occasion pass without saying something. My charts, which are arguably the only comprehensive set of organisation charts of the hospital in existence, and which I have circulated to Members *ad nauseum*, merely demonstrate that, like Topsy, the hospital has “just grown”. It is unnecessarily complicated and is holding back front line services in the development of a first-class service. I was also involved in the original set-up of the complaints procedure but sadly this has not worked as it was designed. I am delighted that the Minister has taken all this on board and I shall give her my full support in the simplification of the organisation and the improvement of the complaints procedure and I have no hesitation in supporting this proposition.

The Greffier of the States (in the Chair):

Does any other Member wish to speak? Deputy Tadier?

6.1.4 Deputy M. Tadier:

It is probably appropriate that I speak after the last speaker. Obviously this is to be welcomed here. In global terms, it is a step in the right direction. I would like to pick up on the last few words spoken by the Minister for Health and Social Services saying that she would welcome any approaches about coherent and sustainable approaches in policy at her department because the underlying problem here that we face - and that we know we all face - is that ultimately things like the Health Department and the Education, Sport and Culture Department are obviously going to be the biggest budgets that we deal with. These are coming under increased pressure. It is no coincidence that these are going to be the 2 departments which are going to be most resistant to any reduction in funding. Indeed, these are the departments which are most likely to need an increase in funding over the coming years. So I would ask the Minister, in future, whenever progressive tax measures do come to the House... because taxes will need to rise and income will need to rise as our tax base is probably going to decrease, and this is a contradiction which we will have to deal with in coming years. Certainly any future House will be preoccupied with these issues. I ask the Minister for support in progressive taxation so that the funding that is needed does not simply fall on those who are least able to bear it because we know that, after all, the health of the proletariat is of vital importance for the economic health of the capitalist and indeed the economic well-being of the lower classes is inextricably linked to their individual health. It is fair enough to vote for these in principle debates, and these are all good things, but when the push comes to shove and when the bill comes for the Health Service and the bill comes for Education, we need to make sure that we can fund it and that it is not the small people who are having to pay out for it but that we all contribute in a society in a way which is equitable and fair.

[12.00]

Senator S.C. Ferguson:

For clarification, I do not know whether the Deputy understood that if the organisation is simplified, then there will be substantial savings.

Deputy M. Tadier:

Can I respond that was a question directed at me, I believe, for clarification. Of course, I do understand that in any organisation, there can be an element of structural reform. There can always be efficiency savings but the bottom line is that you can fiddle at the margins as much as you want; there are underlying structural issues that face Jersey in all departments and once the efficiency savings have been made, the bottom line is the tax base of Jersey is in question. We will need to increase taxation and increase revenue whether the Senator likes it or not, and I am sure she is aware of that so, sure, let us all make efficiency savings but the bottom line is that we do have to seriously look at where our income comes from and how that is spent and who the burden falls on.

The Greffier of the States (in the Chair):

I call on Deputy Le Hérissier to reply.

6.1.5 Deputy R.G. Le Hérissier:

Very briefly. I thank the Members for speaking. Senator Routier has made a very good point; Social Services need somehow to be ring-fenced, because big money gobbling physical outfits like the hospital, yes they do take money away. I thank the Minister for her support and I hope they are going to see a real oomph in the way that complaints procedure whistle-blowing is dealt with. Senator Ferguson, hopefully she will have her long due justice in terms of a credible report on the management structure and I think Deputy Tadier - although he has managed to frame it in his inimitable way - has raised some very interesting issues about the fact that we can squeeze as much efficiency as we want out of organisations but, ultimately, we are going to be faced with some very hard questions. So I thank the House for their support, and I ask for the appel.

The Greffier of the States (in the Chair):

The appel is called for on the proposition of Deputy Le Hérissier. Members are in their designated seats. I will ask the Greffier to open the voting.

POUR: 43		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérissier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				

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

7. Draft Incorporated Limited Partnerships (Jersey) Law 201- (P.45/2010)

The Greffier of the States (in the Chair):

In accordance with the request from the Vice-Chairman of P.P.C. we will hold over P.40 and come, therefore, to P.45 - the Draft Incorporated Limited Partnerships (Jersey) Law. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Incorporated Limited Partnerships (Jersey) Law 201-. A Law to provide for the establishment, regulation and dissolution of limited partnerships with corporate personality and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

This proposed law may be considered as a variation on the existing Limited Partnerships (Jersey) Law 1994. Since 1994 Jersey limited partnerships have proved increasingly popular; 1,243 have been registered. They are used, particularly, as collective investment vehicles and among private equity investors. The 1994 Law is widely considered to be both modern and clearly drafted and, today, we seek to build on that success. As well as this law, we are also bringing forward a Draft Separate Limited Partnerships Law as a further variation on the same theme. This appears next in the Order Paper but, with this in mind, I would like to just make some initial remarks. Both of these new draft laws closely follow the existing 1994 Law, but with the novel feature that they allow for limited partnerships to be created, which have a legal existence separate from their partners. Before going on to explain this point, it would perhaps be helpful to give Members some background. Partnerships are a long established way of organising businesses in Jersey. They arise, without formality, when several people agree to carry on a business together. They are similarly long established in the U.K. In this respect, at least, Jersey and English law is very similar. The leading Jersey authority on the partnership is the Norman jurist Pothier, who has been cited in the English court as a very accurate writer. The Jersey Law Commission, in their consultation on partnerships in 2008, also identified Jersey Partnership Law as being closest to that in England. One feature which Jersey and English partnership law share is that the partnership possesses no separate legal personality of its own. So, for instance, if one wishes to bring legal proceedings against a Jersey partnership, one should name all the partners individually. This differs from the position in Scotland, where a firm is a legal person distinct from the partners of which it is composed. This means that, in Scotland, a partnership can sue and be sued in its own

name and own property as well in its own name. In an ordinary partnership - sometimes called a general partnership - all the partners are equally liable for the partnership's debts to an unlimited extent. A limited partnership is a form of partnership having both general and limited partners. The key feature is that a limited partner's liability is limited to their partnership contribution, while the general partner's liability is unlimited. In order to benefit from this limited liability, the limited partners must not involve themselves in the management of the limited partnership. Limited partnerships in the U.K. are governed by the Limited Partnerships Act 1907. This preserves a distinction between English and Scottish partnerships. In particular, Scottish limited partnerships have legal personality separate from that of their partners, whereas English limited partnerships do not. This feature makes Scottish limited partnerships more attractive for some purposes, for example the carrying out of land transactions, where land in question can be held in the partnership's own name. As I previously mentioned, limited partnerships in Jersey exist under the Limited Partnerships Law 1994. This preserves the customary law of partnerships and, in particular, Jersey limited partnerships do not have separate legal personality. In Guernsey, in their Limited Partnerships Law 1995, as a result of the 1997 amendment, limited partnerships may elect to have legal personality or, indeed, not as the case may be. A further amendment in 2006 made clear that where a Guernsey limited partnership elects to have legal personality, it is a body corporate. This is unlike the Scottish limited partnerships, which is a legal person without being body corporate. When we consulted on this topic, there was widespread support for the introduction of Jersey limited partnerships having legal personality, however it was apparent from the consultation that there would be some difficulties in following the Guernsey route of allowing a choice within the existing law, since this might have an adverse effect on existing Jersey limited partnerships formed upon the basis of advice given under the 1994 law. Two possible models were identified: the Scottish model, where limited partnerships have a legal personality separate from the partners, but without being a body corporate; or an incorporated model, as in Guernsey, where a limited partnership would be a body corporate having perpetual succession in addition to separate legal personality and being somewhat more similar to a company. Following discussions with industry representatives and, through them, with key intermediaries, a demand for both models was identified. This is the reason why we are now bringing forward these 2 new draft laws, the Incorporated Limited Partnerships Law and the Separate Limited Partnerships Law. I will be saying more about the Separate Limited Partnerships Law shortly, but now I will return specifically to the Incorporated Limited Partnerships Law which, for the sake of brevity, I shall refer to as the I.L.P. Law. Similarly, I shall refer to the Incorporated Limited Partnerships Law, under the new law, as an I.L.P. An I.L.P. will be a limited partnership with a body corporate having perpetual succession. In this respect it will be somewhat more like a company than a conventional limited partnership. Perpetual succession is a statement of the corporate existence of companies and also of I.L.P.s and they will continue to exist separately from their members or partners. They cannot be brought to an end by a simple decision to do so, as an ordinary partnership can, but have to be wound-up through a formal process. Incorporated limited partnerships may be attractive for a number of reasons. Firstly, there may be an attraction to having a body corporate status for those engaging in cross-border transactions. This gives greater certainty as a matter of international law. At present there is some concern, among certain investors, that limited partners in a Jersey limited partnership investing in a foreign jurisdiction, might not be recognised as such by that jurisdiction and might, therefore, be unpleasantly surprised to find themselves subject to foreign legal proceedings. Secondly, perpetual succession means that those dealing with the I.L.P. can be confident that they will continue to exist and be held accountable for all obligations. Thirdly, as a body corporate, an I.L.P. will be able to own property and enter into contracts in its own name. This may give a more transparent investment structure than an existing limited partnership, where the general partner holds investments on behalf of the partnership and may also make the I.L.P. more suitable for use as a feeder vehicle since it can then, itself, invest in other structures. While the general partners will be liable for the I.L.P.'s debts, as is the case for existing limited partnerships, this liability will be a secondary one, only arising if the incorporated limited

partnership itself defaults. The general partners will act as agents for the I.L.P. rather than the partners as individuals and, in some ways, will be similar to a company director. Correspondingly, general partners' duties, similar to directors' duties, have also been included. As with existing limited partnerships, an incorporated limited partnership will be subject to the customary law of partnership unless the contrary is provided for in the law. So, in summary, an incorporated limited partnership will be a form of partnership managed by one or more general partners with unlimited liability and also having one or more limited partners with limited liability. They will not be able to participate in management. This is the same as under the existing 1994 Law. The novel feature is that an I.L.P. will be a body corporate, having a separate legal existence from its partners, able to own property in its own name, able to sue and be sued in its own name as well. I propose the principles of the law.

The Greffier of the States (in the Chair):

The principles are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on the principles?

7.1.1 The Deputy of Grouville:

I would just like to ask the Minister a question. Could he explain a bit further how this entity would protect a person who has a claim or recourse against a partner if the other partners cannot be accountable?

The Greffier of the States (in the Chair):

I call on the Minister to reply.

7.1.2 Senator A.J.H. Maclean:

My understanding is that it is clearly laid out in the law that the liabilities of the general partners are unlimited and, of course, anybody who should have a grievance would be able to pursue that through the courts. I think that probably clarifies the position, unless the Solicitor General wishes to add further.

The Greffier of the States (in the Chair):

Very well. I put the principles. Those Members in favour of adopting them, kindly show. Any against? The principles are adopted. This matter falls within the remit of the Economic Affairs Scrutiny Panel.

Deputy M.R. Higgins (Chairman, Economic Affairs Scrutiny Panel):

No, Sir, we do not wish to review it. Thank you very much.

The Greffier of the States (in the Chair):

They do not wish to review it. How do you wish to proceed with the Articles, Minister? Do you wish to proceed in parts?

Senator A.J.H. Maclean:

I was going to suggest that the majority of the Articles follow the 1994 Law. I was going to take them in blocks where the Articles are exactly the same as the 1994 Law and just pick out and make a few comments on those that are not. Perhaps I could deal with that in one go, Sir, and then take it *en bloc*.

The Greffier of the States (in the Chair):

All the Articles on the Schedule?

Senator A.J.H. Maclean:

Yes, Sir.

The Greffier of the States (in the Chair):

Very well. Do you wish to speak to that at all?

[12:15]

7.2 Senator A.J.H. Maclean:

Yes, Sir. I would just like to make some comments, if I may, on the Articles where there have been changes, for Members. Article 3 allows an I.L.P. to be formed, in accordance with the draft law for any lawful purpose. It must consist of one or more general partners and one or more limited partners. Once it is registered under the law, it will be a body corporate, having a separate legal personality from that of the partners and perpetual succession. It will also have unlimited capacity, the same legal capacity as a natural person of full age. Under Article 4, allows an association of persons to apply for the formation of an I.L.P. by delivering to the Registrar a declaration verifying the formation of the I.L.P. If the law is being complied with the Registrar must register the association and issue a certificate to that effect. On the issue of the certificate the association becomes a body corporate. The certificate is conclusive proof that it has that particular status, which is clearly a change from the existing 1994 Law. Under Article 11, paragraph 3 makes clear that the general partner acts as an agent for the I.L.P. as a body corporate. This is different from the position of an unincorporated limited partnership, when the general partner acts as an agent for all the partners. Paragraph 4 gives the general partner duties owed by a director to a company and paragraph 5 provides for breaches of these duties to be ratified with the consent of all partners. Paragraph 7 provides that the general partner will have unlimited liability in the event that the I.L.P. is not able to pay its debts. Under Article 21, this enables the States to make regulations for the winding-up and dissolution of solvent and insolvent I.L.P.s. Under Article 23, this deals with the service of documents; documents must be served by delivery to the I.L.P.'s registered office. This differs from the 1994 Law where documents may also be served on the general partner and reflects the fact that an I.L.P. is, in fact, a body corporate. Under Article 35, this enables the States to make regulations disqualifying persons from acting as general partners of I.L.P.s and providing for I.L.P. audits. Such regulations may apply, with or without modifications, revisions in respect of those matters in the Companies (Jersey) Law 1991, or the Foundations (Jersey) Law 2009 that apply to companies or, indeed, foundations. Article 38 makes consequential amendments to other enactments. The effect of these amendments is to ensure that an I.L.P. is treated as a form of limited partnership in other laws. There is also an amendment to the Bankruptcy (Désastre) (Jersey) Law which provides for I.L.P.s to be subject to désastre regime as in the same way as companies reflecting their status as a body corporate. Those are the only alterations with regard to the Articles. If I may, I would like to take them *en bloc*.

The Greffier of the States (in the Chair):

The Articles and the Schedule are proposed and they are seconded. **[Seconded]** Does anyone wish to speak on any of the Articles or the Schedule? If not, I put the Articles and the Schedule. Those Members in favour, kindly show. Any against? They are adopted. Do you propose the draft go into Third Reading, Minister?

Senator A.J.H. Maclean:

Yes.

The Greffier of the States (in the Chair):

Is it seconded? **[Seconded]** Does anyone wish to speak? I put the draft law in Third Reading. Those Members in favour of adopting it, kindly show. Any against? It is adopted in Third Reading.

8. Draft Separate Limited Partnerships (Jersey) Law 201- (P.46/2010)

The Greffier of the States (in the Chair):

Now we come to the associated piece of legislation that you referred to, Minister, the Draft Separate Limited Partnerships (Jersey) Law. I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Separate Limited Partnerships (Jersey) Law 201-. A Law to make provision for the establishment, regulation and dissolution of unincorporated limited partnerships with separate legal personality and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

The Greffier of the States (in the Chair):

I invite you to propose the principles, Minister.

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

Members might be pleased to note that this going to be a lot shorter. **[Approbation]** This draft law is closely related to the one we have just debated. As before, it relates to a form of limited partnership with legal personality and closely follows the Limited Partnerships (Jersey) Law 1994. However, unlike the Incorporated Limited Law, the Separate Limited Partnerships Law provides for limited partnerships having a legal personality separate from their partners, but without being a body corporate, similar to the existing position in Scotland. The name chosen for this form of limited partnership is separate limited partnership, as a contraction of the separate legal personality limited partnership, which was considered to be too lengthy to be a suitable name but which describes exactly what it is, I shall adopt the abbreviation S.L.P. An S.L.P. will be capable of owning property in its own name, as opposed to limited partnerships under the 1994 Law, which holds property in the name of one or more general partners and, accordingly, will be able to invest in its own name and could be used as a feeder vehicle like an I.L.P. An S.L.P. will also be capable of entering into contracts in its own name; however, unlike a body corporate, it will not have perpetual succession. The existence of the separate legal personality will not affect the rights of the partners as between themselves. As with existing limited partnerships, an incorporated limited partnership will be subject to the customary law of partnership unless the contrary is provided in this law. So, in summary, an S.L.P. will be a form of partnership managed by one or more general partners with unlimited liability and also have one or more limited partners with limited liability, who will not be able to participate in the management. This is the same as under the existing 1994 Law. The novel feature is that an S.L.P. will have a separate legal existence from its partners, able to own property in its own name and sue and be sued in its own name. However, this will not affect the rights and duties of the partners between themselves. I propose the principles of the law.

The Greffier of the States (in the Chair):

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles?
Deputy Le Hérisier

8.1.1 Deputy R.G. Le Hérisier:

That was very clear, obviously **[Laughter]** and I wonder if the Minister could tell us what, in 6 words or less, is the purpose of this?

8.1.2 Senator S.C. Ferguson:

Yes, I was rather following on that. It appears that these are investment vehicles but I wonder if the Minister could enlarge, perhaps, on where the pressure has come to set these up and for what purposes they have them in mind?

8.1.3 The Deputy of Grouville:

I would just like to ask a general question to the Minister. I assume all States Members know exactly what they are passing here and I despair when I hear groans from the Constables' benches that the explanation for this is going to be slightly shorter than the first one and I would like to ask the Minister why he decided not to have a briefing for States Members on these important pieces of legislation?

The Greffier of the States (in the Chair):

I call on the Minister to reply.

8.1.4 Senator A.J.H. Maclean:

To answer Deputy Le Hérisier, with regard to the purpose: the drive for these laws, we have, as I have already mentioned, a limited partnership law which was drafted and passed by this Assembly in 1994, however things have moved on significantly since then. The pressure has come from industry who are looking, regularly on an ongoing basis, to improve the tools that they have available and although, as I have mentioned, Guernsey have already amended their 1995 Law on 2 occasions, to allow some of the facilities that we have included in these 2 particular laws and, indeed, Scotland has a different system as well, what we are effectively doing is increasing the flexibility, increasing the opportunities for industry to be able to drive more investment business. Moving on to Senator Ferguson; she is right, it is an investment tool. Effectively, these are collective investment products. What we are doing today, with both of them, is increasing the flexibility and the opportunities for increasing the amount of business that the Island can drive by using these particular tools. With regard to the Deputy of Grouville, we forwarded, clearly, these details to the Scrutiny Panel, of which she is a member. I did understand that the panel were satisfied. If there was a feeling that there should be a wider briefing with States Members, of course we are more than happy to, in future, take that on board, but tend to be led by the Scrutiny Panel and our views on the complexity of any particular legislations coming forward. I hope that answers Members' questions and I maintain the proposition.

The Greffier of the States (in the Chair):

I put the principles. Would those Members in favour of adopting kindly show. Any against? The principles are adopted. I assume, Deputy, your answer is the same as for the ...?

Deputy M.R. Higgins (Chairman, Economic Affairs Scrutiny Panel):

Yes, it is. We do not wish to review it.

The Greffier of the States (in the Chair):

Very well. Minister, do you wish, again, to propose the Articles *en bloc* for this?

Senator A.J.H. Maclean:

Yes, if I could. I would just like to, when the moment comes, give an explanation to where they differ from the 1994 Partnership Law.

The Greffier of the States (in the Chair):

Please go ahead, Minister. Propose when you have made your comments.

8.2 Senator A.J.H. Maclean:

Under Article 3, this provides that an S.L.P is a separate legal entity from its members and that, as such, its capacity is not limited. It also declares that an S.L.P. is not a body corporate. Under Article 12, this provides that the property of a separate limited partnership shall be held for the benefit of the partners, in accordance with the terms of the partnership agreement. If the agreement is silent, it is held for the benefit of all of the general and limited and partners equally. In any event, it is also held in undivided shares. Under Article 13, because as a separate limited partnership it has its own distinct personality, it will be possible to enforce against an S.L.P.'s

property a judgment that has been obtained against either the S.L.P. itself or against a general partner. Under Article 30, which relates to legal proceedings and the service of documents, legal proceedings by or against an S.L.P. may be brought in the name of the partnership itself or that of the general partner if either the S.L.P. or its general partners refuse, without good cause, to bring any proceedings, a limited partner may do so. Under Article 42, this enables the States to make regulations disqualifying persons from acting as general partners of S.L.P.s providing for the audit of S.L.P.s. It also enables the States to make regulations amending other enactments to provide that if an offence is committed by an S.L.P., its general partners and limited partners will be criminally liable to the same extent as they are under Article 42, in respect of offences committed by S.L.P.s under this draft law. Finally, the only other one I would like to just comment on is Article 45. This amends other enactments in the manner described in the schedule. It also contains referential amendments; in particular the Companies (Jersey) Law 1991 is amended to provide that an S.L.P. is not to be a director of a company. Otherwise, the amendments are intended to ensure that an S.L.P. is treated as a limited partnership, where this is appropriate. I maintain the Articles.

The Greffier of the States (in the Chair):

Articles 1 to 47 of the schedule are proposed and seconded. **[Seconded]** Does anyone wish to speak on any of the Articles?

8.2.1 Deputy R.G. L Hérissier:

Very quickly, and the Solicitor General may be able to assist also in giving a joint answer here, I wonder if the Minister could explain what 3(4) and 3(5) mean and are they related to each other, those 2 particular statements; an S.L.P. is a legal person but not a body corporate; 3(5) an S.L.P.'s capacity as a legal person is not limited?

The Greffier of the States (in the Chair):

I firstly call on the Minister to reply, if he wishes to enlist the assistance of the Solicitor General that is his prerogative I think. Minister, are you able to assist with your response?

Senator A.J.H. Maclean:

Sorry, I think I will defer to the Solicitor General.

Mr. H. Sharp., H.M. Solicitor General:

Article 3(4) simply means that the S.L.P. is a separate legal entity and a legal person separate from the individuals who form the partnership and 3(5) means that the S.L.P.'s capacity, i.e. what it can do, as a separate legal person, is not limited in any way. I do not know if that assists.

Deputy R.G. Le Hérissier:

I thank the Solicitor General for that very clear explanation, but it is not limited in the sense of the amount of money it can invest, the people it can involve?

The Solicitor General:

Yes, as background, often when you have a company you will have a Memorandum of Articles which will explain what the company's functions are. Take a very simple example: "Only to invest in property" or "Only to buy shares"; so, because this Article means that the S.L.P.'s capacity is not limited, it can do everything and anything. I hope that helps.

The Greffier of the States (in the Chair):

Thank you for the very clear explanation. Do you wish to make any further comments, Minister?

Senator A.J.H. Maclean:

No, I think the Solicitor General did a very good job. **[Laughter]**

The Greffier of the States (in the Chair):

Very well. I put the Articles and the Schedule. Those Members in favour of adopting them, kindly show. Any against? They are adopted. Do you propose the draft go into Third Reading, Minister?

Senator A.J.H. Maclean:

Yes.

The Greffier of the States (in the Chair):

Is it seconded? [**Seconded**] Does any Member wish to speak? I put the draft law into Third Reading ... the appel is called for in the Third Reading. If members are in their designated seats I will ask the Greffier to open the voting.

POUR: 40		CONTRE: 1		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy S. Pitman (H)		
Senator P.F. Routier				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

9. Public Employees Contributory Retirement Scheme Committee of Management: membership (P.60/2010)

The Greffier of the States (in the Chair):

Very well. I wonder if Members would find it convenient to take next the Public Employees Contributory Retirement Scheme because the financial services matter has to be taken by law in camera. It may perhaps be convenient to take that just before the lunch adjournment. If Members are content to proceed in that way I will ask the Greffier to read P.60 relating to P.E.C.R.S. (Public Employees Contributory Retirement Scheme).

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to approve, in accordance with Regulation 3 of the Public Employees (Contributory Retirement Scheme) (General) (Jersey) Regulations 1989, the appointment of the following persons to the Committee of Management for the period ending 31st December 2012 as follows. Employer representatives: Mr. S. Laing, Mr. J. Mills, Mr. S. Warner. Employee representative: Mr. M.A.Q. Richardson.

The Greffier of the States (in the Chair):

In the interest of transparency I would, as on previous occasions, inform Members I am a member of the Scheme but I do not think it affects my ability to preside.

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

The Committee of Management of P.E.C.R.S. performs an important role rather like trustees of the funds. The Comptroller and Auditor General did a review of the Public Employees Contributory Scheme last year and made certain recommendations, including the fact that the States Members and, in fact, certain officers should not serve as members of the Committee of Management. That has created some vacancies in the board which we have advertised in order to try to fill them and I am pleased to say that we did get some responses to the advertisements. In fact we got the responses that we have here and one further one which Members may be aware I withdrew 2 weeks ago when it was suggested that person might be standing in a Senatorial by-election vacancy. I will, therefore, probably be coming back later in the year with a further proposition. But meanwhile it is important that the Committee of Management is properly constituted, there are some important decisions that have to be made and until it is properly constituted there is some doubt about how much they can or should do. I am, therefore, pleased to propose the names of Mr. Laing, Mr. Mills and Mr. Warner as employer representatives and Mr. Richardson as an employee representative. Their C.V.s (curriculum vitae) are attached as an appendix to the proposition, and Members will also see on page 4 the other members, both employer representatives and employee representatives. As I said, this is an important task for these people to undertake. I am very grateful to those previous members of the Committee of Management who have continued to serve on the board, but now I think it is important that the board is strengthened with the appointment of these 4 new people and I propose their appointment.

The Greffier of the States (in the Chair):

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

Deputy J.B. Fox:

I think I have got to declare an interest in this one and leave, Sir.

The Greffier of the States (in the Chair):

I do not think you need to leave, Deputy, there is no financial interest I imagine, but we note your interest. Does any Member wish to speak on ...

Deputy A.K.F. Green:

Can I just declare an interest as well?

The Greffier of the States (in the Chair):

Deputy Green, noted.

Senator B.I. Le Marquand:

Can I also declare an interest?

The Greffier of the States (in the Chair):

Senator Le Marquand and Deputy Jeune. Does any Member wish to speak on the proposition? Notes from also Deputy Duhamel and Deputy Higgins and Deputy Gorst, I think.

9.1.1 Deputy I.J. Gorst:

Yes, my wife is a member of the scheme but, as you rightly said, I do not believe that is a conflict in this case. I just wanted to welcome this proposition. I think it is good that we have got individuals within our community who have got investment experience and are prepared to put their names forward and fulfil this extremely important role. I do, however, have one concern. While I recognise that the Comptroller and Auditor General brought forward his proposal that States Members specifically and some officers should no longer sit on the Committee of Management, I now understand the reasons for that proposal, I do believe that it perhaps leaves this Assembly not as well informed as it might be about the pension scheme that we provide for our employees, about long-term issues which will need to be addressed, and I have not tipped him off that I was going to say this but I wonder if the Chief Minister might give us some comfort that he will consider how we, as an Assembly, going forward can be involved from an information perspective. To know what is going on rather than just the annual report which can be somewhat indigestible, if I might say that. But I do think it is critically important that we, as Members, are aware of what is going on and are fully informed and able to make an informed decision should there need to be, which there may need to be made going forward... which, again, the Comptroller and Auditor General said that we might have to do in light of changing circumstances in other jurisdictions. I wonder if the Chief Minister could just give us some comfort that he will address that issue in due course. Thank you.

9.1.2 Deputy P.V.F. Le Claire:

Along that line, it was of course the past service liability that the States decided upon most recently in terms of the pensions that has put a burden upon the taxpayer of hundreds of millions of pounds over the next 84 years or so. So I would concur with Deputy Gorst on the issue of us needing to be informed as to what is happening. But I did not really rise just to repeat what was being said, I did it to endorse that and to ask the question: as we are evidentially and progressively moving away from hands-on management, at what stage will the scheme become a fully-fledged trust, as this has been something that has been in the wings for a number of years? It might be an opportune time for the Chief Minister to inform us as to what his thoughts are on that.

The Greffier of the States (in the Chair):

I call on the Chief Minister to reply.

9.1.3 Senator T.A. Le Sueur:

I thank those 2 Members who have spoken and commented on the need for keeping Members fully informed. As Deputy Gorst says, there is an annual report sent around by the Committee of Management to all Members and participants in the scheme. I agree it might be a bit more user friendly and I will suggest to the Committee of Management that they might try to change the style. If it is hard for us to understand, it may well be quite difficult for some of the States employees to understand as well. So I think in fairness to them and to us, if we can make that document - which is of course a document owned by the Committee of Management, not ourselves - but if they can be

persuaded to make that document more user friendly I am sure that would be a step in the right direction. As to Deputy Le Claire's very pertinent comment about the scheme becoming a fully-fledged trust, he will be aware that this was a decision arrived by the States some 10 years ago now, I would imagine, and it was the subject then of considerable legal discussion. I think the situation has moved on now and, certainly from the States Employment Board's point of view, we are anxious that it should proceed to trust status. But that is something which I would also like to do in conjunction with discussions with a fully constituted and properly constituted Committee of Management. Whether the parties concerned are trustees or members of the Committee of Management, it is perhaps splitting hairs because when they are acting on the Committee of Management they are acting as quasi-trustees. I certainly do not want to go into the legalities of that at this stage, all I will do is endorse the comments of Deputy Gorst that this is a very valuable job, that we have people here with expertise able to fulfil their roles, and I am pleased that they have put their names forward. I maintain the proposition.

The Greffier of the States (in the Chair):

The appel is called for. If Members are in their designated seats the Greffier will open the voting for and against the proposition of the Chief Minister.

POUR: 36	CONTRE: 0	ABSTAIN: 0
Senator T.A. Le Sueur		
Senator P.F. Routier		
Senator T.J. Le Main		
Senator B.E. Shenton		
Senator A. Breckon		
Senator S.C. Ferguson		
Senator B.I. Le Marquand		
Connétable of St. Ouen		
Connétable of Trinity		
Connétable of Grouville		
Connétable of St. Brelade		
Connétable of St. Saviour		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Deputy R.C. Duhamel (S)		
Deputy of St. Martin		
Deputy R.G. Le Hérisssier (S)		
Deputy J.B. Fox (H)		
Deputy J.A. Martin (H)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy of St. Peter		
Deputy J.A. Hilton (H)		
Deputy P.V.F. Le Claire (H)		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy I.J. Gorst (C)		
Deputy of St. John		
Deputy A.E. Jeune (B)		
Deputy A.T. Dupré (C)		
Deputy E.J. Noel (L)		
Deputy A.K.F. Green (H)		
Deputy D.J. De Sousa (H)		

Deputy J.M. Maçon (S)				
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10. Jersey Financial Services Commission: appointment of Commissioner (P.58/2010)

The Greffier of the States (in the Chair):

Are Members content to take the next proposition before lunch, relating to the Financial Services Commission? Very well. Although this has to be debated in camera I will ask the Greffier to read the proposition in public Assembly.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion, in pursuance of Article 3 of the Financial Services Commission (Jersey) Law 1998, to appoint advocate Cyril Edward Whelan as the Commissioner of the Jersey Financial Services Commission, with effect from 1st June 2010 for a period of 3 years.

The Greffier of the States (in the Chair):

I must ask the media in the gallery to cease the recording and to leave the Chamber while the Assembly considers this matter in camera.

[Debate proceeded in camera]

The Greffier of the States (in the Chair):

Very well. The Assembly must vote in open Assembly, I ask the usher to ascertain whether the media representatives are still waiting. They may have gone for an early lunch, we will see. Very well, the Assembly is now voting on the proposition.

POUR: 39		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator T.J. Le Main				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				

Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

LUNCHEON ADJOURNMENT PROPOSED

The Deputy of St. Martin:

Before we have the adjournment, could I just test the mood of Members, or particular the Chief Minister. We have got one proposition this afternoon which should not take long, but I was wondering whether the Chief Minister could have words with the people who are going to present the report, maybe could bring it forward to 4.00 p.m. or even 3.30 p.m. It would save Members having then to hang around to 5.30 p.m. which may encourage more Members not to attend. So maybe could I ask the Chief Minister during the luncheon adjournment to speak with the presenters of the review with the intention maybe of bringing forward the presentation earlier this afternoon.

Senator T.A. La Sueur:

I appreciate the Deputy's comments and I will make inquiries at lunchtime. My difficulty is knowing just how long a debate on P.40 might go on for. The Deputy suggests it is quite short, that may not be a view shared by all Members. At this stage I just cannot say and rather than have the person sitting around for 2 hours waiting for us to finish or us trying to rush the job, I would prefer to have a time where I felt more confident we certainly would be finished. But I will take the Deputy's notes on board and if we can bring it forward say an hour, I will try and do so.

The Greffier of the States (in the Chair):

Very well. The States stand adjourned until 2.15 p.m.

LUNCHEON ADJOURNMENT

[12:50]

[14:16]

PUBLIC BUSINESS - resumption

11. Draft Amendment (No. 13) of the Standing Orders of the States of Jersey (P.40/2010)

The Greffier of the States (in the Chair):

I will ask the usher to summon any Members within the precincts. Very well, the Assembly is now quorate and the remaining item of Public Business is the Draft Amendment (No. 13) of the Standing Orders and I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Amendment (No.13) of the Standing Orders of the States of Jersey. The States, in pursuance of Article 48 of the States of Jersey Law 2005, have made the following amendments to Standing Orders.

The Greffier of the States (in the Chair):

Chairman, the Standing Orders themselves - provided that there is no debate on the principles of the Standing Order - the Assembly simply considers the Standing Orders in turn or in groups. Now, how would you like to propose the Standing Orders?

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

I would like to propose Standing Orders 1 to 4 together and then conclude with the remaining Standing Order.

The Greffier of the States (in the Chair):

Yes, very well. So you propose Standing Orders 1 to 4.

The Connétable of St. Mary:

These Standing Orders make a number of changes to the provisions relating to the suspension of a Member of the States from the Assembly. P.P.C. is well aware that the issue of suspension of an elected Member is a controversial issue and the view has been expressed by some that it is inappropriate to deprive the electorate of their representative in a democratically elected Assembly. Nevertheless, it is clearly the case in parliaments across the world that suspension must remain as the most severe sanction in a serious disciplinary case. Because of the operation of parliamentary privilege, any parliament or assembly must regulate the conduct of its members internally, and exclusion from the assembly for a given period is an accepted sanction for members, collectively, to express their displeasure with conduct of one of their colleagues. When the new Standing Orders were introduced in 2005, the States agreed that the previous somewhat vague provisions on suspension should be clarified. Suspension is thankfully a rare event, with the last suspension in Jersey dating back to 3rd September 1996 when the then Senator Syvret was suspended by the States with 36 Members voting in favour, 3 against and 4 abstentions. When preparing the new Standing Orders, P.P.C. was concerned that suspension should not be an open-ended sanction and that the States should determine precise periods of suspension to apply in all cases. In this way it would not be possible for open-ended suspensions to occur. Following the adoption of a proposition brought by the Deputy of St. John last year, P.P.C. was charged to review the operation of the code of conduct and associated sanctions. In considering the current provisions relating to suspension, P.P.C. concluded that they were unsatisfactory in a number of ways and it is for that reason that these amendments are being brought. The main problems identified were that the period of suspension was related to a given number of States meetings and not a fixed number of calendar days, meaning that the length of any suspension was totally dependent on the number of sittings in any given period and a Member could either be unduly prejudiced by this or conversely the period of suspension could be extremely short if the States were sitting frequently. The second concern of P.P.C. was that the suspension did not constitute a sufficient sanction as there was never any loss of remuneration and Members could still access the facilities during their suspension. These amendments are intended to address the concerns expressed. Turning to the amendments in detail, and in turn, amendment 2 inserts a new Standing Order, 21A in the Standing Orders, relating to the lodging of a proposition for suspension. P.P.C. believes that it is essential that the decision to lodge a proposition for suspension is taken after due and proper consideration and for this reason the new Standing Order provides that P.P.C. must be given the opportunity to consider a matter before it is possible for any other Member to lodge a proposition relating to suspension. P.P.C. brings together Members from across the Assembly and has been charged to oversee the operation of the code of conduct. It is, therefore, entirely appropriate that P.P.C. should consider the facts of any case and come to a conclusion on whether or not suspension is an appropriate sanction in the

circumstances. The new Standing Order, nevertheless, contains the provision to enable another Member to bring forward a proposition if P.P.C. has considered the matter and concluded that the circumstances do not justify suspension. To ensure that there is no abuse with propositions being lodged without any degree of support, the proposition would then have to be signed by 6 Members of the States. A further change is introduced by new Standing Order 21A(3) which specifies that the proposition must propose the duration of the suspension. As can be seen from the later parts of this set of amendments, any suspension is subject to a maximum period but P.P.C. consider that there should nevertheless be a flexibility introduced to allow the proposition to propose a shorter period of suspension if appropriate. Under the current Standing Orders there is no discretion to vary the period set out and P.P.C. considers that there may be occasions when the maximum period specified is inappropriate and a shorter period would be adequate. Standing Order 3 amends Standing Order 111. Standing Order 111 refers to a suspension immediately after an incident of serious disorderly conduct in the Chamber when the presiding officer has required a Member to be removed. In these hopefully unusually extreme circumstances, Standing Orders allow for another Member to propose on the next meeting day that the removal from the Chamber on the previous sitting day was an inadequate sanction for the actions of the Member, and that the Member should be suspended. The revision to this Standing Order made by the amendment simply replicates the amendment in relation to lodging a proposition, namely that the proposal must specify the duration of the suspension. Once again, the duration would be subject to maximum periods set out in these amendments. Standing Order 4 substitutes Standing Order 164, which sets out the effect of a suspension. There are a number of small but important changes made to the current provisions. New Standing Order 164(1) specifies that a Member who is suspended cannot enter the States Chamber or associated Members' facilities. At present the restriction on entry only applies when the States are meeting and this amendment will extend the prohibition to the entire period of suspension. The Committee believes that it is curious that the States can vote to suspend a Member, only for that Member to be able to access all the normal facilities throughout the suspension, as long as the States are not sitting. At present, a Member of the States who is a Minister and suspended can theoretically continue to discharge the functions of his or her Ministerial office even though he or she cannot attend meetings of the Assembly. P.P.C. does not believe that this is appropriate and revised Standing Order 164(2)(a) makes it clear that a Member who is suspended cannot discharge the functions of any Ministerial office. The present provision that a Member cannot undertake his or her duty as members of any committee or panel is retained. In practice it is, of course, possible that a Minister who was suspended would also lose the confidence of the Assembly and have to resign or be removed from his or her Ministerial office. But P.P.C. nevertheless believes that this amendment is important to ensure that a Member who is suspended from the Assembly cannot continue to discharge the functions of Minister. Revised Standing Order 164(4) and (5) refer to remuneration. At present, a Member who is suspended continues to receive his or her remuneration, meaning that the sanction is, in practice, relatively painless for the Member. Although P.P.C. is not recommending that remuneration should be stopped during a first suspension, this amendment will mean that on any second suspension during a 3-year period, a Member would lose one half of the remuneration and allowances to which he or she is entitled. If the second suspension were of the maximum period of 14 days, this would equate to some £845 loss of remuneration. For any third or subsequent suspension during a 3-year period, a Member would lose all his or her remuneration and allowances and if the suspension were for the full 28 day period, this would equate to some £3,377, which is a substantial sanction. Loss of remuneration is not unusual in relation to parliamentary suspensions and, for example, any Member of Parliament suspended from the U.K. House of Commons will lose all his or her remuneration in the case of any suspension. The proposals that P.P.C. is putting forward in these amendments are, therefore, less draconian than the U.K. provisions. Revised Standing Order 164(6) sets out new maximum periods for suspensions. As mentioned earlier the current provisions are related to a number of meeting or continuation days and this clearly leads to potential unfairness. A Member who was suspended on the last day before summer recess, would be suspended for over 8 weeks,

whereas a Member suspended during the period when the States were meeting for 3 or 4 consecutive days could, in theory, return to the Chamber extremely quickly. The new provisions specify a period of calendar days which P.P.C. believes is more equitable. The maximum periods are as set out in the revised Standing Order, namely 7 days for the first suspension, 14 days for the second suspension and 28 days for any third or subsequent suspension. Some may feel that the periods are not long enough, although P.P.C. notes that no amendments have been brought to this proposition. The Committee considered very carefully the appropriate lengths of suspension to propose to the Assembly and agreed that the necessary balance needed to be struck between the requirement to make the sanctions meaningful while not depriving the electorate of the representation of the Member for an unduly long period. Although suspension must be retained as a necessary tool for the Assembly in disciplinary matters, the ultimate sanction for any elected Member comes, of course, at election time when the public will judge whether or not the Member has represented the constituency in an appropriate manner. P.P.C. is satisfied that the maximum periods set out in this Standing Order represent the appropriate balance. Revised Standing Order 164(9) specifies that reference to the 3-year term of office as a reference to the period between ordinary elections. This ensures that Senators are placed in the same position as Connétables and Deputies, namely that the counting of the number of suspensions in a given period is the same for all Members. I propose Standing Orders 1 to 4.

The Greffier of the States (in the Chair):

Are those 4 Standing Orders seconded? [**Seconded**]

Deputy J.M. Maçon:

A point of clarification, just very quickly, could the speaker tell us whether the proposals were unanimously backed by her committee or was there any dissent?

The Greffier of the States (in the Chair):

Are you able to answer that?

The Connétable of St. Mary:

Sorry, I thought it was going to be in the summing up. Yes, I am. The proposals came back to the committee in several different forms. In 2 occasions the proposals were considered just before they were lodged. On those occasions there was no dissent noted from any of the members present, but on one occasion Deputy Egré was not present and on one occasion, I think Senator Le Marquand was not present, but I am not sure on that, but there is certainly no dissension recorded in the minutes.

The Greffier of the States (in the Chair):

Very well, the Standing Orders are proposed and seconded. Does anyone wish to speak on Standing Orders 1 to 4? Senator Breckon?

11.1.1 Senator A. Breckon:

Just a question, what would happen if a Member, I do not know, say, Deputy Jeune went around to the Deputy of St. Ouen's house and told him what she thought about him and he gave her a clip around the ear, and the police were involved? I seem to remember P.P.C. had some ideas about doing something before with somebody unnamed and then the police got involved and then there was a stand-off and nothing happened, so could the chairman say what would happen if the police were involved in some sort of thing after this altercation had or had not taken place? What would P.P.C. do? Would they say: "Well, we are going to take action on this, or we are going to wait" and it might take, with respect to the Minister for Home Affairs, some time to be investigated and reported upon, at which time what does the Member or Members do? Could the chairman clarify that?

11.1.2 The Deputy of St. John:

I do not know if I am allowed to speak but I am going to, given that I have got a complaint against me which has still not been heard and goes back to February of this year. Given that we are discussing procedures within this Chamber it is probably as good a time as any. I would like to know more about the complaint and, possibly, I would like any complaint against me heard in public not in camera and **[Interruption]** ... I am going to come into it, if I may be allowed a little bit of slack given that I am one of those Members currently that may be suspended, or there may be no evidence at all that comes forward.

[14:30]

So therefore, Members should be aware that when a person makes a complaint against you, you are notified ... in my case it was by the Chief Minister, who notified me that a complaint had been made against me on something I had said in this Chamber and repeated in the Royal Square, which I can stand by, because obviously I work in the interests of the people of Jersey, not civil servants. That said, I am still waiting to find out what the full complaint is, why P.P.C. have not done their job of finding that information out and forwarding it to me, because any complaint that is made I would have thought would come across at the time. At the time of the complaint the paperwork of the complaint should be complete, not be calling for additional evidence afterwards, which I can understand they may have to do, but we are in June at the end of next week and yet, something that happened in February, they have not been able to get the information together. I am concerned that these items are also to be heard in confidence, in camera, and therefore ... in fact, there is not something in here that says it can be heard in public, that everybody can hear that their representative, what they have done or have not done, as you would in a court case.

The Greffier of the States (in the Chair):

Deputy you must come to the Standing Orders, please. This is about lodging propositions which are clearly held in public because they are in this Assembly.

The Deputy of St. John:

Yes, but when you get to the hearings later on, they are not held in public.

The Greffier of the States (in the Chair):

But we are not debating that today, Deputy.

The Deputy of St. John:

I will not go any further, I am just raising it so that Members know that I have probably misused my position yet again, by mentioning it here, but that said, I have raised it so the public know that I want P.P.C. to do a little more than they are doing.

11.1.3 Senator P.F. Routier:

When I first read this proposition from P.P.C., I thought to myself: "Good, this is a step forward in the right direction", and on second reading I thought that, as the proposer was saying, that is ... I have forgotten what the word was, but certainly it was not draconian. It was very moderate and I have to say I share that opinion. I know I have not brought forward any amendments to make it a bit harder but certainly the theme of what is being proposed, I certainly agree with and I will be supporting that, so I urge Members to support this proposition and it is a step in the right direction. Whether we have to extend this and go a bit harder a bit later on, well, that will be something time will tell, but I urge Members to support the proposition.

11.1.4 The Deputy of St. Martin:

Yes, I have 2 or 3 issues to raise and one is very much in support of the Deputy of St. John's concerns, because they were concerns that I did raise when a complaint was made against me

recently. It was looking at Articles 156 and 157, and I know it is not on the table today but what I would hope, again through the medium of this debate, that I could persuade P.P.C. to look again at the whole issue about States Members who may well have a complaint lodged against them. This can happen to any one of us, even ... no matter how frivolous it is, but at the same time it is a complaint nevertheless and is a question mark about your integrity. So, I think it is very important, let us not just say: "Oh, it is the Deputy of St. Martin's concern or the Deputy of St. John's." It can concern any one of us and any complaint can be made about us, so take this seriously. The other thing is about the restrictions, like Senator Routier was talking about; when he read it first of all, he felt a bit concerned. There were concerns, I still am concerned. I do not have a problem with what we are going to pass today, maybe, apart from ... I mention one of the schedules, but my concern really is the restriction placed upon us as a representative of the constituents who have elected us there and if we are deemed to have done something, which is maybe picking up the mace and then doing something and then you are barred from coming to attend a States meeting when there may well have been a just cause in picking up the mace. I am not proposing that anyone does pick it up - we would be struggling today anyway, we have not got one - but at the same time some of these things that would be an impingement on your right to represent your constituents. It is quite a serious sanction we are going to place upon any Member who does fall foul, and I can understand that there may well be reasons where someone may well fall foul, but at the same time we should remember that we are elected to represent our constituents. Indeed, when we are suspended it is not like the normal suspension when someone suspended may be able to carry on with your work, but here you are being denied the opportunity of coming to the States and represent them, but at the same time you can carry on in a funny sort of way, of representing your constituents but you have no authority. It is a peculiar system and just maybe, in summing up, the chairman may tell us how she can reconcile that position whereby you may be suspended from coming into the States, you may be suspended from lodging a proposition or asking a question, yet at the same time you can still be representing your constituency, albeit with hands tied behind your back. I did raise the issue with the Solicitor General as to how far it impinged on one's human rights as well, again, to represent your constituency, not only yourself but the loss of your constituents in you as their representative. The other aspect I would like to raise is that, we will be coming to it eventually, it is on page 15 and it is the issue of being in camera, and I would hope that when P.P.C. does come back with, I think it was P.225 that we debated last year, that we will address this issue about in camera debates, because I find it very difficult, particularly if you are involved in a particular case where there is lots of information to give out and you hold on to it for the debate, but it is of vital importance that that information goes out in the public domain after the debate, and at the same time a States Member may be in trouble, could be suspended, for divulging information which comes from an in camera debate. Again, I would ask that P.P.C. would look very carefully, and maybe when we come to debate this particular article that we may take it separately, because I do not feel I can be supportive in its present guise.

The Greffier of the States (in the Chair):

You are ahead of yourself, Deputy. We have not got to Standing Order 5 yet. I think you are ahead of yourself. I think you are addressing number 5 which is ... no, just 1 to 4 at the moment, yes.

The Deputy of St. Martin:

Yes, I thought we were talking in general but I was making ... I am drawing people's attention, drawing Members attention to it now, but I would say that obviously we are a step in the right direction but I think there is still a lot more thought should be given to it because again it affects each and every one of us and it can happen to you quite easily, I can assure you.

11.1.5 Deputy M. Tadier:

Being present on the committee when this proposition was being formulated, I can respond to some, hopefully give some feedback. I think, first of all, it is necessary to reassure Deputy Maçon

that although there was not any dissent on the committee, there certainly was a lot of robust discussion and there certainly it was really a synthesis, I think, of views at the end of the day and this document was felt to be the best that we could put forward. We were obviously very mindful at that time to make sure that we had ... we did not want the legislation in any way to be used against any one individual and wanted to minimise any kind of risk that anybody in the Assembly might think that the Articles were being tailored for abuse by any section of the Assembly, so hopefully that will respond to some of those points. I do have a couple of questions which, because it has been a while since I discussed this, maybe the chairman can deal with these in summing up. We have heard that it is quite appropriate if somebody is being excluded from the Chamber - suspended - that they may have certain of their obligations and their normal privileges taken away from them. I think the point I would like to ask is, for example the Deputy of St. Martin made a quite valid point. Somebody may engage in behaviour which is quite inappropriate for the Chamber, and we have heard about swinging the mace around, which I think was probably an allusion to the behaviour of Michael Heseltine in the House of Commons ... probably what you would expect of a Tory I imagine, but **[Interruption]** ... It was not Heseltine? Who was it? MacDonald, okay well I apologise to the ... I think it was originally... So, it seems that more than one person may have engaged in it but the serious point that I am trying to make is that somebody could engage in behaviour which would exclude them from the Chamber, but it does not necessarily mean that they would be incapable of carrying out the other parts of their job, so the question I wanted to ask is would a person still be able to access their emails if they had been suspended, because there is clearly an obligation to their constituents if that were the case. They would also expect, during that period, the first of which they would still be remunerated for them to be able to carry out all of their obligations to their constituents. The second point, which is perhaps slightly more whimsical, how will the absence of said Member be noted during roll call, if they are suspended, and if it is presumably to be noted that they are suspended, what is the French expression that will be used in that circumstance?

11.1.6 Deputy P.V.F. Le Claire:

I am not for any of this and I think I need to explain why so Members will be able to understand at least why I am not going to support any of it. I think it is coming at a time when we have just gone through one of the most difficult periods of political discourse that the Island has ever experienced, and possibly could ever experience again. I wonder what would have happened had these Standing Orders been in place if there was a Member of the States who was upsetting a lot of people and who had found themselves suddenly the subject of a minor traffic offence, and in that instance, because of their other actions within the States or another issue, perhaps data protection, that they were suspended by the States of Jersey and still waiting to hear from their lawyer as to their court date; and the perception among the public that the deliberations of the most learned or supposedly most learned Members of society sat in this Chamber, and I do not think that it is happening because it is a gradual process that we have evolved into. There was a saying in Ministerial government when it came along, apart from the fact that it would work - which it obviously does not - was that it was evolution not revolution, and these measures are counter-revolutionary in some aspects. While they may not seem so draconian to some Members who are Ministers and quite happy with the way things are, they could be said to be completely at variance of the right of an individual to come into this Assembly, to be completely at odds with the majority of this Assembly, and through periods of re-election force their position and their arguments into a position where, instead of being on the edge, that it would be right in the heart of government. I think we do democracy a disservice by rushing in more changes in the way that this is happening without a longer period of reflection in relation to the changes that we have had in the first instance. So, I shall be voting against it all and I do certainly believe that some of the changes that we are seeing, criticisms of long speeches and long ties, criticisms of Members who voice their concerns in public or on the internet, *et cetera*, people who raise issues that are at variance with the majority, including myself; those people have a democratic right to stand before the election, they choose to be re-

elected and let the public decide if their actions are capable of having them represent the Island or not. To have the ability for 6 other Members to sign a piece of paper; me and my 6 buddies do not like your politics so we are going to wait and watch your every move and in the first instance that we can we are going to jump on you, because if we can get you we have done a good job. We have rubbished you and that is what we are about. Divisionary politics is in full swing in Jersey and the more of these rules and regulations that we bring, the more divisive a society we are going to have.

[14:45]

Let the electorate decide, is what I am saying, and I am not going to be supported in this. Let the electorate determine whether it is right or wrong. The electorate are not fools and the electorate will determine. Putting in these sanctions at this period is laughable and I urge those Members that are questioning this to vote against it all in its entirety.

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

Senator Breckon's example was an interesting one, however while I may well tell the Deputy of St. Ouen what I think of him, I do not think the Deputy of St. Ouen would even dream of giving me a clip because I might tell my Dad and he lives in St. Ouen. But seriously, I welcome the proposition from P.P.C. and although somewhat mild, I appreciate that it is a law that one would not wish to have to enforce on a fellow Member and would only occur in very serious exceptional circumstances. I am surprised that Members who are not happy with this proposition have not seen fit to bring any amendments. Thank you.

11.1.8 Deputy T.M. Pitman:

Very brief and to the point, my concern with this ... I mean I do understand where Deputy Le Claire is coming from. My concern relates purely to the issue of appeal. What right of appeal does one have? It would seem that there is no right of appeal and in a government, any government, that is going to be on balance with a majority, as Deputy Le Claire indicates, this could be abused. I am not saying it would be, but that has got to be a possibility, so where is that appeal? How would it be carried out? Perhaps the Solicitor General could tell us because I know if I ask the Minister for Home Affairs he will tell me the answer is locked in a safe **[Interruption]** under a different titled key. Maybe I will upset him when I keep asking annoying questions; I have not even got the mace out and swung it around my head. I am a very well-behaved boy as everybody knows, so I do not think I am ever going to get into trouble because I am very polite and never upset anyone, so ... but the concern that Deputy Le Claire mentioned is very real, so if I could be enlightened as to this appeal, because I have to say P.P.C. in its current format do not represent me as a States Member. It is not a balanced panel anymore. Clearly I am not good enough to be on P.P.C., I have expressed my interest, right at the beginning when I became a States Member, again in plenty of time last time, so this really does pivot on the P.P.C. being really well-balanced and strictly above board. Now, I will leave it at that but if the Solicitor General could advise us to this matter of appeal I might feel a bit more comfortable with this. I have got no problem with people being held to account. I know it does not happen with the Council of Ministers, but let us have some answers please, if you could.

The Solicitor General:

Sorry, can I just ask for clarification, from what do you wish to appeal? Are you asking for an appeal from the States decision as proposed by this amendment?

Deputy T.M. Pitman:

Indeed, if I am going to lose my income, be prevented from representing the people who elected me, which if I had no access to my emails, *et cetera*, my computers, for something that may be ultimately proven to be a wrong decision, what kind of appeal would I have?

The Solicitor General:

The answer to that question is that the States of Jersey is an autonomous body and therefore you have no appeal at present from a decision of the States.

Deputy T.M. Pitman:

So, can I ...

The Solicitor General:

That is the legal position. Obviously, it is a matter for Members whether or not they want an appeal process.

Deputy M. Tadier:

Can I ask a question, Sir?

The Greffier of the States (in the Chair):

Yes, Deputy.

Deputy M. Tadier:

Would it be fair to say that presumably ... we appreciate the previous answer that the States of Jersey is not like a court as such. Is it fair to say that the appeals process would be that individual Member who has been suspended, resigning his seat and then standing for election? [**Aside**]

The Greffier of the States (in the Chair):

Well, it is a legal question.

The Solicitor General:

I am not quite sure whether that is a legal question but the position is that as a matter of law at the moment there is no right of appeal. It is a matter entirely for Members and I offer no view. It is a matter entirely for Members whether or not they wish to put some appeal process in place.

Deputy G.P. Southern:

Could I ask a further question of the Solicitor General? Does the Solicitor General know what the situation is in other jurisdictions about a right to appeal, for example in the U.K. from the House of Commons?

The Greffier of the States (in the Chair):

The Houses of Parliament.

The Solicitor General:

The position in England, from memory, is that certain committees were recommending appeal processes but I cannot tell you off the top of my head where they have got to.

Deputy D.J. De Sousa:

Can I also ask a question, please? With this amendment to the Standing Orders, would it make it incompatible to human rights compliance, because it is vital that you have a right of appeal in anything to make it human rights compliant? If it is not, should this not be withdrawn and brought back at a later date amended?

The Solicitor General:

The answer to that is to be found in the Human Rights (Jersey) Law 2000, which Article 7 expressly provides that the State Assembly does not fall within the definition of a public authority for the meaning of the law, and this comes back to the original principle I described about the parliament being an autonomous body. So, the answer is "no".

The Greffier of the States (in the Chair):

Does anyone wish to speak on the Standing Orders 1 to 4? Senator Ferguson.

11.1.9 Senator S.C. Ferguson:

Yes, I appreciate the comments that were made that people are frightened that it will be a straw Chamber but perhaps the Connétable can enlighten us? As I understand it, this particular set of rules under Standing Orders will only come into play if a Member has contravened the Code of Conduct for Elected Members, and the Code of Conduct for Elected Members is our rule book and everybody knows the rules. If you transgress the rules, if you speed in your car, these sorts of things, there is a penalty and perhaps, as I say, the Connétable could expand on that a little bit, but it just seems to me fairly logical that if you transgress the rules then there are certain penalties to be paid. You are held accountable.

The Greffier of the States (in the Chair):

If I could just say, to assist the Assembly from the Chair, these amendments simply amend current procedures on suspension. They are not introducing suspension as a new concept. They simply amend the current provisions so it is not ... those who are opposed fundamentally to suspension, will need to repeal the current rules rather than simply vote against these slight changes. It is up to Members. Deputy Southern?

11.1.10 Deputy G.P. Southern:

Yes, a sad, sad day we have arrived at and we have just heard a statement from Senator Ferguson that if you contravene the rules then obviously you are going to be suspended. The rules of this House. Actually, that is not the case. It is if you are judged to have contravened the rules you may get suspended and that is a very wide difference because, quite frankly, nobody in this House, without exception, qualifies as a judge and yet that is what we are saying. **[Laughter]** What we have ... **[Interruption]** Oh, yes. **[Laughter]** With one honourable exception, whom I overlooked in my haste to get on with this dreadful speech. I am amazed that anybody could call these proposals mild. Half-pay, full-pay, suspended, we want to give those powers over individual Members, those powers to a group of amateurs. Do we really, with no form of appeal in place? Without going to Royal Court and challenging the “not” under the right to appeal, which everybody else has, from States bodies. The States Assembly is exempt, but what we are doing is suspending people from legitimately representing their electorate and any member of the electorate can go to the Royal Court and say: “My human rights. My human rights to have democratic representation by a person I have voted for are being unfairly interfered with by the States Assembly over, whatever the issue is. Now, someone who quite enjoys pushing the envelope and has, in the past, gone over a limit, I know who is going to be suspended. Who will be likely to be facing suspension? Will it be the establishment, the Ministerial benches, who face such procedures? Highly, highly unlikely. Even if I were to have the most enormous faith, which I do not in the current P.P.C. or in the past P.P.C., even if I would have enormous faith in that committee, which I do not, what happens in the future? A bunch of people I do not know, and certainly may not trust, end up suspending me from my role representing people.

The Greffier of the States (in the Chair):

Not the committee, Deputy, that must be the Assembly.

Deputy G.P. Southern:

If so moved by P.P.C., Sir. I do not want that situation to occur. Quite simply, in the absence of a decent appeal mechanism, I believe this is an infringement of our rights. I believe these powers are draconian and abusive. I urge Members to reject this out of hand and the key is, where is the appeal mechanism? How do you know you are going to be treated fairly? We have already heard, on several occasions, about the loose way in which P.P.C. operates. I do not believe we have a safe mechanism here to suspend people without pay for lengthy periods. That should not be happening. We should not be allowing it to happen.

11.1.11 Deputy R.G. Le Hérisier:

Just by way of background, it is interesting to quote from a States Member's speech in 2008: "And before anyone argues that such court powers over elected Members is okay, and should maybe even be extended to all Members, realise that such an argument flies in the face of all concepts of parliamentary privilege which, at foundation, is supposed to give protection to your elected representatives so they cannot be harassed, threatened or molested by the courts." That was a statement in a speech by Senator Syvret, as then was, and the whole notion of course - this did come up when suspension was considered in the States of Jersey Law 2005 - as I remember there was a proposal that there be an appeal procedure. This was revisited on that very basis, that if the Royal Court were to interfere in the processes of the States they would basically lead themselves to this kind of criticism, which I noted at the time. That is why it was not done. That, of course, then left the question open, can politicians discipline each other? The argument has always been, certainly on the grounds of parliamentary privilege, they should but there should be built-in some kind of appeal process. But of course if you buy into the idea of parliamentary privilege, that process is still handled, of course, by other Members. In order to mitigate that, it has been suggested, and of course there is provision which I do not think has been used thus far, there is provision for lay members to be involved.

[15:00]

You could deal with a situation if you buy the notion that the Royal Court should not come near the States for the kind of reasons advanced as part of that speech. If the Royal Court should not come near the States then obviously somehow the States has got to come up with a self-managed procedure but by bringing in lay people - not in the majority because you cannot because of the nature of the issue - you might get away from what obviously has been apparent from the very moment we have started this, basically the politicisation of the discipline process. My observation has been, having been in the middle of it, the target has changed from time to time and maybe they have come from the same loose grouping but basically it is very hard to enforce it because the whole thing very quickly gets politicised. Even though Members are trying to be judges and I dispute partly what Deputy Southern said because there are people in other contexts like Human Resources managers, there are managers day in day out, who are exercising quasi-judge roles over the performance of their staff members. You could well argue, well, it is not as precious perhaps as interfering with the democratic rights of Members but they are exercising that with training. Yes, if the Deputy would wish ...

Deputy G.P. Southern:

In such cases, with employment, there is a tribunal to appeal to at the end result and then onwards.

Deputy R.G. Le Hérisier:

I have got no problem with that. All I am laying out for people is do not slam the Royal Court as itself being a political body which is trying to interfere with political prerogatives, we have got to organise it in such a way that we do have what appears to be a properly structured method of appeal but not one that is necessarily allowing recourse to the courts.

Deputy M. Tadier:

Could I ask a question of the Solicitor General again, to do with appeals, in the absence of the Attorney General? Thank you. Although an appeal to the Royal Court is not consistent with parliamentary privilege, we heard Deputy Southern suggest that an individual can contest ... a member of the public could contest that her human rights have been contravened because her representative has been removed perhaps unfairly and she could, therefore, take a case to the Royal Court and presumably, further on that basis, if she feels that the representative is being removed in an unfair way. Is that correct? **[Aside]** Well, we are using "she" for the purposes of the question. I think we need to become a bit more liberal with our language here. We are in the 21st century.

The Greffier of the States (in the Chair):

We tend to use “his or her”, as in legislation, Deputy. Solicitor General, are you able to assist?

The Solicitor General:

The answer is this: (1) no, I do not believe the constituent would have any proper basis to make that claim; (2) if I am wrong about that I am sure that the claim would be doomed to failure. The suspension of an elected Member for a short period of time, which is what we are talking about, is a proportionate response to the problem and, therefore, I do not see it as a breach of the constituent’s human rights.

The Greffier of the States (in the Chair):

Does any Member wish to speak on Standing Orders 1 to 4? If not I will call on the chairman of P.P.C. to reply.

11.1.12 The Connétable of St. Mary:

I will try to confine my answers to the relevance of the proposition because I have to say that I found the net for comments being spread far and wide during that debate. These amendments to Standing Orders simply alter the level of the sanction. They do not alter the process in any way. That is completely off-topic. Firstly, if I could deal with a couple of things. States Members who were suspended would be excluded from the States Chamber and the precincts and the States Members’ accommodation. There is nothing in the Standing Order revision, as proposed, that would remove the use of access to the email system. It is very difficult to try and work out which way we go here, to try and sum up quickly. I think there is a fundamental lack of understanding or a lack of depth of understanding of parliamentary privileges and how it really applies and what makes it so strong and, in fact, how important it is that the parliamentary privileges are reinforced. There was a report put out last year by P.P.C. I would urge Members to look at that again if they have not spent any time with it. It is vital that we, as an Assembly, and as the Solicitor General has said, as an autonomous body, do regulate and control our own conduct. That is part of what reinforces parliamentary privilege; rather than infringe our rights it strengthens our rights of parliamentary privilege and we must be careful how we look at that. Turning to Deputy Le Claire, who made an impassioned speech, I would like to remind him that these amendments change the current rules and, in fact, in some ways they improve matters. The Deputy was concerned about 6 Members being able to bring a proposition. At present time any one Member can do that, therefore these amendments make things better; they are not draconian, as I have said. Senator Routier, I am grateful for his words of support. Senator Ferguson, I can say, yes, these are sanctions. They are not changes to procedure. We have a code. The important thing to remember is that the States Members themselves voted to adopt the code of conduct and devised the code of conduct. Part of our parliamentary privilege means we are responsible for regulating our own conduct, that must be the case. I would like to reinforce the interjection from the Chair in response to Deputy Southern’s points, P.P.C. do not make the decision to suspend. At the end of the process, which is followed through Standing Orders and is followed, I would say, to the letter by the current committee, although I would say that we have already agreed to undertake work in response to the Deputy of St. Martin, to look at the process. We have advised that, in the interim, we will continue to use the Standing Orders as they are laid down. P.P.C. does not make a decision to suspend now or after adoption of these changes, if they go forward. We only make a representation. We follow a process; produce a report to the States, lodge a proposition to suspend and the floor of the Assembly is the place where that suspension either stands or falls. It is a question of a States Member’s peers dealing with any deemed transgression. I absolutely agree with what Deputy Le Claire said, that the electorate determine the fate of the States Members. However, in the interim, between any transgression being found and the next election, there must be a method by which the States Assembly regulates the conduct of the behaviour of its Members and regulates sanctions that are applied. The States Assembly is the body that is charged with that, not P.P.C. In response to

Deputy Pitman, this proposition does not touch, in any way, on the mechanism of the code of conduct. It simply changes the sanctions that will be applied. I think on the legal points I cannot possibly enhance anything that the Solicitor General has said and I thank him for his advice. Senator Breckon asked about assault. Common assault would be dealt with by the policing authorities. It would not be a matter, necessarily, for the code of conduct. There have been matters in the past where P.P.C. has been hampered because there have been ongoing investigations but we must always take advice as to whether a criminal charge or a civil charge would be hampered by an investigation. Having said that, I do not believe there are any other points but if I have not taken them up I would be happy to pick up on them, therefore I maintain the amendments.

Deputy T.M. Pitman:

Just on a point of clarification from the speaker: is the chairman confirming no appeal and possibly no human rights compliance in the real sense?

The Connétable of St. Mary:

What I am confirming is that, as an autonomous jurisdiction, as the States body - a States Assembly covered by parliamentary privilege - we have different rules. Parliamentary privilege is an extremely valuable commodity. We are given it and, in return, there are rules that we obey. **[Approbation]** Exactly, rights and responsibilities. We follow a procedure determined by ourselves.

Deputy P.V.F. Le Claire:

Can I seek clarification because in the chairman's speech summing-up the debate she said that we were looking to change and you yourself, Sir, said you were looking to slightly alter Standing Orders but Standing Order 21A is an additional requirement which is part of the issue where there is inserted now an ability for 6 Members and another Member to bring a suspension proposition where, as in the past, it was only done after the Chair had made the rulings.

The Greffier of the States (in the Chair):

No, that is not the case, Deputy.

Deputy P.V.F. Le Claire:

That is not correct?

The Greffier of the States (in the Chair):

Any Member could lodge a proposition for suspension, one single Member could do that. All new Standing Order 21 inserts is that, firstly, that this cannot be done. There is an additional stage, that P.P.C. must now look at the matter first and then if a Member wishes to do it now that Member has to get 6 signatures.

Deputy P.V.F. Le Claire:

Okay, Sir, thank you.

The Greffier of the States (in the Chair):

Do you wish for the appel, Chairman, or standing up?

The Connétable of St. Mary:

Yes, Sir, the appel.

The Greffier of the States (in the Chair):

The appel. I will ask Members to return to their designated seats. The vote is therefore on Standing Orders, the amendments numbered 1 to 4 at the moment. We are only on 1 to 4 and the Greffier will open the voting.

POUR: 36		CONTRE: 10		ABSTAIN: 0
Senator T.A. Le Sueur		Senator A. Breckon		
Senator P.F. Routier		Deputy of St. Martin		
Senator B.E. Shenton		Deputy G.P. Southern (H)		
Senator J.L. Perchard		Deputy of Grouville		
Senator S.C. Ferguson		Deputy P.V.F. Le Claire (H)		
Senator A.J.D. Maclean		Deputy S. Pitman (H)		
Senator B.I. Le Marquand		Deputy of St. Mary		
Connétable of St. Ouen		Deputy T.M. Pitman (H)		
Connétable of Trinity		Deputy A.K.F. Green (H)		
Connétable of Grouville		Deputy D.J. De Sousa (H)		
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				

The Greffier of the States (in the Chair):

Very well. Chairman, do you wish to propose 5 and 6 together, 6 is a very routine matter.

11.2 The Connétable of St. Mary:

Yes, Sir, I do. Thank you. Standing Order 5 makes a small amendment to the code of conduct for elected Members set out in schedule 3 to Standing Orders. Last year P.P.C. had cause to investigate a breach of privilege where the contents of an in camera debate were published on an internet blog and leaked to the local media. Although P.P.C. have concluded that it was implicit that Members must respect the confidentiality of in camera proceedings, it became apparent that there was no specific provision in the Standing Orders requiring Members to do this. This small amendment makes it clear that elected Members must not disclose publicly matters that have been discussed in an in camera session and it will constitute a breach of the code of conduct to do this. Standing Order 6 is merely the citation and commencement which specifies that the amendments will come into force in 7 days' time after adoption. I propose Standing Orders 5 and 6.

The Greffier of the States (in the Chair):

Standing Orders 5 and 6 are proposed and seconded. **[Seconded]** Does any Member wish to speak? The Deputy of St. John.

11.2.1 The Deputy of St. John:

If I had not spoken earlier then, by the time we had got here I could have hung myself because by adopting 5 in fact things would be heard in camera and I would not have been allowed to say what I said, therefore, I will not ... Yes? **[Laughter]** Please do not interrupt when I am speaking, whoever it was, from the Connétable/Deputy benches in the far quarter. You have now thrown my train of thought. **[Laughter]** Now, what was I going to say? I cannot think at the moment. I had better sit down before ... Yes, I will sit down, thank you. **[Laughter]**

11.2.2 Deputy J.M. Maçon:

Just a very quick question to the chairman, what happens in a situation whereby something in camera, which has been disclosed or is in the public domain through other means perhaps, something has been discussed and then a document is presented which contains the same information, what is the situation in that circumstance because I know we have the same issue in Scrutiny where we have signed confidentiality clauses but we are not able to release the information but later it finds its way into the public domain? What is the situation in the signing of a Member in that situation? Thank you.

11.2.3 The Deputy of St. Martin:

I am glad Deputy Maçon spoke when he did, before me, because he has raised the issues which I think the House ought to be more than aware of. I think that we have got to be very careful about what we can say and what we cannot say, we have always known that. However, what I really am concerned about is our hands being handcuffed with in camera debates.

[15:15]

I would hope the sooner we can do away with that in camera the better and we are back again to freedom of information. **[Approbation]** As far as I am concerned I am in the House to represent my constituency and the best interests of the Island as a whole. If I come to a debate and I produce documents which I think are very important and I produce them in here, I do feel I should have the right to show them outside to other people. Why we are going to vote for this today I just do not know. I would urge Members do not vote for this until we really know what we are voting for because what we are being asked: "Things said or information produced." Basically, anything we do in here we are shackled. Well I am certainly not going to be shackled. I can understand there is a need for confidentiality, I know that. However, I do think this is a step too far and I urge Members please vote against this and let P.P.C. come back with much better information as to what we really can and what we cannot disclose because I am certainly not going to vote for this, really basically with a handcuff.

11.2.4 Senator A. Breckon:

Again, I am uncomfortable with this number 5 and I want to just recount something to Members that happened. They might remember about Les Pas, and we did have a number of closed sessions because there was supposed to be a contract issue and information, if it was put into the public domain, could weaken our case and the rest of it. In the end we put our hands up and we gave £10 million. There were a number of the usual suspects behind it who then emerged but there was a great discomfort factor. If you have spent £10 million of other peoples' money then you should have the right to share that information with them. You might be able to help me, but I am sure there was some sort of agreement that, after a given period, the information would be publicly available. I think that is, in the end, what we agreed but there was, let us call it, a discomfort period of about 5 or 6 months where it could not be because there was the threat of legal action. We were

given advice which, if it was shared, then we could not share it with anybody else and it was, as I say, an uncomfortable period. But by putting that in there then that is a matter of public interest where a great deal of money was at stake over the foreshore and the Les Pas claim and whatever else. I am still not convinced about it all but there we are. It cost £10 million and things moved on. When that is in there like that that would mean that if we had that discussion now we would not be able to walk out of here and say “Les Pas” if that was there. Some things were said and then we went into camera and then I remember documents were not even copied to us, we had to go somewhere and actually read them and they were quite substantial as well. With this I am not very comfortable of having this here because in general terms everything should be available unless there is a very good reason why it should not and I do not ... [Approbation]

Senator J.L. Perchard:

Could I just ask the Senator, through the Chair, a question on that Les Pas debate which was in camera and was before I and many other Members were in this House. Was it not the States themselves that decided to go in camera?

Senator A. Breckon:

From my memory, it was because we were given legal advice at the time that we, more or less, must go in camera because information would not be shared in open session because of the sensitivity of it. The other thing is if it was disclosed then the Les Pas claim could have been strengthened by the opinion we were given about the success rate. That is really where that was. Although it might have been in camera it was in camera of having no choice really because, in other words, the information was not going to be shared. I seem to remember at the time when, I cannot remember if it was Policy and Resources at the time, were discussing it, that they had a code name when it was in the minutes. It was not Les Pas, it was Lapwing or whatever it was called, it was something else, but that was the situation. I am uncomfortable with this so really I mean we should be sharing information. Then with that there is the other thing, we have just been talking about the rights and privileges of this House. Where does the public interest lie in that? Should we share information with the public and where is disclosure in the public interest? When should the public be told about these things? After? And say we had done the right thing because we had our hands tied behind our back and we had our pockets picked, which we did, or should we be defending things openly and publicly? We walked away from a fight when we were given the legal advice and people were still suspicious of the circumstances, so the less we do in camera and I, for one, am certainly uncomfortable with this number 5.

11.2.5 Senator P.F. Routier:

I think every Member is very, very uneasy about going into camera. That is the last thing we want to do. We want to be assured that we have as much debate as we possibly can have in the open. I think that is the nub of this particular part of this amendment. It is when we decide to go into camera that is the important bit, and we have the freedom to decide that. Every time it is this Assembly that decides whether we go into camera, whether it be the sort of laws we have already approved because there might be some legislation for appointing a particular person or whatever, the legislation is there which says whether we go into camera or not and those are the laws that we have passed. If we do not like those laws well we should change those laws but certainly every time a decision is made to go into camera we need to really think about that really, really hard. But if we have made that decision I think what is here is correct. What is being proposed is the right thing to be doing but there are times, if we are in an in camera debate and we think there is something that is not necessarily in camera, we should say: “Can we come out of camera now?” so that that part of the debate can be heard by the public. I think it is a conscious decision we make about whether we want to hear something in camera and if we do make that decision - and we should avoid making that decision whenever we possibly can - we should be bound by the circumstances which are in this number 5.

11.2.6 Deputy J.A. Martin:

Senator Routier has covered a lot of what I wanted to say. We seem to be having a debate on whether there should be a Standing Order that even allows this to go in camera, that is totally different and if directed people will look at that but be careful what you wish for because when asked, when we were researching this: "When was the last time the U.K. Government went into camera, or Wales?" They do not do it but the other side, let us say the Back-Benchers, get no information at all. There are times and we are glad we have gone into camera, we know that it is sensitive. If you look at the other way around, there is no sanction to say: "We are going into camera and we are going to give you some very serious and sensitive information. We are all adults and it is all confidential." To see it on the front page of the *J.E.P. (Jersey Evening Post)* that same night is not on. Basically, Senator Routier says: "Be careful what you wish for because if you do not want to go in camera for anything we can do away with in camera debates entirely", that will be a debate on its own. You will never have the choice again but you will have a lot less information on some debates that are very sensitive. As I say, all the arguments so far, for not accepting this, is to not have it in camera, a provision to go in camera. It has got nothing to do with the amendment. I am very sorry, if we vote to go in camera - and I get very annoyed when I find it on the front page where it is the flyer before the 5.00 p.m. news or something - I am sorry, I do not like it. It is the trust we are given when we go into camera even from any side of the House for information. I remember a certain Deputy, it was something to do with the Employment Board, and he begged us to go in camera because he had concerns about them sitting on a particular side of the Employment Board and that was okay. We went into camera because we were discussing personal things about people and their personality and, as we have said, given Jersey, so there are horses for courses. As I say, it is up to everybody and it is in our hands when we vote to go in camera. After the last debacle I have never voted to go in camera since and I carry on doing that.

11.2.7 Deputy M. Tadier:

I only take slight exception with the previous speaker in the sense that I think it does matter. There is a difference between saying: "On the one hand, should we have a debate about whether we should ever go in camera? On the other hand, we are debating something different here and it is all to do about the exact wording and the implications." I would like to throw a couple of examples up and a couple of, what I see as, perhaps, contradictions or tensions within the system. I think the initial point I will make is what is the point of having this change (a) if it cannot be enforced and (b) if there are no sanctions? By saying that I am not inviting the fact that there should be sanctions, but I would remind Members of what has been said previously. There is a tension between keeping things confidential, and I think most Members take that duty very seriously, but also the public interest test which we all, as States Members, essentially are there to represent the interests of the electorate, be those in our constituency and certainly for all of us, the whole Island in general. I would like to show you some of the contradictions that there are. For example, is it okay for somebody who has written a speech before they go in camera because they know exactly what it is that is going to be discussed in camera to send their speech to the *J.E.P.* to be printed because, at that point, before the actual debate has occurred, it is not in camera and they can print that entirely. In the *J.E.P.* they can broadcast it and place them on the radio if they want to, *et cetera*, before or even after, I guess. These are the questions that need to be asked because at that point it is not covered by privilege. That raises the whole question, well if I can do that before why can I not do it afterwards? Can I give a speech that I have given, and I wrote before, can I give that to the *J.E.P.*? What if I have not written a speech, can I go back and imagine what I was going to write before the speech happened and that I can write that down because I am not actually writing down what I said, I am writing down something slightly different? If a journalist comes up to you and asks you: "Can you tell me what you said during the debate?" you have to answer: "No." But if the journalist asks you: "Can you tell me what you think about this particular issue?" you can then go on to tell the journalist exactly what you think and what you think may match exactly, verbatim, what you said during the in camera debate. These are the kind of contradictions.

Furthermore, you can say: “Can you tell me what the Minister said or can you tell me what the proposer said in this particular debate?” No, you cannot say that and if they ask you: “Can you tell me what you think the Minister might have said or what the Minister might think about this particular issue?” That is a valid question, that is not covered by camera. So you can quite happily say: “I think the Minister thinks this” and it could, quite coincidentally, happen to match exactly what the Minister or the proposer said. Because it is covered by privilege the journalist has got no way of verifying whether or not that is the case. I think that there are big issues here that need to be looked at. It needs to be looked at holistically. We have also the other issue that has come up in the past, certain appointments, and I do not know why they are debated in camera and other appointments are not debated in camera. We had one of the issues that arose just the other week when certain Members were not happy with a particular procedure. There was a technicality and they said: “I do not particularly want to go ahead with this vote” and it all happened in camera and we could have ended up in a scenario where 10 or 15 Members voted against somebody being appointed and that person would have had no record of what was said during the meeting. They would have been left to think that 15 people did not want them to be appointed and, in fact, that is completely not the case because everybody in the Assembly had no problem with the person selected. The whole area, I think, of in camera or not in camera does need to be looked at. I have been very supportive of this proposition but I think in Article 5 there are serious questions which do need to be looked at in the whole context of what should be confidential and what should be debated because ultimately we are here to debate things in public. There may well be things - and I am sure there are things - which need to be debated in camera but I think this is something which we can vote against here today. It needs to come back to the Assembly. For example: “Elected Members must not disclose”, should that be: “Elected Members should not disclose publicly”? I would certainly be more comfortable with that particular word, I think, but this is something which needs to be looked at by P.P.C. in general. I would say, today, we have done a good job here and congratulations to the chair of P.P.C. The document, I think, is updating what was an archaic and slightly draconian document. I think it is quite right that it was updated but this particular schedule, number 5, does need to be looked at holistically and I think we should reject it and then move on to 6 and vote for that.

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

Just briefly, in response to an issue that Senator Breckon raised regarding the disclosure of information produced when the States are in camera.

[15:30]

I just direct him to page 15 of the report which describes the actual wording of the amendment. There are some important words that complete the sentence and it is: “Unless the States have permitted such disclosure”, which does allow for the States to determine whether or not information that is shared with States Members in confidence can, at that moment in time or following that debate or at a later date, be disclosed. I would hope those few words - they are important words - will provide him with some comfort with regards to supporting this proposal.

11.2.9 Deputy P.V.F. Le Claire:

It could be argued that we would increase voter turnout if we went into camera for ever but in this modern age of freedom of information and a more open and transparent government, let us not get too carried away, I am just a bit concerned about this - I mean I am going to vote against it - but there is a whole raft of issues that the wording throws up and a whole range of issues that I wonder if they had been given due course for reflection. Ordinarily I would appeal to the Scrutiny Committee at this stage to call it in and have a think about it because along the same lines as Senator Breckon we have had recently, in the recent past, I brought a proposition asking for us to disclose what was an in camera debate in relation to the Waterfront Enterprise Board and the criticism that was levied at former Senator Pierre Horsfall because I thought that the disclosure by

the Members that did it was an unfair act that impugned the integrity of somebody that did not have the right to reply. We are discussing Standing Orders and I am just trying to get Members to remember that there are Standing Orders that matter because I think this is an important Standing Order that we are introducing. I am not going to support it because when we come to issues of water pollution, like with the 3M in camera debate, that is broadcast to the nation on the front page of the *Jersey Evening Post* and the States have gone in camera to say that we will not disclose the name of the company but yet that company's name was published in the public domain, we are still perversely prohibited from disclosing that information even to each other, if one of us was not here, under these words. I wonder at what stage something becomes so public, and it is not identified, in what process will the States permit such disclosure? Where does it say how that permission will come from? Will it be retrospective? Will this include in camera debates that have already passed when those Standing Orders did not apply? What will happen to parliamentary privilege if I breach this Standing Order and raise this in one of my speeches within the Assembly, for example today and say: "3M did this, blah, blah, blah, blah, so-and-so said that, they did this"? Where is my parliamentary privilege protecting me in this Assembly to say what I want within normal confines? I do think it is not correct. I do believe the principle of keeping sensitive information and in camera debates confidential. I believe that principle is correct and I think it is right. If we go this way though I think we are eventually walking into that world that Deputy Martin spoke about, where there is nothing in camera and we will forego information. In some ways that will be a blessing in disguise because lots of debates have been won on the floor of the Assembly by Her Majesty's Attorney General providing Members with information that has lost the debate for one side and won it for the other and we have never been able to go back and explain it sufficiently to our electorate, because of information that we were not privileged to be aware of, because of admissions of failings in the Civil Service that had nothing to do with us, and because of mismanagement and pollution issues and exposing the public to risk and potential harm from the actions of the States and their bodies. I am voting against it not because I disbelieve in the principle. I believe in the principle of an in camera debate remaining in camera. That is why, when I brought my proposition to open it up, I went to the States, I looked at what was said and I did not go into those areas when I brought my proposition to the Assembly to open it up. I requested the Assembly opened it up but they did not. The principle is right but I am certain that there is not enough work gone into this particular amendment. Then, what is the amendment? This is the last part I have got to say, Members will be relieved. The amendment is a new Standing Order, is it not? It is something that directs: "Members must not disclose publicly or to any third party things said or information that is produced in a meeting of the States that is conducted in camera, unless the States have permitted such disclosure." It is brought on the tail-end of the suspension Standing Order so that would imply and one might concur that really that is the sanction, is it not: "If you start talking about things that we have said in secret you are going to be suspended, mate, so keep your big mouth shut"?

11.2.10 Deputy A.E. Jeune:

Members will be aware that I am not in favour of in camera debates. However, what is in camera is, I think, perhaps a debate for another day. But could the chairman, in her summing-up, clarify please or confirm that if we were not to accept this amendment today, does that mean that there would be no requirement on Members to keep information confidential when that information is given to them in such circumstances and, therefore, there would be no sanction?

11.2.11 The Deputy of St. Mary:

I will not reply to that last comment, I will leave that for the chairman. It is quite obvious that this is in addition to other provisions. No, the problem with this - I will do the short version of what Deputy Tadier said - is that there is nothing excluded in this amendment. If we vote for this then anything said in an in camera debate comes under this and that is a nonsense because some things said in an in camera debate are the reason why we went in to camera. They are the confidential

bits, if you like, the personal information or the information about a company or the information about some financial deal, but the rest is not confidential but under the terms of this you cannot say anything about that debate. I think Deputy Tadier pointed out that there is a row of nonsenses that follow on from this. When Deputy Reed says: “Unless the States have permitted such a disclosure” I mean it is not going to happen. Six months down the line we are not going to have a vote about whether we can now disclose something that was said 6 months ago in camera, so that does not justify the nonsenses that are buried in here so please, this has to be redrafted.

The Greffier of the States (in the Chair):

I call on the chairman to reply.

11.2.12 The Connétable of St. Mary:

Once again there has been a wide variance of understanding and I think misunderstanding. This is not a debate about whether we should go in camera or not. This is a debate about when the States have legitimately decided to go in to camera, what happens as a result? I am grateful for the Deputy of St. Ouen for picking up what I was going to reinforce. All we are doing, by this Standing Order, is to amend the schedule - Schedule 3 - which is the code of conduct terms to include the following: “Elected Members must not disclose publicly or to any third party things said or information produced in a meeting of the States that is conducted in camera, unless the States have permitted such a disclosure.” That means that, for example as it occurred in Les Pas, obviously before my time, but I am led to believe there was sensitive information which could have been prejudicial at that particular moment in time and the States agreed that for 6 months there would be moratorium on release of the transcripts. After 6 months that was done. All Members who spoke in that debate knew that they were speaking in camera but that in 6 months’ time anything they said would be released. In fact, I was Parish Secretary then and the transcripts arrived through the door of the Parish Hall, I think they are probably still there on the doormat. But it is important that everybody knows that when they speak in camera they speak to the other Members of the States and to no one else. People have a right, when they disclose information or make a comment or raise a concern in an in camera debate, to know that that concern or whatever they have raised remains within the confines of the States Chamber, unless the States have agreed previously to a disclosure. It does not go backwards. There is no question of saying: “Can we release things that were said in an in camera debate last Tuesday?” No, you decide at the time because how people speak in an in camera debate is affected by the fact that it is actually in camera and I think it is very vital to remember that. It is not for, as the Deputy of St. Mary seems to imply, me to decide that what the Deputy of St. John said does not really matter and for me to release what he said. An in camera debate is just that. It is entirely in camera and for the Deputy to say that there needs to be more work because that has been overlooked, that is precisely the point, precisely the point. To answer what Deputy Jeune asked, there is an implicit understanding of what in camera means. P.P.C. was investigating a breach of an in camera confidentiality and it became clear at that time, although there was an implicit and an expected understanding, not every Member seemed to have the same depth of understanding and that is precisely the reason why it has been necessary to spell out in plain English what an in camera debate means so that in future there can be no question. At the moment there could be a doubt because it is not listed specifically in the code of conduct. Once this Standing Order is passed, if it is adopted, there will be no doubt as to what this Standing Order means. It does not necessarily mean, as Deputy Le Claire asked, a suspension. A suspension, as I have said, is a matter for this Assembly to deal with but it could mean a sanction or an admonishment in some other format. But it is certainly important to safeguard the rights of every other Member who wishes to speak freely in an in camera debate, that all Members respect what that means and have cognisance for it. I thank Senator Routier and Deputy Martin for their cool exposition of what this means and of the current situation. I really have nothing to add to what they have said. I would urge Members to vote for this. It safeguards the rights of Members to speak freely and without concern, either embarrassment or, of course, in distress perhaps

unnecessarily. But I would urge do support this but do note also that the frequency of going into camera seems to be less and less, in my experience, and I think that is something that most Members would hope for, but I think acknowledging that there are times, as Deputy Martin has said, when going into camera in fact provides more information for Members than would otherwise be available. As I said, the citation, the second part, is straightforward. Having said that, I would maintain those Standing Orders and I ask for the appel again, Sir, and I will move.

The Deputy of St. Martin:

Before we go in, there was a question asked: “Unless the States have permitted such disclosure”, at what stage can one give that disclosure? I will just give an example, I have come to a debate and I have produced some figures, maybe on suspensions, and then I cannot make them available outside the Chamber, to me this seems ridiculous. At what stage could I ask the States permission? Would I have to wait for a month? If the media wants to know what the figures are at what stage can Members get this permission to disclose?

The Connétable of St. Mary:

Sorry, I thought I had made that quite clear, I believe I did. When going into an in camera debate the States need then to set the parameters of what is acceptable. It is necessary to say: “This information cannot be released now because of X factor but there will be no reason in a month’s time why ...”

[15:45]

The Standing Order says: “Unless the States have permitted such disclosure.” When going into camera, as they did at the time of the Les Pas debate as I have referred to, make the decision that the information can be released at a later date. It cannot be retrospective. It is done in advance of the debate, at the outset of going into camera so that all Members who then speak in that debate know exactly any restrictions that may be placed upon what they wish to say.

The Greffier of the States (in the Chair):

Do you wish for the appel then, chairman?

Deputy M. Tadier:

Can I ask for clarification?

The Greffier of the States (in the Chair):

Yes, Deputy, as long as you are clarifying something that ...

Deputy M. Tadier:

I think it is related and I apologise, I do not think you have answered it. If there is information which is given out during an in camera debate, and it is information which is not strictly confidential, in that it could be given out at any time but also that it is not readily available so certainly not in the public domain, and it is given in an in camera debate, that could be used as a device because that information will not be able to be given out to the public domain even though the information itself may be quite innocuous, is that a consideration?

The Connétable of St. Mary:

I think I should have touched on something similar to this, something Deputy Maçon raised at the beginning. There are discussions held during an in camera debate and the in camera debate, the contents and the speeches, *et cetera*, should not be implicitly, but cannot be once this is adopted, if it is, revealed to any third party or publicised. Information though comes in many different ways and information can be found from different sources. It may well be that, in the fullness of time, certain things which are said in an in camera debate are said in other ways but not related to that debate in any way and that is something that is beyond the control of this House. What this

Standing Order says, what this change says, I will read it again so that I do not confuse: “[States Members] Elected Members must not disclose things said or information produced in a meeting of the States that is conducted in camera.” It is quite straightforward. Could I ask for the appel this time, Sir.

The Greffier of the States (in the Chair):

Yes, the appel is called for and I think, chairman, in the interest of good order we should take the appel on Standing Order 5 because the citation, I am sure, is routine so the appel will be in relation to Standing Order 5 relating to the new amendment to the code of conduct. If Members are back in their designated seats the Greffier will open the voting.

POUR: 35		CONTRE: 11		ABSTAIN: 0
Senator T.A. Le Sueur		Senator A. Breckon		
Senator P.F. Routier		Deputy of St. Martin		
Senator B.E. Shenton		Deputy R.G. Le Hérisier (S)		
Senator F.E. Cohen		Deputy of Grouville		
Senator J.L. Perchard		Deputy P.V.F. Le Claire (H)		
Senator S.C. Ferguson		Deputy S. Pitman (H)		
Senator A.J.D. Maclean		Deputy of St. John		
Senator B.I. Le Marquand		Deputy M. Tadier (B)		
Connétable of St. Ouen		Deputy of St. Mary		
Connétable of Trinity		Deputy T.M. Pitman (H)		
Connétable of Grouville		Deputy D.J. De Sousa (H)		
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy 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 Greffier of the States (in the Chair):

I will put to the Assembly, I am sure on a standing vote, Standing Order 6, the citation. Those Members in favour of adopting it kindly show? The appel is called for Standing Order 6. The vote is for or against the citation and commencement and I ask the Greffier to open the voting.

POUR: 37		CONTRE: 7		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy of St. Martin		
Senator P.F. Routier		Deputy R.G. Le Hérisier (S)		
Senator B.E. Shenton		Deputy of Grouville		
Senator F.E. Cohen		Deputy P.V.F. Le Claire (H)		
Senator J.L. Perchard		Deputy S. Pitman (H)		
Senator A. Breckon		Deputy T.M. Pitman (H)		
Senator S.C. Ferguson		Deputy D.J. De Sousa (H)		
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Greffier of the States (in the Chair):

That concludes the Public Business.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Greffier of the States (in the Chair):

The Assembly comes finally to the Arrangement of Public Business for Future Meetings. Once again I call the Chairman of P.P.C.

12. The Connétable of St. Mary (Chairman, Privileges and Procedures Committee):

It is quite exhausting moving from seat to seat. The Public Business under M is as per the lavender sheet with the addition of the following items. On the sitting for 22nd June I have the addition of P.63 - Disposal of States Property: Revised Procedure, lodged by Deputy Le Claire and also P.65 -

Delegations of Functions by Ministers: Review of Reporting Procedures, also lodged by Deputy Le Claire. On 6th July, the addition of P.64 - Public Finances (Jersey) Law 2005: Funding requests under Article 11(8), the Minister for Treasury and Resources. Thank you, Sir.

The Greffier of the States (in the Chair):

Are there any matters to raise on the arrangement of future business?

12.1 Deputy P.V.F. Le Claire:

Just on my proposition, I understand that there is a problem with the map that I have included. I did understand that it was for circulation. I am instructed that it was not so it needs to be just, I think, either kept within Members' own hands or maybe reissued but I am going to speak to the Greffier about that. I do apologise.

The Greffier of the States (in the Chair):

Very well. I am sure that may need to be recirculated. Deputy Gorst.

12.2 Deputy I.J. Gorst:

Bearing in mind the good progress that we have made today, it used to be customary for the chairman to give an indication of how long the chairman thought the next sitting would take. I wonder if she would care to give an opinion for the next sitting.

The Connétable of St. Mary:

Yes, it did use to be customary with that but just lately it has been very difficult, things have been moving quite dramatically after the date. I had anticipated at least 2 and a half days for this sitting but, as we can see, it has not happened. Looking at it, there are some Island Plan issues. I would imagine that we would probably need 2 days.

The Greffier of the States (in the Chair):

Thank you, chairman. Very well, the arrangement is concluded. Just before the meeting concludes perhaps, Chief Minister, you could clarify in relation to the presentation that is being given ...

Senator T.A. Le Sueur:

Yes, Sir. I would endeavour to begin the presentation at 4.30 p.m. It will depend on the flight of the consultant being on time, which I assume it will be, 4.30 p.m. downstairs in the Members' Room. Thank you, Sir.

The Greffier of the States (in the Chair):

Very well, thank you. The meeting is therefore closed and the Assembly will reconvene on 8th June.

ADJOURNMENT

[15:40]