

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 17th NOVEMBER 2009

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The Roll was called and the Deputy Greffier led the Assembly in Prayer.

QUESTIONS

1. Written Questions

1.1 DEPUTY P.V.F LE CLAIRE OF ST. HELIER OF THE CHIEF MINISTER REGARDING LAW SUITS AGAINST THE STATES IN THE PAST 5 YEARS:

Question

What was the total amount of money paid out in relation to lawsuits against the States in each of the last 5 years, both as a result of court findings and settlements out of court; how many of the cases settled out of court included non-disclosure agreements and what is the total amount of those monies over that 5 year period?

Answer

The Chief Minister is not in a position to provide an answer to this question, since any response would be based on limited or partially complete information.

The following points are noted:

- The vast majority of claims against the States are dealt with either under the States insurance policy or, where claims relate to alleged medical negligence, by the insurer of the individual medical practitioner involved. Where a claim is dealt with by the States insurer, the insurer appoints a private sector advocate to deal with the claim on its behalf and the outcome of the action is communicated to the States Treasury on a regular basis once the claim is settled. The outcome of most medical claims are communicated to the Health and Social Services Department but as there is more than one insurer dealing with claims, the outcomes are sometimes only communicated to the practitioner, not the Department;
- The terms of settlement may not be confined to the compromise of an individual claim;
- Many disputes/claims are settled before an Order of Justice is issued by the claimant;
- In light of the points set out above, there is no central source of information in respect of all claims arising.

1.2 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE CHIEF MINISTER REGARDING LEASES SIGNED BY WEB FOR LEISURE FACILITIES ON THE WATERFRONT:

Question

Are there break clauses in relation to the leases signed by the Waterfront Enterprise Board for the swimming pool and leisure facilities on the Waterfront and, if so, what are they?

When do they become available to break and how would the States break these leases prior to the end of the 150 year initial lease agreements debated in the States?

Answer

The States of Jersey approved the 150 year lease of the leisure complex site from the Public of Jersey to CTP (Jersey) Limited on 27th July 1999 (P92/1999).

The Public of Jersey entered a Development Agreement with CTP (Jersey) Limited on 11th August 2000 for the development of the leisure complex and new public swimming pool.

CTP received a capital subsidy of £10.9million from the States of Jersey to cover the construction costs of the swimming pool.

On completion of the swimming pool, the site was leased back to the Public for the remaining term of the head lease (c. 148 years).

On 29th November 2002 CTP provided formal notice of its intention to sell the completed leisure complex development. In accordance with the Overage Agreement, the States of Jersey had the opportunity to negotiate the purchase. On 9th December 2003 the States of Jersey approved P.172/2003 and agreed not to negotiate to purchase CTP's leasehold interest (i.e. the completed leisure complex).

CTP (Jersey) Limited subsequently disposed of its interest to Axa Sunlife Plc that is now the Landlord of the site.

The Public of Jersey do not have the ability to break the long term leasehold interest and under the terms of the leaseback must only use the site as a leisure pool and competition pool with ancillary facilities.

The Public does not pay any rent for the swimming pool site. The Public receives an annual financial contribution from the Landlord of £93,000 (indexed annually). In 2008 the contribution amounted to £101,624.

The Public of Jersey may however assign its interest in the lease.

If the Public of Jersey has assigned its interest, the Landlord may on any 25th anniversary upon giving notice, require the premises for demolition, or re-buildings, refurbishment or reconstruction.

1.3 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING SHOPS PERMITTED TO OPEN ON A SUNDAY:

Question

Would the Chairman provide details of those shops currently permitted to open on Sunday within each parish including the total number of locations?

Answer

The number of permits to trade issued in accordance with Article 4(1)(a) of the Shops (Sunday Trading) (Jersey) Law 1960 is as follows (each permit relates to a separate location):

St Brelade – 36 permits

St Clement – 12 permits

Grouville – 12 permits

St Helier – 108 permits

St John – 5 permits

St Lawrence – 14 permits

St Martin – 19 permits

St Mary – 2 permits

St Ouen – 15 permits

St Peter – 11 permits

St Saviour – 21 permits

Trinity – 13 permits

1.4 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE SUPPLY OF DUTY FREE FUEL FOR MARINE AND COMMERCIAL USE:

Question

Would the Minister please supply the following information -

How many litres of diesel have been supplied duty free for marine leisure use annually for the past 5 years?

How many litres of petrol have been supplied duty free for marine leisure use annually for the past 5 years?

How many litres of petrol have been supplied duty free for commercial use annually for the past 5 years?

How many litres of petrol have been supplied duty free for commercial use annually for the past 5 years?

Answer

The Customs and Immigration Service does not hold specific data for the type of relief that is granted for diesel as relief is available for all non-road use e.g. heating oil. However, the quantity of diesel put to marine use is recorded by the Statistics Unit of the Chief Minister's Department.

The Service does hold data for the relief of excise duty granted on petrol for marine use but does not record specifically whether this petrol is put to private or commercial use.

For the 2006 consultation on relief from duty for marine use fuels, with reference to data held the Service obtained information from local marine fuel suppliers and calculated the following proportions existed in 2005:

- Petrol put to marine use: 80% private marine use, 20% commercial marine use.
- Diesel put to marine use: 56% private marine use, 44% commercial marine use.

The data available from the Customs and Immigration Service shows that the following quantities of petrol were supplied duty free for marine use:

2004 = 555,731 litres

2005 = 617,670 litres

2006 = 500,750 litres

2007 = 552,600 litres

2008 = 506,750 litres

The data available from the Statistics Unit of the Chief Minister's Department shows that the following quantities of diesel were supplied for marine use:

2004 = 2,684,704 litres

2005 = 2,550,586 litres

2006 = 2,244,704 litres

2007 = 2,175,293 litres

2008 = 2,259,998 litres

1.5 SENATOR S.C. FERGUSON OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE RECRUITMENT AND RETENTION OF MIDDLE GRADE DOCTORS:

Question

Would the Health Minister explain exactly what she is doing to address the problem in recruiting and retaining middle grade doctors, on whom emergency service provision and patient safety are reliant, given that of the 46 posts in the major departments, 7 are either filled by locums, or are completely vacant?

Answer

At present it is important to note that there are no unfilled middle grade positions locally. All middle grade posts are either filled by a substantive appointment or a locum doctor.

Background

Middle grade doctors (e.g. Registrars, Staff Grades and Associate Specialists) work as part of a multidisciplinary team to deliver clinical services where they support Consultants and are themselves supported by Junior Doctors. They also work closely with nursing, diagnostic and therapy staff.

Currently there is a shortage of middle grade doctors, due to regulatory changes in the way middle grades doctors are trained and employed in the United Kingdom, in particular the need for Trusts to comply with the lowering of the working week from approximately 56 hours to 48 per week demanded by the European Working Time Directive. The British Medical Association reported that junior doctor staffing rotas were short by 3000 doctors at the end of 2008.

Current Position

As far as the positions covered by locum middle grade doctors are concerned, the reasons behind these temporary measures can be broken down into the following:-

- Three are covering long term absences;
- Two are covering shortages in the normal allocation of Registrars (on rotation) from the Wessex Deanery;
- One covering a post until the substantive appointment can take up position in April 2010;
- One covering a post converted from a junior doctor position; and,
- One covering a vacant middle grade post where the Department is out to advert for the second time;

Action Taken

In order to address this situation the Department is pursuing a number of initiatives as follows:-

- Seeking to employ suitably experienced and qualified middle grade staff from outside of the UK as well as the traditional UK market. The Department is also using specialist recruitment agencies as well as the normal recruitment channels to try and fill current vacancies;
- Where appropriate, seeking to recruit other grades of staff. For example, subject to the agreement of the business case, the Department will be seeking to employ another Consultant Gastroenterologist rather than employ another middle grade member of staff;
- After many years of negotiation, a new grade/salary structure and contract for middle grade doctors was introduced in the UK with effect April 2008. In its attempt to secure the recruitment and retention of middle grade staff to meet its needs, the Department, via the Local Negotiating Committee (LNC) is currently in the process of developing a Jersey version of the UK Agreement. This will be discussed at the LNC meeting on 18 November 2009. It is anticipated that the local negotiations will be completed within the first quarter of 2010.

1.6 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING SERIOUS CASE REVIEWS:

Question

How many serious case reviews have been instigated since the Jersey Children Protection Committee was formed?

How many are currently active?

What is the procedure to initiate a serious case review and who can request one?

What appeal mechanism, if any, is available for those who wish to trigger a review but are unsuccessful in doing so?

Answer

The Minister wishes to thank the Independent Chair of the Jersey Child Protection Committee for providing the information for this answer. The answer considers each element of the question in turn.

How many serious case reviews have been instigated since the Jersey Children Protection Committee was formed?

The Serious Case Review Sub-Committee of the Jersey Child Protection Committee (JCPC) was formed in 2008 and held its first meeting on 4th June 2008. It was chaired by Professor June Thoburn, and Dr Susan Turnbull is the Vice-Chair. Mike Taylor took over the role from Professor Thoburn in June 2009 on becoming Independent Chair of the JCPC.

The Serious Case Review Sub-Committee has considered the following cases since its inception:

- 7 cases have been considered for referral as Serious Case Reviews;
- 1 case has proceeded to full Serious Case Review
- 1 case was dealt with as a Serious Case Review in 2005 but less formally than present process

How many are currently active?

There is one currently active Serious Case Review and this is the one described above as proceeding to full Serious Case Review.

What is the procedure to initiate a serious case review and who can request one?

This is best answered by referring to the abstract below from the Terms of Reference of the Serious Case Review Sub-Committee:-

• **Roles and responsibilities:**

- To receive and undertake an initial assessment of all cases referred to it (from any source) because abuse or neglect of a child is known or suspected; **and**
 - the child has died; **or** the child has been seriously harmed or the child has sustained serious and permanent impairment to health or development through abuse or neglect **and**
 - there is cause for concern as to the way in which the States departments or voluntary agency partners or other relevant persons have worked together to safeguard the child from the abuse or neglect that led to the death or serious harm; **or**
 - there is evidence that a child has been seriously harmed by organised and/or multiple abusers (within or outside the family) or abused within an institutional or custodial setting **or**
 - a child who has died or been seriously injured was/is being looked after by the children's service at the time of death/injury..

- To decide whether the case falls within the above criteria and there is sufficient reason to undertake a serious case review and to make a recommendation to the Chair of the JCPC on the action to be taken.
- To decide on the Chair and Members of any Serious Case Review Panel and oversee the management of the review process.
- To decide on the scope of the specific review – including the time period for reviewing the actions taken in the case; the time frame for the review; which agencies will be asked to provide Internal Management Reports; and the person to be commissioned to write the Independent Overview Report. These decisions may be delegated to the Serious Case Review Panel and the Chair and Vice-Chair of the Serious Case Review will have delegated authority to confirm these.
- To develop procedures for the management and delivery of a Serious Case Review to the JCPC and monitor the effectiveness of these. This includes defining the purpose of the Serious Case Review process as for learning only and to clarify that information gathered for the purpose of the Serious Case Review is to be used and disseminated only for this purpose.
- In cases in which it is decided that a full Serious Case Review is not necessary (whether or not a Serious Case Review Panel was appointed), the Sub-Committee may ask one of its members to take the lead in seeking Internal Management Reports from the relevant agencies, and prepare a report for the Sub-Committee on lessons to be learned from the case, and actions to be taken. The Sub-Committee, on receiving such a report, may conclude that a Serious Case Review is necessary and appoint a Review Panel and an Independent Overview report writer.

It should be noted that the JCPC Serious Case Review Sub-Committee, will consider information from any source as grounds for considering a Serious Case Review.

What appeal mechanism, if any, is available for those who wish to trigger a review but are unsuccessful in doing so?

The decision of the Serious Case Review Sub-Committee in respect of a request for a Serious Case Review rests ultimately with the Independent Chair of the JCPC. There is no formal appeal mechanism to challenge this. Accountability for the actions for the JCPC is through the Independent Chair to the Minister for Health and Social Services and reference of any concerns on decision making would need to be lodged with the Minister who would act accordingly.

1.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING REDUCTIONS IN WATER RATES:

Question

Will the Minister use his powers to act in the public interest as contained in Article 23 of the Water (Jersey) Law 1972, to determine the water rates and charges to be made by the Company in respect of water which it supplies, in order to reduce water rates across the Island?

Answer

Article 23 does not confer specific powers to the Minister for Treasury and Resources to intervene but rather the States. In any case it would not be appropriate for me to do so.

1.8 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE SUSPENSION AND DISMISSAL OF STAFF IN RELATION TO CHILD ABUSE MATTERS:

Question

Given the Assistant Minister's statement in the debate on P.145/2009 ('The Committee of Inquiry into the management of Health and Social Services Department'), would the Minister confirm that staff have been suspended and dismissed in relation to child abuse matters and, if so, advise how many have been suspended and dismissed and for what reasons and over what time period?

Answer

The Assistant Minister, in referring to staff within children's services, made the statement that *'people have been suspended. They are not in their jobs'*. When asked for clarification, the Assistant Minister confirmed that people had been suspended, but she did not state that staff had been dismissed. (Hansard, P.145/2009, 4.1.7.)

The Deputy's question does not relate to any specific time period. For the purposes of this answer the information provided relates to the last 3 years. During this period 2 members of staff have had their contracts terminated and three have been suspended because of alleged inappropriate behaviour towards children. Suspension periods have ranged from three to 16 months, these periods being directly related to the time taken by the States of Jersey Police to complete their investigations. At the present time there are no members of staff suspended.

The Minister can confirm that any allegation made against a member of staff is taken seriously and promptly dealt with. As with any case where a possible criminal offence may have taken place, the States of Jersey Police Public Protection Unit is immediately informed and normal investigation and protection processes follow. Where suspension of a member of staff needs to be considered in order to protect children and/or other vulnerable individuals and the subject of investigation themselves, as well as to allow proper investigation of the allegations, this is conducted in line with the relevant States of Jersey disciplinary procedure, requiring agreement by the Chief Officer. Alternatives to suspension, such as placing the staff member in an environment where they do not come into contact with service users, are put in place **where this is consistent with the appropriate management of any identified risks**. In all such cases the protection of children and other vulnerable individuals is and must be the first concern of the Minister.

1.9 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING THE FINAL PAY SETTLEMENT OF THE CHIEF EXECUTIVE OFFICER OF HEALTH AND SOCIAL SERVICES:

Question

What sum of money, if any, was paid by way of a final settlement to the recently departed Chief Executive Officer of Health and Social Services and what was the source of the funding?

Answer

The terms on which personal contractual arrangements are terminated are personal and confidential to the parties and I am therefore unfortunately not able to answer these questions.

1.10 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE SUPPLY OF BLACKBERRY MOBILE PHONES TO MINISTERS AND ASSISTANT MINISTERS:

Question

Would H.M. Attorney General confirm that the supply of Blackberry mobiles, initially to Ministers (2005) and now to Assistant Ministers (2008) - yet not to Scrutiny members or backbenchers – and the payment of the bills for these communications (at the taxpayer's expense) in addition to their contracted expenses is a clear breach of Article 44 of the States of Jersey Law 2005 giving Ministers and Assistant Ministers the potential to increase their expenses limit in excess of other Members?

Answer

Article 44 (1) of the States of Jersey Law 2005 provides:

“44 Remuneration of elected members

(1) No scheme, agreement or other arrangement whatsoever for the remuneration of, or the payment of any allowance to, elected members out of the general revenue of the States shall provide for different elected members to receive different amounts of remuneration or allowance.

.....”

This is a matter of statutory interpretation.

On the assumption that costs associated with the supply and usage of Blackberry mobile devices are met by the States Department(s) in relation to certain Ministers/Assistant Ministers, the relevant question is whether such costs are incurred to enable Ministerial/Assistant Ministerial duties to be properly discharged.

If the answer is in the affirmative then such costs would not, in those circumstances, be characterised as either remuneration or an allowance under Article 44.

Article 44 inhibits the payment of additional remuneration/allowances for general expenses in respect of an elected member. It does not, in the opinion of the Attorney General, inhibit the payment/reimbursement of expenses properly incurred in the course of ministerial business.

1.11 DEPUTY T. M. PITMAN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE SUPPLY OF BLACKBERRY MOBILE PHONES TO MEMBERS OF THE EXECUTIVE:

Question

Will the Chief Minister clarify and outline what advice, if any, he took prior to taking the decision to effectively increase the expenses limit for members of the Executive by the supply of Blackberry mobiles, setting all such bills against the Chief Minister's office and will he also confirm that no documented policy exists defining a cap on such expenses or that any checks have been carried out to ensure that all bills being paid are work related?

Answer

The question asserts that a decision has been taken “to effectively increase the expenses limit for members of the Executive by the supply of Blackberry mobiles”. This is incorrect. At the meeting of the Privileges and Procedures Committee of 17th July 2009 it was agreed that members who wished to be provided with a Blackberry should hold the contract in their own name, although departments would be permitted to provide their Minister or Assistant Minister with a departmental Blackberry should they chose to do so.

With the advent of Ministerial government, at the Council of Ministers’ meetings held on 9th December 2005 and 12th January 2006, it was agreed that Ministers and their departments would be able to communicate more effectively by the use of Blackberry mobiles and that training in their use should be given.

All Ministers are fully aware that these States-provided Blackberries are to be used in order to perform their Ministerial duties and not for personal use.

The Deputy will be aware that Ministers should carry out their Ministerial duties in accordance with the Ministerial Code of Conduct (R.14/2006) which was distributed to all States Members. I would, in particular, wish to draw the Deputy’s attention to these extracts from the Code of Conduct:

“Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests, financial or otherwise.

Ministers will receive executive and administrative support from States departments in the conduct of their work, and they must ensure that this support is not used at any time in relation to their private interests, financial or otherwise.”

I attach the full Ministerial Code of Conduct for States Members’ information.

Ministers were issued with Blackberries as a pilot scheme by the Information Services Department (ISD), which forms part of the Chief Minister’s Department, and as such the expenses incurred from the use of Blackberries by Ministers were borne by ISD. Going forward, future invoices for Blackberry use will be billed directly to Ministerial Departments for monitoring.

ADDITIONAL NOTES: The direct billing has been trialled and is planned to go live in November.

1.12 DEPUTY T. M. PITMAN OF ST. HELIER OF THE CHIEF MINISTER REGARDING BILLS FOR BLACKBERRY MOBILE PHONES:

Question

Will the Chief Minister provide full details of which Ministers and Assistant Ministers have been provided with Blackberries, the 18 claiming both expenses and having their bills paid for these devices; further still, the total extent of their individual bills since December 2008 to the present time?

Answer

The details requested are attached in tabular form for States Members information:

Department	Role	Dec-08	Jan-09	Feb-09	Mar-09	Apr-09	May-09	Jun-09	Jul-08	Aug-09	Sep-09	Oct-09	TOTAL
													L

Transport & Technical Services	Minister	£ 18.55	£ 17.81	£ 24.46	£ 18.97	£ 18.48	£ 14.17	£ 25.95	£ 38.36	£ 26.98	£ 67.13	£ 23.50	£ 294.37
Planning & Environment	Minister	£ 43.53	£ 17.69	£ 18.85	£ 21.69	£ 18.00	£ 14.17	£ 23.50	£ 23.50	£ 47.82	£ 32.89	£ 23.50	£ 285.15
Health & Social Services	Minister	£ 20.01	£ 17.71	£ 18.26	£ 18.05	£ 34.21	£ 14.17	£ 23.50	£ 30.74	£ 23.50	£ 23.50	£ 36.77	£ 260.43
Chief Ministers	Chief Minister	£ 19.42	£ 17.69	£ 18.26	£ 17.92	£ 18.00	£ 23.40	£ 40.22	£ 24.60	£ 23.63	£ 30.20	£ 29.51	£ 262.86
Chief Ministers	Assistant Minister	£ 18.73	£ 17.69	£ 18.96	£ 18.27	£ 18.00	£ 18.54	£ 23.50	£ 26.22	£ 25.90	£ 30.34	£ 28.12	£ 244.28
Education, Sport & Culture	Minister	£ 18.55	£ 17.69	£ 18.26	£ 17.92	£ 18.00	£ 14.17	£ 24.38	£ 33.06	£ 34.82	£ 25.69	£ 37.16	£ 259.71
Housing	Minister	£ 19.27	£ 18.22	£ 18.26	£ 17.92	£ 18.65	£ 14.29	£ 24.26	£ 23.50	£ 25.35	£ 37.22	£ 25.39	£ 242.34
Social Security	Minister	£ 40.37	£105.44	£ 68.11	£ 91.13	£ 105.22	£ 64.32	£ 55.14	£ 31.08	£ 31.87	£ 23.50	£ 23.50	£ 639.69
Economic Development	Minister	£ 31.45	£ 29.64	£ 24.57	£ 24.25	£ 23.97	£ 25.90	£ 23.50	£ 32.96	£ 24.91	£ 50.45	£ 44.29	£ 335.90
Treasury & Resources	Assistant Minister	£ 32.26	£ 14.97	£ 37.05	£ 29.38	£ 18.14	£ 14.17	£ 23.50	£ 23.50	£ 37.56	£ 25.08	£ 23.50	£ 279.12
Social Security	Assistant Minister	£ 32.28	£ 32.28	£ 35.06	£ 33.10	£ 140.98	£ 14.17	£ 23.50	£ 23.50	£ 29.42	£ 55.45	£ 23.50	£ 443.25
Treasury & Resources	Assistant Minister	£ 32.95	£ 32.95	£ 60.45	£ 24.42	£ 18.80	£ 14.17	£ 23.78	£ 23.50	£ 23.50	£ 23.50	£ 23.50	£ 301.53
Treasury & Resources	Minister	£ 63.95	£ 58.73	£ 54.57	£ 95.42	£ 25.91	£ 20.63	£ 75.45	£ 36.88	£ 28.61	£ 51.95	£135.41	£ 647.52
Planning & Environment	Assistant Minister						£ 14.17	£ 23.50	£ 23.50	£ 23.50	£ 23.50	£ 23.50	£ 131.67
Health & Social Services	Assistant Minister						£ 14.17	£ 27.57	£ 68.82	£ 52.84	£339.36	£ 33.17	£ 535.93
Housing	Assistant Minister								£ 13.84	£ 23.50	£ 23.50	£ 23.50	£ 84.34

Education, Sport & Culture	Assistant Minister	£	£	£	£	£	£	£	£	£	£	£	£
		5.03	0	28.8	39.7	0	6						£ 73.59
Education, Sport & Culture	Assistant Minister	£	£	£	£	£	£	£	£	£	£	£	£
		13.2	1	23.5	25.3	0	5						£ 62.06
Monthly Total		33	51	415	428	476	294	461	477	501	915	622	
Grand Total													£ 5,383.73

1.13 DEPUTY T. M. PITMAN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE TAX INTAKE FROM 1(1)(K) RESIDENTS:

Question

Will the Minister confirm the estimated resultant increase in tax take (based on present numbers) if the core principle of the '20 means 20' policy was also applied to 1(1)(k) residents?

Answer

By way of background information, the tax collected from 1(1)k's, through their companies, trusts and in their personal capacity for the 2007 year of assessment, which is the last year complete information is available, totalled £9 million.

Of the (1)k taxpayers held on the Comptroller's tax records for year of assessment 2008, some 40% or so of them pay their 1(1)k tax either through their company(ies) and / or trusts at the standard rate of 20%, so the 20% means 20% provisions could not apply to them.

Of the remaining 60% or so, whilst the actual impact of 20% means 20% will depend on the specific circumstances of each 1(1)k, the Comptroller calculates that the total increase in tax for 2008, if 20% means 20% were to be applied to all of these 1(1)k's, would be some £85,000.

1.14 DEPUTY T. M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING CONFIDENTIALITY ISSUES:

Question

Would H.M Attorney General confirm whether members of the public, through certain rights as guaranteed under the European Court of Human Rights and a traditional common-law right of confidentiality, are free to contact their elected representatives, without such communications being monitored or seized by the police or other authorities?

Answer

The right to respect for private and family life, one's home and correspondence guaranteed by Article 8 of the European Convention of Human Rights is not absolute and is subject to the qualifications set out in Article 8 (2) of that Convention. These include the ability of a public

authority to interfere with that right, if to do so is in accordance with the law and is necessary in a democratic society for, amongst other things, the prevention of disorder or crime.

By way of example, the Laws of the Island, in common with comparable laws in the United Kingdom and elsewhere, provide for circumstances in which the Police or other authorities, on strict criteria, can seize or monitor communications.

Subject to these and other exceptions in law, the ordinary principles of confidentiality of communications would apply to communications between members of the public and their elected representatives.

1.15 THE DEPUTY OF ST. MARTIN OF THE CHIEF MINISTER REGARDING THE INDEPENDENT REVIEW OF THE 3-YEAR SUSPENSION OF A CONSULTANT GYNAECOLOGIST:

Question

Following the announcement by the Chief Minister on 3rd November, that Goodwin Hannah Consultants would be appointed to undertake an independent review of the 3 year suspension of a Consultant Gynaecologist -

- (a) Will the Chief Minister explain the method of selection?
- (b) When will the Terms of Reference be published?
- (c) Will Goodwin Hannah Consultants include a member with medical expertise to investigate whether there were grounds for the suspension in the first place?
- (d) Will Goodwin Hannah Consultants have access to the body of evidence already gathered by Verita about the management of the suspension?
- (e) Will the full cost of the suspension including the cost of the reviews be included in the findings?
- (f) Will Goodwin Hannah make recommendations?
- (g) Will the Final Report be made public?

Answer

- a) Several potential providers were asked to submit bids for the work. The final selection was made by the Chief Minister supported by the HR Director. Key aspects of the proposals that were considered were background of the consultants, availability, timescales, and cost.
- b) The Terms of Reference have been circulated to all States Members along with background information on the two Reviewers, but are also attached hereto.
- c) The Review Panel does not include an expert with medical qualifications but both reviewers have extensive experience and expertise in human resources issues in the NHS. The review will look only at employment processes and issues not clinical matters.

- d) No. The Verita review, after two States' debates has clear Terms of Reference that relate specifically to the care, treatment and management of a patient and patient safety issues. Verita have not addressed the exclusion and its subsequent management as part of its investigation. This is the purpose of SEB's Exclusion Review which has different Terms of Reference that relate purely to employment matters.
- e) Investigation into the cost of the exclusion forms part of the Terms of Reference.
- f) Yes, as set out in the Terms of Reference.
- g) The publication of the report is described in the Terms of Reference and as far as is permissible the findings will be published. However, as I have explained in the States and in the Terms of Reference, there are duty of care and confidentiality issues that do not allow the full report to be made public.

A review of the management of the exclusion from work of a Consultant employed at the Jersey General Hospital

Commissioner

The Chief Minister, on behalf of the States Employment Board, has commissioned this review into the exclusion of a consultant following the death of a patient in 2006. Given the length of time that has elapsed since the incident, the cost and the concern of States Members and the public, the States Employment Board has asked for an independent review of the exclusion process to assure itself that the management of the process has been conducted correctly, and that the process itself meets the needs of a small jurisdiction like Jersey.

Terms of Reference

The purpose of the review is to;

- (a) examine the procedure employed by the Health and Social Services Department, at the time of the incident, for dealing with the capability and conduct of senior doctors and determine whether it was robust and fit for purpose, and
- (b) investigate whether the procedure for dealing with the capability and conduct of senior doctors was correctly followed at that time, including
 - (i) the reasons for the immediate exclusion of the Consultant following the incident,
 - (ii) whether the National Clinical Assessment Service (NCAS) was consulted, when it was consulted and whether any advice NCAS offered was followed, and
 - (iii) whether there were any procedural errors, or conflicts of interest exhibited by the States Employment Board or the Senior Management Team of the Health and Social Services Department which have led to the exclusion not being resolved to date;

- (c) investigate the time taken in the resolution of the exclusion, the cost of the exclusion and compare this to the practice in the NHS in the UK (and other small jurisdictions).

Report

A draft report should be submitted to the States Employment Board. The States Employment Board will ensure that its duty of confidentiality to any and all of its employees is maintained. The report should therefore be in two parts; part one should consist of matters appropriate for publication to States Members and the public, with part two relating to those matters of specific individual detail that will not be published and will remain confidential to the States Employment Board.

1.16 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE DIVIDENDS ON SHAREHOLDINGS IN THE JERSEY NEW WATERWORKS COMPANY LIMITED:

Question

As the representative of the States majority and controlling shareholding in the Jersey New Waterworks Company Limited (JNWWC) (holding 100% of the issued “A” ordinary shares, 50% of the issued ordinary shares and 100% of the 7.5 – 10% cumulative fifth preference shares), will the Minister inform members of his position on the following aspects of the JNWWC’s announcement of the intention to make 20 of its employees redundant -

- (a) Given that the company announced a profit of £4,034,000 for 2008, an increase of 14% on the previous year, and a dividend of 194 pence per share (up by 15%) on the ordinary and “A” ordinary shares of the company, does the Minister endorse the need for redundancies in order to increase the potential dividend?
- (b) Will the Minister inform members how much the States received in dividend on its shareholding in 2008 and what additional dividend might be generated by these redundancies in 2009? Will he further produce an estimate of the likely impact of these redundancies on States revenues in lost tax and social security collected and additional Income Support payments?”

Answer

- (a) I expect Jersey Water’s Board of Directors, along with all States owned companies, to provide efficient, effective and affordable services to Islanders, whilst providing an appropriate financial return to the States as shareholder. I equally expect all States owned companies to be responsible and fair employers. It is for the Board to decide how to best run the company; I appreciate that this means making difficult decisions that impact on individual employees, but I am confident that the Board will be sensitive in its consultation with employees and act fairly and responsibly.

The Social Security Department has already been in contact with the company to offer assistance with anything that those potentially being made redundant may need in these difficult times. This includes offering seminars at the place of work incorporating advice on

Income Support, unemployment credits and job seeking. The ultimate aim is to help anyone affected to find new employment.

- (b) The dividend received from Jersey Water in respect of both ordinary and preference shares in 2008 was £1,610,250.

I cannot estimate the impact of any redundancies on tax revenue, social security and income support without investigating individuals' circumstances both now and in the future.

1.17 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING SERIOUS CASE REVIEWS:

Question

Would the Minister identify who initiates Serious Case Reviews and outline what the sources of information are that lead to the initiation of such Reviews?

Answer

The Minister wishes to thank the Independent Chair of the Jersey Child Protection Committee for providing the information for this answer.

The response to Written Question 1240/5(4915) details the relevant Terms of Reference of the Serious Case Review Sub-Committee of the Jersey Child Protection Committee (JCPC) which holds responsibility for Serious Case Reviews.

As indicated, a request for a Serious Case Review can arise 'from any source' and the Independent Chair of the JCPC has the final responsibility to decide upon the action to be taken on the recommendation of the Serious Case Review Sub-Committee. The Sub-Committee has considered the need for a Serious Case Review on information from the local media, reports from the Police, Health and Social Services and a request from an Advocate acting on behalf of children in care proceedings.

In deciding whether to recommend a Serious Case Review, the Sub-Committee will generally make request for further information from all relevant agencies concerning the child(ren) and their family circumstances. This information will identify the level of contact and the work undertaken, and significant detail on the factors giving rise to the request for a Serious Case Review.

1.18 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE LEVEL OF WATER RATES AND CHARGES BY THE JERSEY NEW WATERWORKS COMPANY LIMITED:

Question

Will the Minister use his powers under Article 6(4) of the Competition Regulatory Authority (Jersey) Law 2007, to request the Jersey Competition Regulatory Authority to investigate the level of water rates and charges of the Jersey New Waterworks Company Limited and to satisfy himself that the level of profits produced by its monopoly position is appropriate?

Answer

Article 6 of the Competition Regulatory Authority (Jersey) Law 2001 states:

ARTICLE 6

Functions

- (1) The Authority shall have such functions as are conferred on it by or under this or any other Law or any other enactment.
- (2) The Authority may recognize or establish, or assist or encourage the establishment of, bodies that have expertise in, or represent persons having interests in, any matter concerning competition, monopolies, utilities or any matter connected with the provision of goods or services to which the Authority's functions relate.
- (3) The functions of those bodies shall include one or more of the following -
 - (a) the provision to the Authority of advice, information and proposals in relation to any one or more of those matters;
 - (b) the representation of the views of any one or more of those persons.
- (4) The Authority may, on request by the Committee, provide the Committee with reports, advice, assistance and information in relation to any matter referred to in paragraph (2).
- (5) The Authority shall have power to do anything that is calculated to facilitate, or is incidental or conducive to, the performance of any of its functions.

This allows the Economic Development Minister to request the JCRA to undertake investigations if the Minister feels there has been, or potentially could be, a breach of the Competition (Jersey) Law – 2005. Such matters include competition, monopolies, utilities or any matter connected with the provision of goods or services to which the Authority's functions relate.

As Economic Development Minister I can only sanction a request under Article 6(4) of the Law if I have reason to suspect such a breach has, or potentially could have occurred. As I have received no complaints over the last 12 months from customers of the Jersey New Water Works Company, I have no grounds to sanction a request under Article 6(4) of the Law.

In addition, investigations can be undertaken by JCRA itself through the Competition Law 2005. Such investigations do not need any ministerial sanction or involvement. The JCRA has not received any complaints regarding Jersey Water in the past 12 months, and has therefore not instigated any investigations.

Should the Deputy be in receipt of any I would encourage him to pass them on to the JCRA so that they can be properly assessed.

1.19 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING REDUNDANCIES AT THE JERSEY NEW WATERWORKS COMPANY LIMITED:

Question

Will the Minister inform members whether the redundancies recently announced by Jersey New Waterworks Company Limited meet the conditions set out in Article 2 of the Employment (Jersey) Law 2003?

Answer

It is not for the Minister to determine whether the proposed dismissal of an employee constitutes a “Redundancy” in accordance with article 2 of the Employment (Jersey) Law 2003.

Where dismissals are proposed on the grounds that an employer decides to contract out part of its business, it is likely those dismissals will constitute redundancies as the dismissals are wholly or mainly attributable to the fact that the employer intends to cease to carry on the business for the purposes of which the employee was employed by him. Article 2 also states that the business may cease or diminish for “whatever reason”.

It is the Minister’s understanding, on the basis of the information available at this time and having consulted with the Jersey Advisory and Conciliation Service, that the proposed dismissals at the Jersey New Waterworks Company Limited meet the definition of “Redundancy” that is set out in the Law, however this would ultimately be a matter for the Jersey Employment Tribunal to determine.

1.20 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE DELOITTE ESTIMATE OF LOST TAX REVENUES GIVEN IN THE FOOT REPORT:

Question

Does the Chief Minister consider that the Deloitte estimate of lost tax to through the activities of offshore centres given in the Foot Report as £2 billion is an accurate estimate, and, if not, why?

How does the Chief Minister explain the difference between the Deloitte estimate and the figure of over £11 billion derived from the TUC investigation?

Answer

The Deloitte tax report annexed to the HM Treasury Foot Review is a very detailed analysis, which we are still studying. However, from an initial reading, previous estimates of a UK tax gap of £11.8 billion included in a TUC report were greatly overstated. Deloitte now estimate this gap to be up to £2.0 billion. Deloitte believe this to be a reliable estimate based on the analysis they have undertaken to date, but also believe that further analysis would reduce this figure. The report is also clear that this is a worldwide figure, and that the share of the figure attributable to British offshore centres either in total or individually is unidentified.

Deloitte have analysed the gap to distinguish between items that are ‘policy intended’ (namely, in line with the policy intentions of the UK Exchequer) and the residual balance which is ‘potentially policy unintended’. Deloitte state that much of the earlier £11.8 billion estimate is accounted for by ‘deferred tax’ – an accounting concept, which is a function of a decision by the UK Exchequer to retain a mismatch between book and tax depreciation, and is not a matter of tax avoidance.

UK Ministers have welcomed the Foot Report and in endorsing the review as ‘balanced and intelligent’ have clearly recognised, as I do, the professionalism one would expect from Michael Foot and from Deloitte in their analysis.

1.21 THE DEPUTY OF ST. MARY OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE NUMBER OF DAMAGE-ONLY ACCIDENTS ON THE ISLAND’S ROAD NETWORK:

Question

Can the Minister advise the Assembly of the number of damage-only accidents on the Island road network as a whole in the years 2004 to 2008 inclusive?

Answer

The States of Jersey Police collect road traffic collision data from collisions which are reported and they are required to attend. Article 52 of the Road Traffic (Jersey) Law provides for drivers in the event of an accident to exchange details, without the requirement to report the accident to the States of Jersey Police. The number of damage only road traffic collisions occurring on the Island road network as a whole cannot be provided. The States of Jersey Police have provided the following table to Transport and Technical Services for **reported** traffic collisions.

ROAD TRAFFIC COLLISIONS 2005 - 2008

Indicator	2005	2006	2007	2008
Number of road traffic collisions reported ¹	1,592	1,828	1,835	1,926
Number of road traffic collisions reported with injury ²	322	337	314	357
Number of road damage only traffic collisions reported.	1270	1491	1521	1569

IMPORTANT NOTE

Prior to March 2008, road traffic collision statistics were subject of a separate paper form submitted by the investigating officer.

In March 2008, road traffic collision data began to be gathered through the VIEWPOINT recording system, which facilitated closer monitoring of the accuracy of records and also eliminated the possibility of paper forms being lost. It is likely that some of the increase shown in 2008 is due to the introduction of more accurate recording processes in States of Jersey Police

1.22 THE DEPUTY OF ST. MARY OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING DATA PROTECTION:

Question

¹ Number of RTCs reported is the number of road traffic collision incident logs recorded by the States of Jersey Police Force Control Room.

² Number of RTCs where at least one person sustained an injury

Can the Minister give the Assembly full details of the 'review of regulatory requirements' of data protection which have led to his putting forward P.147/2009 ('Draft Data Protection (Amendment No.2) (Jersey) Law 200-)?

Answer

Regulatory requirements are reviewed on an ongoing basis, in line with experience from specific investigations (in Jersey) and policy development (in Jersey and other comparative jurisdictions).

Appointment of a President of the Data Protection Tribunal

P147/2009 removes the requirement for the appointee to the above office to be an advocate or solicitor of seven years' standing, although the requirement to be an advocate or solicitor is retained. This is intended to provide greater latitude in relation to any future recruitment process.

Widening the provisions - information notices

Whilst the information notice provisions in P147/2009 are not reflected in the current UK Coroners and Justice Bill, there are a number of valid policy reasons which underpin them:

- other countries (e.g. Ireland) have taken the line reflected in the draft Amendment Law.
- the UK Information Commissioner's Office ("UK ICO") has repeatedly requested for equivalent wording to that contained in the draft Amendment Law.
- The Office of the Data Protection Commissioner ("ODPC") has encountered difficulties in the course of investigations when applying the existing Law e.g. where refusal by an individual to release relevant information results in an investigation being hampered.
- External commentators have added their support to similar proposals.
- The Amendment will result in a more effective and proportionate regulatory environment and whilst more robust powers would be conferred to the ODPC, it will result in more limited recourse to the more forceful powers under the Data Protection (Jersey) Law 2005 (e.g. involvement of police, obtaining of a warrant).

- The measure is not viewed as disproportionate and is subject to an ECHR-friendly appeals procedure.

1.23 BY SENATOR J.L. PERCHARD OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING LIMITING PROPOSITIONS AND LENGTHS OF SPEECHES:

Question

Will the Chairman undertake to bring to the States for debate proposals that –

- (a) limit the number of propositions an individual member can lodge for debate in a given period (such as a maximum of 3 per parliamentary session)?
- (b) limit the length of speeches a member can make during a States debate.

Answer

Research has already been carried out in both of these areas, and will be considered by the Privileges and Procedures Committee at its meeting on Friday 20th November 2009.

In respect of (a) the Committee will take into account the amount of time spent during Public Business on policy matters raised by Ministers, private members and Scrutiny Panels, as well as the number of propositions lodged by Ministers, individual members, Committees and Scrutiny Panels. Processes in other jurisdictions will also be taken into account.

With regard to (b) the Committee intends to consider a number of areas, including: time limits on speeches in other jurisdictions; the length of time spent on Public Business; and the growing number of States sittings each year.

The Committee will then decide whether to present proposals to the States for debate.

2. Oral Questions

2.1 Deputy F.J. Hill of St. Martin of the Minister for Home Affairs regarding the suspension of the Chief Officer of the States of Jersey Police:

I would like to say a special good morning to Year 5, Mrs. Southern's class at St. Martin's school, who are listening to this hearing or sitting, ahead of their visit to the States Chamber next week. They are aware of this question and it was read out yesterday to them. Will the Minister give an update on the investigation by the Wiltshire Constabulary into the allegations made against the suspended Chief Police Officer and also advise who has been responsible for not meeting target dates, what the latest cost of the suspension is including cover and investigation costs, and what personal steps, if any, the Minister has taken to expedite the matter?

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

In the customary manner, the question of the Deputy of St. Martin contains 4 questions and not one. I am able just to answer 2 of those without going into camera but I will need to go into camera to answer the other 2. Indeed, part of one of them I need to go into camera for. I will answer what I am able to and then we will make an application for us to go into camera, both for the rest of this question and also for question 6. The reasons for that are both requirements of the law in relation to any discussion of disciplinary matters of a certain individual and also contractual terms contained in the disciplinary code of the same individual. The answer that I am to give - first, in relation to the second question of 4 - are that target dates were not set. I have received information from time to time on the anticipated completion date. I have not played any part in the oversight of the investigation which had to be independent, nor have the States of Jersey Police played any part in the oversight. The second part of the question I am able to answer not in camera relates to costs, and the figures are as follows in relation to the original Wiltshire investigation. The costs to date are £526,000, anticipated to rise to £552,000 in relation to the investigation. In relation to the acting-up costs and the costs of an acting Deputy Police Chief, the costs are £145,057. These may increase at a rate of £13,400 a month. I now apply to go into camera.

The Deputy Bailiff:

Minister, the States can certainly vote upon going into camera and you are right to say it is required under the Police Force Law that any debates upon the appointment, suspension or dismissal of the Chief Officer of Police must take place in camera. I would have thought, however, that it is desirable, as far as possible - it is a matter for Members, of course - not to go into camera if it is possible not to do so. I am minded to think that it would have been possible to say, if it is right, that the investigation is still in train and you expect it to be completed by a certain date. I am not sure how much more Members should expect to have at this stage, given not only the contractual

duties of confidentiality and the terms of the Police Force Law, but also for the fact that you yourself have to take a decision unchannelled by political pressure in due course as to whether or not to make any recommendation to the States.

Senator B.I. Le Marquand:

That is absolutely correct, Sir, but I have carefully thought this through and want to impart additional information to the House than simply a blocking answer. I want to impart as much information as I feel able to, which is consistent with those restrictions on my conduct, and I can only do that in camera.

The Deputy Bailiff:

Very well, there is a proposition to go into camera. Is that seconded? **[Seconded]**

Senator B.E. Shenton:

This is very difficult. I am one of the people that have made an official complaint against the Chief Officer. Even if we go into camera I would be very concerned that anything raised might be detrimental to the inquiry, even if it is in camera.

Connétable A.S. Crowcroft of St. Helier:

If I could just add, it seems to me that it must be possible before moving into camera for us to ask supplementary questions on the information already given to us by the Minister.

The Deputy Bailiff:

I think we will take first of all the proposition to go into camera, which has been seconded. If that is approved we will go into camera and we can then follow up with questions to the Minister after that. Deputy?

Deputy P.J. Rondel of St. John:

I have one or 2 concerns given that if we go into camera and all this time has been taken up out of the 120 minutes, are we going to get through all the other questions? We have got 2 lots of in camera, or are they going to be dealt with at the same time?

The Deputy Bailiff:

That is a matter for Members. Would all Members in favour of going into camera kindly show? The appel is called for. I invite any Members to return to their seats. The proposition is to go into camera for the purposes of the question to the Home Affairs Minister by the Deputy of St. Martin.

Senator B.I. Le Marquand:

I did intend to include question 6 as well in that proposition.

The Deputy Bailiff:

The Greffier will open the voting.

POUR: 21		CONTRE: 26		ABSTAIN: 0	
Senator T.A. Le Sueur		Senator T.J. Le Main			
Senator P.F. Routier		Senator B.E. Shenton			
Senator S.C. Ferguson		Senator J.L. Perchard			
Senator A.J.D. Maclean		Senator A. Breckon			
Senator B.I. Le Marquand		Connétable of St. Ouen			
Deputy R.C. Duhamel (S)		Connétable of St. Helier			
Deputy J.A. Martin (H)		Connétable of Trinity			
Deputy G.P. Southern (H)		Connétable of Grouville			
Deputy of St. Ouen		Connétable of St. Martin			
Deputy of St. Peter		Connétable of St. John			

Deputy J.A. Hilton (H)		Connétable of St. Saviour		
Deputy S. Pitman (H)		Connétable of St. Clement		
Deputy K.C. Lewis (S)		Connétable of St. Peter		
Deputy M. Tadier (B)		Connétable of St. Lawrence		
Deputy of St. Mary		Connétable of St. Mary		
Deputy T.M. Pitman (H)		Deputy of St. Martin		
Deputy A.T. Dupré (C)		Deputy R.G. Le Hérisssier (S)		
Deputy E.J. Noel (L)		Deputy J.B. Fox (H)		
Deputy T.A. Vallois (S)		Deputy of Grouville		
Deputy M.R. Higgins (H)		Deputy P.V.F. Le Claire (H)		
Deputy D. De Sousa (H)		Deputy J.A.N. Le Fondré (L)		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		

The Deputy Bailiff:

Minister, is there anything further you wish to add to this question?

Senator B.I. Le Marquand:

I now need a few moments to think about what I can properly say under the remaining 2 matters. The first part of the question ... I firstly will need to make it clear that my answers are now confined solely to the original Wiltshire Constabulary matter and do not extend to any matter relating to Operation Blast. In relation to the Wiltshire Constabulary, the current position is that I have received a very lengthy draft report from the Wiltshire Police. That very lengthy draft report needs some additional work doing on it because there is one additional witness whose interview has not been completed and there are other aspects of the disciplinary matter which I have not yet received a report on. In relation to question 4, the answer is that I am proceeding as rapidly as I am able so to do, bearing in mind the considerable restraints on me and the need to obtain advice.

2.1.1 The Deputy of St. Martin:

Could I ask of the Minister what help and support the Minister or, indeed, Home Affairs has given to the Chief Officer, given the fact that he is suspended but still an employee and being paid by the Island?

Senator B.I. Le Marquand:

That is not a matter for me to be involved with. Because of necessity he and I keep a certain distance. That is quite proper and professional. That would be a matter for Human Resources.

2.1.2 The Connétable of St. Helier:

The Minister said in his answer that target dates have not been set for the conclusion of the inquiry. Is it not the case that on a number of occasions he has given the States Assembly comfort that this investigation would have been completed at a much earlier juncture?

Senator B.I. Le Marquand:

I do not think that is strictly so. I did comment before that I have received information from time to time on the anticipated completion date and the first information I had was March and then I had May, then I had July and then I think I had August. I am not sure I have had anything since. These have been estimations provided from time to time. I believe I have honestly told the Assembly, when questioned, that they were the estimates provided to me.

The Deputy of St. Martin:

I do not think we are really going to get much further by asking any more questions, unless the Constable of St. Helier has got one.

2.1.3 The Connétable of St. Helier:

I have a further supplementary. The Minister gave us the figure of £526,000 for the cost of the inquiry to date. Could he give us a breakdown either now or later in terms of how that money has been spent, particularly in terms of costs of bringing officers to the Island, their accommodation and other disbursements?

Senator B.I. Le Marquand:

Yes, I can. I do not have the figures in a broken down form but I can do that.

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

The Minister mentioned in his statement that there was one witness who was yet to be interviewed. Obviously not wanting to know who it is but can he explain if there has been particular difficulty in speaking to that particular witness and when he expects that witness to be interviewed?

Senator B.I. Le Marquand:

I cannot explain the difficulties but I can say that that is in process and it is taking place during November.

2.1.5 Deputy M. Tadier of St. Brelade:

Will the Minister confirm ... I am sure that we all know that the Chief Police Officer has been suspended for over a year now and has no idea why he has been suspended and if this is the case will the Minister comment on whether he thinks this is satisfactory in terms of natural justice?

Senator B.I. Le Marquand:

That is not a follow-up on this question; that is question 6. My comment is to wait for question 6 to be put. It is really a question 6 issue.

2.1.6 Senator J.L. Perchard:

Could the Minister confirm the only source of legal advice he is receiving is from the Attorney General's Department and could he also confirm that he is satisfied with the quality of advice he is receiving?

Senator B.I. Le Marquand:

I do not think I am allowed to answer that. Certainly the Attorney General took the view that we should never be divulging our sources of advice. If that is correct then I am impeded from answering that question.

The Deputy Bailiff:

Very proper, Minister. **[Laughter]** Deputy Lewis has a question for the Chief Minister.

2.2 Deputy K.C. Lewis of St. Saviour of the Chief Minister regarding the proposed redundancies of a quarter of Jersey Telecom employees and 20 Jersey New Waterworks employees:

Will the Chief Minister be intervening in the proposed redundancies of a quarter of Jersey Telecom employees and 20 Jersey New Waterworks employees?

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

I sympathise with those staff and their families who may be affected by the recently announced proposed redundancies at Jersey Telecom and Jersey Water. I understand that these are difficult

decisions made only after extensive reviews of current and future operations by the boards of both companies. In completing those reviews the boards of Jersey Telecom and Jersey New Waterworks satisfied themselves that the proposed job losses are necessary to ensure that the companies remain financially robust for the benefit of employees, consumers and the Island. Both companies are involved in commercial activity and as a consequence it is not appropriate for me as Chief Minister to intervene in the operational decisions made by the boards of Jersey Telecom or Jersey Water. Members have my personal assurance that every effort will be made by the States of Jersey and the companies themselves to ensure that the appropriate mechanisms are put in place to support staff and provide all possible assistance to help those affected to find new jobs.

2.2.1 Deputy K.C. Lewis:

We are all aware that we are still in recession but should this not have been a staged reduction over several years with voluntary redundancies and early retirements? Most of these employees are highly skilled and may have great difficulty in securing suitable employment. Does the Chief Minister not agree?

Senator T.A. Le Sueur:

I believe the boards of these companies are in a far better position than I am to ascertain and judge the extent and nature and timing of any such moves and it is for them to decide on those matters in conjunction with the employer representatives.

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

Could the Chief Minister inform Members what dividend was paid by Jersey New Waterworks to the States last year and whether he feels it is appropriate at a time when we are spending £44 million on supporting the infrastructure of the Island that we are permitting, as the controlling shareholder, the sacking of up to 20 workers?

Senator T.A. Le Sueur:

I do not have the figure for the dividend but I believe it was contained in one of the written answers produced this morning. I will just check and see, and maybe the Deputy would like to check that as well. As to the nature of the extent of any proposed redundancies, that is a matter as I say for the company as an operational decision, it is not for me to comment on the necessary size of that but taken, I am sure, only after full consideration of the future needs of the company.

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

I believe I can help out the Minister; I think the figure was £1.6 million. My question is the Minister has talked about remaining profitable. Given that the Waterworks Company made £4.034 million profit - up 14 per cent - does he think that answer has any credibility whatsoever?

Senator T.A. Le Sueur:

Yes, because one has to relate profit to the overall size and capitalisation of the company, its future needs, its investment needs, its reinvestment needs and the ability to carry on delivering water of a good quality to the Island residents. That requires considerable management skills and expertise and forward planning and I believe that the board of directors is showing that.

2.2.4 The Connétable of St. Helier:

Does the Minister not agree that direct labour, so long as it is flexible, modern and commercially focused, should be better able to provide the kind of infrastructure services we are talking about than labour where it is outsourced to companies which have a profit motive?

Senator T.A. Le Sueur:

Not necessarily, no. It will depend on the nature of the requirements of the company and it may well be that a requirement which fluctuates from month to month is far better delivered by a larger

company specialising in those sort of activities. That will be an operational matter, as I say, for the directors to decide. They have chosen a certain direction and I am not going to second-guess them.

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

Could the Chief Minister confirm whether these problems arose, as Deputy Lewis was intimating, in a sudden fashion or whether the overall picture was that competition was leading inevitably to this situation and, if so, was he given regular reports that Jersey Telecom was in long-term trouble?

Senator T.A. Le Sueur:

Boards of directors do not make sudden decisions; they make decisions after carefully considering all the elements in a situation. Certainly as far as Jersey Telecom is concerned, and I think that was probably the company that the Deputy was principally referring to, I have been warning ever since we were considering the disposal of our shareholding in Jersey Telecom that the likely effect of increased competition will be a tightening of the workforce within that company. That has come to fruition and it comes as no surprise to me and should not come as a surprise to Members.

2.2.6 Deputy R.G. Le Hérissier:

Just a supplementary. Would the Chief Minister confirm, given the fact that this is undoubtedly the diagnosis, why was there not, therefore, an incremental approach taken rather than a sudden announcement?

Senator T.A. Le Sueur:

I believe the company is taking an incremental approach. It has announced that there is a need for a restructuring and that will take place over a period of time. Those discussions have been carrying on internally over many months. It is only once the correct solution is ascertained that it is implemented. The primary objective of the company over the past few years has been to maintain a share of the markets in order to maintain the benefits of the company. But they also have to face reality and they are facing reality and working in a constructive way in order to deal with the future.

Deputy R.G. Le Hérissier:

If I believe the Chief Minister is accidentally misleading the House, do I ask a point of order or a point of clarification or can I do anything with it at all?

The Deputy Bailiff:

I think you will have an opportunity, Deputy, of putting further questions to the Chief Minister at Chief Minister's question time without notice.

Deputy R.G. Le Hérissier:

Well, the marker is I believe he is misleading the House. They have been given 30 days' notice of redundancies. No more, no less.

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

Can the Minister inform the House when the new chairman of Jersey Water was appointed and by what process he was appointed?

Senator T.A. Le Sueur:

I do not have a precise date. The chairman was appointed, I believe towards the start of this year. He was appointed in the normal course of events at an annual meeting of shareholders of the company.

The Deputy Bailiff:

Mindful of the time and I know a number of Members want to ask questions but, as I say, I am also mindful of the fact that the Chief Minister is going to be answering questions without notice later on. One more question, Deputy Tadier, and then Deputy Lewis for the last question.

2.2.8 Deputy M. Tadier:

Does the Chief Minister acknowledge that these Jersey Telecom redundancies are a direct consequence of the previous Assembly's decision to allow competition into the Island?

Senator T.A. Le Sueur:

That will be possibly part of the reason but not the entire solution. The telecommunications industry has become far more mechanised, far more computerised and far less labour intensive and it is inevitable in those sorts of situations that unless the company can expand, its workforce is liable to contract. That is the reality of the situation.

2.2.9 Deputy K.C. Lewis:

Further to news that Jersey Post is going into the telecoms business, does the Chief Minister not find it ludicrous that we have several predominantly States-owned utilities going into competition with each other [**Approbation**] and does the Chief Minister not agree that in this time of recession that we as States Members should be looking after Jersey's greatest asset which is its highly skilled workforce?

Senator T.A. Le Sueur:

The States took a conscious decision, rightly so, some time ago that competition was in the best interests of the Island and the best interests of efficient delivery of services to Island residents. Competition is not simply among States-owned businesses, there are a number of private companies also supplying and reselling mobile telecommunication services and it is quite sensible if there is an active market for these products for the States to engage in competition in those active markets. That is what it is doing in the normal course of events.

The Deputy Bailiff:

I will say to Deputy Green and the Connétable of Grouville that when it comes to Chief Minister's questions without notice they are at the top of the list if they still wish to ask questions.

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

My question has just been asked, thank you.

2.3 Deputy C.F. Labey of Grouville of the Minister for Home Affairs regarding licensed premises seeking proof of identity and identity fraud:

As more and more licensed establishments are now demanding that young people prove their age by either producing their passports or driving licences which then frequently get lost or stolen on the premises, what action, if any, is the Minister taking to address the very real possibility of identity fraud?

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

I sincerely hope that the factual statement contained at the start of the question is wrong because both my department and the police have been trying to get the message over about the existence of the Validate identity card which can be acquired for £10. I answered a similar question from Deputy Martin about 2 months ago. I then indicated that Validate cards were accepted by nightclubs and pubs. Unfortunately, I then discovered that although they were accepted by the Association and by most of the managers, the message had not got down to the troops on the doors. As a result of that Home Affairs started to take action and wrote to the police and the police then, in fact, decided to have a campaign to inform people about this and they sent Validate packs - which I

assume are information packs - to retailers and licensees in Jersey as well as to nightclubs and pubs. The key issue is going to be getting the message over to the doormen that these are accepted as a means of identification.

2.3.1 The Deputy of Grouville:

On whose authority have these doormen got to demand such official and important documentation and does the Minister regard it as an abuse of so-called power and, more importantly, further consequences of fraud when the identity cards could prove the age as he has alluded to? Is this an abuse of power and what is being done about it?

Senator B.I. Le Marquand:

I am not sure I heard all of the question. The legal position, as I understand it, is that licensees have an absolute right to exclude people from their premises if they so wish. Responsible licensees check ages and they normally do so upon the basis that anyone who looks under 21 they check, and to do that they require responsible documentary evidence. It is unfortunate if they have been requiring either driving licences or passports when the Validate cards are there for exactly this purpose.

2.3.2 The Deputy of St. John:

Historically doormen would train before they took up the job within the licensing premises. Is this still the case?

Senator B.I. Le Marquand:

Yes, they do receive some training and I believe they have a blue badge. I am looking at the Deputy of St. Martin hoping he will nod as to the colour of the badge. I believe it is blue.

2.3.3 Deputy T.M. Pitman:

In my previous profession I regularly used to be a reference for young people under a previous scheme run by - I think it is - the Portman Group. Does the Minister share concerns about companies actually making profit out of young people by the charges involved in these cards? I hope he agrees with me that it is a real concern.

Senator B.I. Le Marquand:

It is far preferable than people taking passports and losing them. I have heard some interesting stories about what happens to passports during what are called foam nights. I am not sure what a foam night is but I assume it means everybody gets very wet, and the passport shrinks or dissolves altogether in the process. These cards are quite reasonably priced. They are only £10 and I view that as a very moderate charge.

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

Just escaped the Deputy of St. Mary there again. It follows on from Deputy Pitman's question as I did raise this because myself and the Deputy of Grouville, like many others, have teenage children and children who are older and the expense of replacing a passport is ridiculous. It is also quite a long time in coming. The Portman card is the validation card I think the Minister is talking about. Firstly it has to go off-Island. Is there no way that we can have a validation card that is only produced on receipt of a passport but the passport then does not have to be taken out? Now, this is months down the line and I am sorry the message is not getting across. I was out last weekend, doormen are doing their job but they are absolutely only taking passports and very rarely even driving licences off the kids that may not look the age. They are being thorough but they do not think that anything else is going to protect their jobs and the licensee. So we do have a problem and I think it falls on the Minister for Home Affairs to do something to sort this out. I was asked myself and unfortunately I did not have my passport with me. **[Laughter]**

Senator B.I. Le Marquand:

Portman cards were in fact replaced by Validate cards. The police have certainly made a great deal of effort on this and there was public information about this. We will go back to them and see if there is something further we can do but there seems to be a breakdown of communications between management and doormen, and that seems to be where the problem lies.

2.3.5 Deputy M. Tadier:

The question is tenuously linked. The Minister, I am sure, will agree that on certain occasions people are refused entry to establishments on very spurious grounds. Will the Minister assure us or inform the house whether the Discrimination Law will extend to bouncers and to management?

Senator B.I. Le Marquand:

Yes, I am certain it will do in due course. But of course it is going to take time to bring it in in sections.

2.3.6 Deputy M. Tadier:

If I may, how would that work? For example, if someone is refused entry on personal grounds to do with size or to do with gender, how can that be enforceable given that the establishment has the right to refuse entry to anyone without giving a reason?

Senator B.I. Le Marquand:

I do not think that there is going to be a section on size. **[Laughter]** What happens... the structure of the law is that there are particular characteristics against which you cannot discriminate; if you do you render yourself liable to civil action and I think, in certain circumstances, criminal penalties.

The Deputy Bailiff:

This, if I may say so, seems to be at the very edges of a supplementary question. Deputy Dupre.

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

I just wonder could these identity cards be issued through the Parish Halls. You get your driving licence from the Parish Hall; could the youngsters not get an identity card at the same time?

Senator B.I. Le Marquand:

Validate cards are produced by a particular business that operates off the Island. There is a website you can apply to. I gave the details last time, www.validateuk.co.uk. To create a parallel system involving the Parish Halls would be completely unnecessary when we have this facility. We just have to get the message out it is there and get the doormen to understand what it is for.

The Deputy Bailiff:

Last question from the Deputy of Grouville.

2.3.8 The Deputy of Grouville:

Could the Minister confirm if his department's - or the Customs and Immigration in his department - income has increased since this door policy has been in place and when this issue is finally going to be resolved?

Senator B.I. Le Marquand:

I am afraid I did not hear the question because of talking behind me. Could the questioner repeat the question and could those behind me be a little more silent, please.

The Deputy of Grouville:

Could the Minister confirm if his department's income in passport fees has increased since this door policy has been in place and when this issue is finally going to be resolved?

Senator B.I. Le Marquand:

This is a difficult one to answer because, although I have information on the number of passports and driving licences... apparently 94 passports and 67 driving licences have been reported as lost but there were no reports of thefts of these from licensed premises. We do not know where or when they went missing. Obviously there must be some loss in licensed premises among those and that will have increased the income of the Customs and Immigration Department but it will also have increased their workload.

The Deputy Bailiff:

We now go on to question 4 from Deputy Le Claire of the Minister for Treasury and Resources which will have to be answered by the Assistant Minister.

2.4 Deputy P.V.F. Le Claire of St. Helier of the Assistant Minister for Treasury and Resources regarding the funding mechanisms and support from the States of Jersey provided to the Jersey Homes Trust:

What funding mechanisms and support from the States of Jersey does the Jersey Homes Trust enjoy, and in what way, if any, can the States involvement be used to ensure that ongoing concerns expressed by tenants at Berkshire Court in particular are addressed?

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

The States provide interest subsidy payments to Jersey Homes Trust as it does to other providers of social housing. The subsidy support is in a form of an interest rate cap whereby the States reimburse the trust for interest charges paid to its lender above a level determined in a letter of comfort. I have been advised that the Housing Department has a good working relationship with the Jersey Homes Trust and will be making contact with the Trust and Deputy Le Claire in an attempt to see that the concerns being raised by the tenants of Berkshire Court are given an adequate hearing.

2.4.1 Deputy P.V.F. Le Claire:

I would like to thank the Assistant Minister for his answer. It does encourage me, although I did ask questions of this nature a few months ago of the Minister for Housing and there was no mechanism that he indicated was available for the States to pressure the Jersey Homes Trust to take actions on behalf of the residents in areas of concerns that they have. It is confirmed this morning to my right by the Senator. Therefore, it does not seem - am I correct in asking - that there really is anything that States Members can do or States departments can do to get these tenants in Berkshire Court the security that they wish or the services that they desire or the answers that they and their Deputies and the Constable have been trying to get out of them, including the Minister for Treasury and Resources, for the last 3 years?

Deputy E.J. Noel:

I am sure that if the good Deputy, myself and Housing worked together we could put adequate pressure on to the Jersey Homes Trust to give the tenants an adequate hearing.

2.4.2 Deputy G.P. Southern:

Does the Assistant Minister not accept that it is a woeful state of play when social housing can be built by a third party and yet we have no control over the service level that they supply to tenants in social rented housing?

Deputy E.J. Noel:

I agree with the good Deputy Southern, I think that we do need to address this situation and I am happy to work with him to do so.

2.4.3 Deputy G.P. Southern:

Will he not condemn the Minister for Housing for his lack of action on this issue for the past 10 years?

Deputy E.J. Noel:

No, I will not.

2.4.4 Senator S.C. Ferguson:

Has the Treasurer reminded such bodies as the Jersey Homes Trust that their full accounts will be required to be published by way of a report to the States?

Deputy E.J. Noel:

I personally have no information on that but I am sure that the good Senator is correct.

2.4.5 Senator S.C. Ferguson:

Supplementary, please. Would it be possible for the Assistant Minister to find out and ensure that this has been done?

Deputy E.J. Noel:

I will indeed do so and report back.

2.4.6 Deputy T.M. Pitman:

Just to follow on from Deputy Le Claire, I have been a politician only a year and yet we have had constant problems with the residents ... well, not with the residents but on behalf of the residents of this area. Will the Assistant Minister confirm that he is willing to organise a meeting for all aggrieved parties before the end of the year to finally progress this matter?

Deputy E.J. Noel:

I would happily do so but I would like to have the opportunity, with the Housing Department and Deputy Le Claire, to meet with Jersey Homes Trust and the residents to see if that can sort it out.

Senator T.J. Le Main:

Could I just say that we will do all we can to assist and work with the Parish Deputies in trying to resolve any problems that may be occurring in that area.

2.4.7 Deputy J.A. Martin:

I would like to wish him luck because the 3 Parish Deputies have been working for 3 years and we have even worked with the Constable of St. Helier and we have had the Minister for Treasury and Resources himself down to a meeting who told us in February: "Give me 2 weeks and I will get them to the table." We are now November and the table is still waiting. What I would like to have the Assistant Minister confirm is that Senator Ferguson is wrong. I do think it should happen. The only person who has ever seen any of the Trust's accounts is the Minister for Treasury and Resources and the Minister for Housing. They have never, ever, ever been published for the States of Jersey, which I do think is a mistake and I really hope that this will start happening so they are accountable.

The Deputy Bailiff:

Is there a question?

Deputy J.A. Martin:

Will the Assistant Minister confirm this and look into having this done? There have been millions of pounds invested in these social housing providers.

Deputy E.J. Noel:

As I have already said, I am happy to looking into this and report back.

2.4.8 Deputy P.V.F. Le Claire:

I welcome the response of the Assistant Minister for Treasury and Resources who is a can-do Deputy. I would also ask him, following on from another can-do Deputy, Deputy Martin, can he please try to integrate the fiscal mechanisms that are at his disposal in ensuring that a portion of the tenants' rents are set aside for maintenance and security and are assigned appropriately, and recommend it through the Whitehead report as changes throughout this community because there is not satisfaction from these tenants in respect of security and of maintenance.

Deputy E.J. Noel:

I do not believe that is really a matter for the Treasury and Resources Department. I believe it is more of a Housing matter but I will give my personal assurances that I will work with Deputy Le Claire to hopefully bring a speedy result to this issue.

2.5 Deputy D.J. De Sousa of the Minister for Social Security regarding the conformity of the actions of Jersey New Waterworks Company Limited with the conditions laid out in the Employment (Jersey) Law 2003:

Will the Minister be examining whether the actions of Jersey New Waterworks Company Limited in making 20 workers redundant conform with the conditions laid out in the Employment (Jersey) Law 2003 and, if not, why not?

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

It is not for a Minister to give a legal opinion as to whether an employer's actions in proposing or making redundancies conform with the conditions of the Employment Law. However, it is my understanding that the employer is endeavouring to not only meet the conditions of the Employment Law but also the provisions of the yet to be enacted redundancy legislation.

2.5.1. Deputy D.J. De Sousa:

How can the Minister be sure of this when in J.A.C.S.' (Jersey Advisory and Conciliation Service) own literature it states that jobs should not be made redundant if the job is still there?

Deputy I.J. Gorst:

I have been assured by the company, and I think States Members will have received a letter overnight from the company outlining the process and the procedure that the company is taking. We must remember that the Employment Law is there to try and ensure, where possible, that good practice is followed and that employers are fair and even-handed with their employees. It is not to impinge upon the operational activities *per se* of the company. I would just say as well that I understand that one of the members of the board is also on the board of J.A.C.S. so is fully aware of what good practice is and, therefore, I would expect and believe that they are following that.

2.5.2 Deputy G.P. Southern:

The Minister is obviously aware of the letter received by Members last night from Jersey New Waterworks which suggested that there may be up to 10 positions available in Jayen. Can he assure Members that terms and conditions for these employees, should they apply or should they succeed in getting jobs at Jayen, will not be substantially reduced and labour obtained on the cheap?

Deputy I.J. Gorst:

I think the Deputy thinks I have greater powers than I have. I do not believe that it is my responsibility to ensure that; however, I expect that that is one of the considerations that the existing employer will be considering. It is my understanding that they are now going through the 30 days process of consultation and it should at this stage be far from certain that they will in fact be making these employees redundant. There are a number of options that I, wearing my employment hat, would hope they would consider. That might be changed working hours, it might be changed remuneration, it might be the way in which they work. All these should be considered in this 30-day consultation period with the help of the employees' union and that is what I believe that they will be doing.

2.5.3 Deputy G.P. Southern:

Supplementary. Does the Minister not accept that best practice in this area has been demonstrated largely by Jersey Telecom which has given up to a year's notice of potential redundancies and not just the minimum statutory 30 days?

Deputy I.J. Gorst:

We must remember that the statute is not yet in place. The company are themselves agreeing to undertake the ... basically, in effect, follow the amendment 5 which we approved in this Assembly early in the year. It has not yet, unfortunately, received the approval of the Privy Council but the company have - off their own bat, as it were - said that they will follow that amendment recognising that we in this Assembly believe that that is the way that employers should act.

2.5.4 Deputy D.J. De Sousa:

Does the Minister really consider that best practice is being carried out and also if this was a small business it would be held to account? Does the Minister not feel that this business should be held to account as well?

Deputy I.J. Gorst:

I am not sure quite what the Deputy is referring to when she indicates that if this were a small business it would be held to account. The employees of this business have the right of appeal to the tribunal should they feel that these potential redundancies - also the consultation - the way that it has been handled, has been inappropriate. It is my understanding that the employer is in consultation with J.A.C.S. and that is the appropriate party. It is my understanding that the employees are members of the union. I would say in these times it is appropriate that all employees are members of unions because they help to fight on their behalf and ensure that good practice is followed. If any employee feels that they are being inappropriately selected or things are not happening in the way that the law requires, then I would encourage them as individuals to consult J.A.C.S. and perhaps make a claim to the tribunal. Thank you.

The Deputy Bailiff:

We now come to question 6 where Deputy Le Hérissier will ask a question of the Minister for Home Affairs.

2.6 Deputy R.G. Le Hérissier of the Minister for Home Affairs regarding the suspension of the Chief Officer of Police:

Would the Minister confirm whether or not the suspended Chief Officer of Police has been fully informed of the allegations made against him?

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

My answers here are, of necessity, going to be briefer than I had hoped they would be for reasons which we have already discussed. Mr. Power is aware of the reasons why he was suspended. I can

say that because that is in the public domain by virtue of the judicial review case that he brought unsuccessfully. He is aware of the areas of the Wiltshire investigation but I cannot go into more detail on that. He is not aware of any precise disciplinary complaints in terms of what I might think of as charges he might face and to that extent he is not fully informed, but to that extent alone.

2.6.1 Deputy R.G. Le Hérissier:

Would the Minister not agree that after such a period, and in the interests of natural justice, that there should now be clear allegations put to the individual rather than areas of general concern and so forth?

Senator B.I. Le Marquand:

Yes, I would agree with that and that is going to happen as soon as possible.

2.6.2 The Connétable of St. Helier:

Would the Minister confirm that once the investigation has been completed - and he told us he has only had part of the result of that so far - there may be a disciplinary process which in itself could take up to a year and that the contract of the person we are talking about I believe expires in the middle of next year. How is this going to play out?

Senator B.I. Le Marquand:

The contract of Mr. Power, I understand, expires at the end of next year. I could speculate - and indeed I would have speculated if we had been in camera - as to the procedures and the possible length that things may take but I am not willing to do that other than in camera, for the reasons that I have already given.

2.6.3 The Deputy of St. John:

How long can a person be held to account before a charge is brought against an accused person?

Senator B.I. Le Marquand:

The Deputy is now straying into the areas of criminal law and that is probably my fault for using the word "charge" loosely. The answer, apparently in the case of a certain doctor who I will not name, is indefinitely.

2.6.4 Deputy G.P. Southern:

Does the Minister not consider that that represents a fundamental breach of human rights if someone effectively cannot find out what he is accused of and is suspended from his work? The right to a fair trial applies to tribunal hearings as well as court proceedings, surely.

Senator B.I. Le Marquand:

My opinion is that the right to a fair trial does not apply to suspension matters. It does apply to disciplinary matters but not to suspension matters which are *pro quo*. Nevertheless, clearly in any disciplinary matter one should proceed as rapidly as one is able so to do and that has always been my firm intention and remains so.

2.6.5 The Deputy of St. Martin:

Would the Minister not agree that the time it is taking to get to the bottom of the suspension inquiry could be seen almost as dismissal by stealth by some people and it does no good at all for this Island to be allowing something like this to stretch on? I know we have heard from the Minister again to say this morning that this is going to be done as soon as possible but how soon is soon as possible and how much can the Minister do to expedite this particular case?

Senator B.I. Le Marquand:

I have in my left hand the interim report. It has 383 pages. An extremely thorough investigation is being undertaken and that unfortunately has taken longer than I would have hoped.

2.6.6 The Connétable of St. Helier:

Is it not also the case that the investigation into Operation Blast which could also result in disciplinary matters being raised is going to add further to the delay and to the cost of this whole process? The Minister said that the contract expires at the end of next year. Is it not the case that the officer concerned must give his notice by June of next year?

Senator B.I. Le Marquand:

That is the first time that I have been told that. My understanding was that the officer concerned had a fixed contract which terminated at the end of December next year. But it could be that I have been misinformed in relation to that. I am sorry, I have now lost the first part of the question.

The Connétable of St. Helier:

I was asking the Minister about the fact that the Operation Blast investigation is going to add further to the time and the expense of the whole process.

Senator B.I. Le Marquand:

I have been trying to avoid making a link, other than in camera, between the Chief Officer and Operation Blast. So I cannot comment on that.

2.6.7 Deputy R.G. Le Hérisier:

First, would the Minister define what he means by as soon as possible? Second, would the Minister, in terms of looking at general issues arising from suspension, say he would expect tighter connection between the grounds of suspension and the movement towards actual disciplinary charges? If he were dealing with the development of policy he would expect there to be fairly clear grounds when the suspension occurred in order that one could move to the actual allegations.

Senator B.I. Le Marquand:

I do not understand the last part of the question. There was a very clear and proper process conducted by myself in February and March last year in relation to suspension which was upheld by the Royal Court on judicial review. So I really do not understand what the question was getting at there.

2.6.8 Deputy R.G. Le Hérisier:

Can I clarify my thinking in the hope of clarifying the Minister's thinking? Does he believe that in cases like this there should be fairly substantial evidence brought forward at the point at which suspension takes place and not just general areas of concern?

Senator B.I. Le Marquand:

There must be sufficient reason to warrant suspension. The Royal Court has upheld my decision that there was in this case. Of necessity disciplinary matters in general are going to start upon the basis of areas of concern. There is then going to be a period of investigation - of information gathering - and that is going to create a hiatus. In this particular case I have shown the 383-page draft report to show why it has taken so long, because it has been so thorough. In general, of course, there must be proper grounds and there were. That has been upheld by the Royal Court and is a matter of public record.

The Deputy Bailiff:

We now come on to question 7. Deputy Shona Pitman will ask a question of the Minister for Social Security.

2.7 Deputy S. Pitman of St. Helier of the Minister for Social Security regarding the impact of Long Term Incapacity Allowance increases on Income Support:

What happens to a person's income support when their long-term incapacity allowance increases and at what level of L.T.I.A. (Long Term Incapacity Allowance) is a person's income support disregarded?

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

The first half of this question was answered in a written answer to the Deputy on 16th June this year. As I explained at the time L.T.I.A. provides a benefit income to the claimant and as income increases income support decreases. For every extra £1 received in long-term incapacity allowance benefit income, the income support benefit is decreased by 95 pence. L.T.I.A. is a contributory benefit paid at a set rate if an individual has made sufficient social security contributions, regardless of their household circumstances or income. Income support is an income-related benefit which is available to low income households and is paid at a variable rate. The level of L.T.I.A. benefit does not depend on the income support received by a household.

2.7.1 Deputy G.P. Southern:

Is the Minister aware that L.T.I.A. is defined in law as a compensation for loss of faculty and should not, therefore, be regarded as income since it does not preclude anyone from working and increasing their income except that his terms suggest that you can go out and work for 5 pence in the pound?

Deputy I.J. Gorst:

The Deputy says my terms and he says that L.T.I.A. should be disregarded. It was a decision of this Assembly that it should not be. The previous Minister did, however, make and introduce the 5 per cent disregard and no Member at that time felt that that was either inappropriate nor was it appropriate. They made no changes to it and that is how it stands today.

2.7.2. Deputy G.P. Southern:

Will the current Minister review his position on this compensation for loss of faculty and attempt to increase the disregard otherwise it simply is a lie to suggest that income support is an in work benefit because there is very little benefit to be gained at all?

The Deputy Bailiff:

Deputy Southern, your question, I think you do not refer to a lie, you say it might be incorrect.

Deputy G.P. Southern:

If I did, Sir, I apologise.

Deputy I.J. Gorst:

To be fair to the Deputy, I think he was talking about the legislation rather than me as an individual. Whether you can purport such human characteristics to legislation I am not certain. Now I have forgotten what the question was. **[Laughter]**

Deputy G.P. Southern:

Will he review his position on this compensation for loss of faculty and will he increase the disregard?

Deputy I.J. Gorst:

The operation of L.T.I.A. will be reviewed next year as we review the whole of the Social Security Law, which is where L.T.I.A. payments come from. There is an argument about whether L.T.I.A. should be disregarded in relation to income and income support but I would say if we were going to consider that as an Assembly, there is also an argument to say that there should be more generous

disregards for pension income because they are both arising from contributions that individuals have made. The current law is, as I say, as it stands. I am always prepared to review it but I am not certain that it would necessarily be a good use of the money that the department gets given every year to improve income support. Members, if they had felt strongly about it, could have brought an amendment to the increases and allocation of income support increased monies that I brought this Assembly earlier in the year. It is not an easy job to know where that money should be applied. I believe that I and my Assistant Minister approached it fairly and even-handedly and on the day Members - if I recall correctly - unanimously supported that proposal.

The Deputy Bailiff:

Minister, if you could wrap up your answers more swiftly that would be appreciated. Last question, Deputy Shona Pitman.

2.7.3 Deputy S. Pitman:

Just to say would the Minister not agree that for most - 99 per cent - of those people on L.T.I.A. it is not their fault that they find themselves on that because they have illness or an injury which has been caused by no fault of their own. I am not clear if ... I may have heard wrong, but if somebody is on a 100 per cent L.T.I.A. where does this leave the person with regard their income support. Also, could he tell us when does he expect this review to be completed next year?

Deputy I.J. Gorst:

I will try to be succinct. Sometimes questions require lengthy answers. The review will begin next year. I cannot at this stage say exactly when it will be completed but I hope that it will be completed in fairly early course because it ties-in with a proposition that Deputy Southern has got looking at supplementation, looking at the whole social security review. A person receiving 100 per cent L.T.I.A. will be obviously entitled to that. If they make an application for income support the staff in the department will consider using the modular approach - as she is fully aware - to consider what the Income Support Law defines as a reasonable level of income for that individual to live on. So it will, of course, be taken into the calculation as income that that person is in receipt of. Thank you.

The Deputy Bailiff:

The Deputy of St. John will ask a question of the Minister for Economic Development.

2.8 The Deputy of St. John of the Minister for Economic Development regarding the registration and staffing of charter and fishing vessels:

Could Members have details of the policy within Harbours to inspect all charter and fishing vessels, giving the number of both types of vessels on the register? Would the Minister advise whether skippers hold certificates of competence and crews are fully certified in safety, survival at sea, first aid and fire fighting and give details of how often they are re-evaluated and whether a training programme is still available?

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

Jersey Harbours' policy is to follow the inspection regimes laid down within the applicable legislation as appropriate to the particular type of vessel. There are 16 commercial charter vessels operating locally. These are inspected and surveyed annually by Jersey Harbours. All skippers must hold a boat masters licence which includes the requirement to hold an RYA commercially-endorsed certificate of competency, including sea survival and first aid training. These are inspected by Jersey Harbours every 5 years in line with the expiry dates for RYA commercially-endorsed certificates. There are 6 fishing vessels over 12 metres operated from the Jersey register, only one of which is operated locally. All are inspected and certified by Mecal. There are 163

fishing vessels under 12 metres operated locally. There is a mandatory survey regime for these vessels to undergo an inspection. All fishing vessels are required to hold the appropriate safety training as detailed in legislation; however, there is no inspection regime prescribed. It is policy to act when report has been received of an incident requiring investigation. As enforcer of legislation Jersey Harbours does not provide training. Some has been arranged through the Fishermen's Association and in the past Jersey Harbours has helped identify and facilitate appropriate courses.

2.8.1 The Deputy of St. John:

Of the boats, how many are operating without a current safety inspectors certificate and please give reasons why the vessels have not been inspected? Does the Minister think that at the start of winter it is acceptable for vessels to be putting out to sea without a current certificate, putting lives of crew at risk?

Senator A.J.H. Maclean:

I am afraid I am not familiar with the figures to hand but I am happy to supply them to the Deputy in due course in terms of the numbers. With regard to safety I can assure the Deputy that my department, and in particular Jersey Harbours, would take matters of safety as the utmost importance. If there are any cases that the Deputy is particularly concerned about then I would certainly like to hear about them and would ensure that they are investigated appropriately.

2.8.2 The Deputy of St. John:

Could I have a supplementary to that? Given that the Minister has been in charge of ports for 4 years, has he not taken an interest in safety at sea and our Jersey fishermen? Given that some weeks ago we invited him or his Assistant Minister to attend a meeting and they failed to attend - which has now been rescheduled for later this week; I sincerely hope he will confirm that he will attend - but will he also confirm that it is mandatory for skippers to be certified and those certificates have to be ... the vessels also have to be checked annually, and why they have not been ... some of them have not been certified so far this year?

Senator A.J.H. Maclean:

The Deputy is absolutely right with regard to safety matters and both I and my department take very seriously matters of safety. That is one of the reasons why we have been progressing S.O.L.A.S. (Safety of Life at Sea) and I have to remind the Deputy that I do recall that he was the one who has raised objections in the past to our progression of S.O.L.A.S and I find that quite an interesting and contrary position to have taken. As far as the other matters are concerned - the meeting that the Deputy referred to - we have discussed this at a previous meeting. I was not aware in advance that the meeting was taking place. There was a question of conflict. The meeting was concerning matters that are under investigation; however, I have agreed together with my Assistant Minister that we will attend a meeting if it is dealt with and treated in confidence until the investigation is complete.

The Deputy Bailiff:

No one else is showing any interest in this question, Deputy, so this is your last question.

2.8.3 The Deputy of St. John:

Given that the Minister has mentioned S.O.L.A.S., the reason I could not support some of it, and he is well aware and Members are well aware, some areas in fact put Jersey out on a limb to the remainder of the U.K. (United Kingdom) with relation to that particular law. That is the reason. But that said, he also mentioned ... what else did he mention?

The Deputy Bailiff:

Is there a question coming, Deputy?

The Deputy of St. John:

I am coming to it, Sir. I am trying to think what it was.

The Deputy Bailiff:

You had better think fast.

The Deputy of St. John:

I will do my best but I have not had my 5 minutes like most of the other Members have had. But that said, I do have concerns that the Minister is not really up to speed with what is actually going on within his department. I ask him and his Assistant Minister to do so because it will be too late when we lose another fisherman.

The Deputy Bailiff:

Is there a question there?

The Deputy of St. John:

Will he get up to speed?

Senator A.J.H. Maclean:

I do consider both and I and my department are very much up to speed. Matters of safety are of the utmost importance. We will continue to attend upon such matters. With regard to S.O.L.A.S., just a quick point: that is an important area, safety of life at sea. To suggest that we were putting ourselves out on a limb, I think the Deputy said... what we were doing was making Jersey regulations tighter than the U.K. and therefore hopefully safer.

The Deputy Bailiff:

Deputy Power has a question to ask of the Minister for Transport and Technical Services.

2.9 Deputy S. Power of St. Brelade of the Minister for Transport and Technical Services regarding defective vehicles:

Can the Minister outline what options, if any, are available to garage or forecourt operators when an obviously defective vehicle pulls up for fuel or attention and the operator or the proprietor strongly advises the owner or the driver of the vehicle to have it repaired immediately and not drive off that forecourt until it has been made safe? This was related to a specific incident very recently.

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

May I ask my Assistant Minister, Deputy Lewis, who has responsibility for D.V.S. (Driver and Vehicle Standards) to answer this question? Thank you.

Deputy K.C. Lewis (Assistant Minister for Transport and Technical Services - rapporteur):

I thank Deputy Power for this very timely reminder. Options for forecourt attendants: if the attendant has reasonable knowledge of vehicle maintenance and spots an obvious defect, it seems reasonable he or she mentions a defect to the driver. The reaction from the driver may determine what action the attendant takes next. If the driver appears to have been unaware of the defect and welcomes the advice it may be reasonable to suggest the vehicle was parked up and the defect attended to, or offer to call a breakdown truck or someone else to remove the vehicle to a place where repairs can be made. If the driver does not welcome the advice and drives off in a vehicle with a serious defect that compromises the safety of the driver and/or other road users, as with any other suspected crime, the attendant's main option is to contact the police with details of the registration number of the vehicle, the make, the colour of the vehicle, details of the defects and

which direction the vehicle headed off in. For other defects the attendant can contact the police or he or she could contact the traffic office at D.V.S. with the same details. If reported to D.V.S. a traffic officer will write to the registered owner and ask the owner to bring the vehicle to D.V.S. for inspection.

2.9.1 Deputy S. Power:

I thank the Assistant Minister for his answer. Unfortunately, the garage proprietor did exactly that. He notified the lady driver of the car that there was brake fluid leaking from the front near side calliper and warned her not to drive the vehicle. She decided to drive the vehicle off the forecourt and the garage proprietor has asked me to ask this question because he felt frustrated that he could do nothing. Does a garage proprietor have any options such as removing ignition keys?

Deputy K.C. Lewis:

In this case the garage proprietor has the same rights and/or duty as any other member of the public and that is to inform the police. The D.V.S. as such does not have any powers to deal with insurance, wearing of seatbelts, mobile phone or drink driving offences, but I would recommend they phone the police immediately.

The Deputy Bailiff:

Are there any other questions? Then we go on to the first of question 11. Deputy Southern will ask a question of the Minister for Treasury and Resources, to be answered by the Assistant Minister.

2.10 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the redundancies at Jersey Telecom:

How long, as the representative of the States as majority shareholder in Jersey Telecom, has the Minister known of the company's decision to make a number of employees redundant and will he outline the extent to which introducing competition into this market has played a part in the need for redundancies?

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

I can confirm that the Minister was alerted to the imminent announcement on the weekend of 7th and 8th November and was formally briefed on Wednesday, 11th November. The introduction and subsequent intensification of competition in Jersey has led Jersey Telecom to lose market share and has forced it to cut its prices. Both these developments mean that the cost economies are inevitable. This is a factor of the global telecoms marketplace that all operators have been forced to reduce their cost base in respect of ongoing competition, competitive pressures and the impact of technologies such as Skype.

2.10.1 Deputy G.P. Southern:

Does the Minister not consider that a potential total of 115 redundancies strikes him - it strikes me - as a large number in order to save a mere £4 million or £7 million in running costs. Does he not think Jersey Telecom is taking an extreme measure?

Deputy E.J. Noel:

No, I do not. I believe that the board of Jersey Telecom are taking appropriate measures to ensure that they have a sustainable business going forward.

The Deputy Bailiff:

If there are no other questions we come on to ...

2.10.2 Deputy G.P. Southern:

Sorry, Sir, if I may?

The Deputy Bailiff:

Just in time.

Deputy G.P. Southern:

That is the way we manufacture nowadays, just in time, whether it is questions or cars. Does the Minister not accept that the further introduction of the company memo which pits a States of Jersey owned company against another is a step too far in his delivery of competition policy and will he accept that competition in a small jurisdiction must indeed be limited and regulation is the best way forward?

Deputy E.J. Noel:

There seems to be a number of questions there. To deal with competition in a small jurisdiction, making companies more efficient is good for consumers. It provides them with greater choice and decreased costs. This is also good for the workforce, who remain in the provision of sustainable employment, and it is good for the Island as a shareholder in terms of the reinvestment in infrastructure and providing a suitable return on investment. I challenge the Deputy to say what the alternative is; inefficiency, taxpayers subsidising these inefficiencies?

2.10.3 Deputy T.M. Pitman:

The Assistant Minister has just referred to making firms efficient. If firms end up going bankrupt and collapsing, how does he see that as being compatible with making things more efficient?

Deputy E.J. Noel:

Firms that go bankrupt tend to, in the majority, be through poor management. In this instance I believe that the board is acting appropriately to make sure that Jersey Telecom is a sustainable business moving forward.

2.10.4 Deputy J.A. Martin:

Given the highly specialised work in the telecoms area nowadays, I think I am correct in saying Jersey Telecom is the only firm that trains the local workforce. Are the Assistant Minister and the rest of the Ministers absolutely sure that ongoing this highly sensitive area, which is absolutely so fundamental to our finance industry, will carry on and will not be ... and we will have the appropriate staff on Island to deal with all the eventualities, because I am not sure and I would really like this to be further investigated. I ask the Assistant Minister if he would help. Thank you.

Deputy E.J. Noel:

I have every confidence in the board of Jersey Telecom to produce a company that is sustainable for the long term.

2.10.5 Deputy D.J. De Sousa:

Does the Assistant Minister really consider that as an Island of 9 by 5, with less than 100,000 people on the Island we are told, really have the scope for so many different telecoms companies and what will happen when the competition gets too great and these decide to leave the Island or stop trading, what will Islanders be left with then?

Deputy E.J. Noel:

I would hope - and I am sure - that Islanders would be left with the fittest, most competitive telecom providers.

2.10.6 Deputy G.P. Southern:

Has the Minister learned nothing from the debacle over the ferries and the lessons to be learnt from the white goods market some years ago, whereby competition was introduced into a very small market, prices go unsustainably low for a while and then companies go bust? We now have 7

companies competing for business in the telecoms area. Is that not surely a recipe for disaster in the long run?

Deputy E.J. Noel:

I do not believe that it is a recipe for disaster. It would be a recipe for the fittest and most effective companies to survive and those who are not will not.

2.10.7 Deputy S. Pitman:

Does the Assistant Minister support the payout of nearly £400,000 for 7 of its J.T. (Jersey Telecom) management staff in loyalty bonuses whilst 80 workers are being made redundant?

Deputy E.J. Noel:

I believe that is irrelevant because that is a contractual responsibility dating back to 2006.

2.10.8 Senator P.F. Routier:

Does the Assistant Minister recall that before Jersey had competition within the telecoms market that Jersey Telecom themselves were considered to be overpriced, ineffective and they needed to provide cheaper telecommunications because the finance industry were experiencing lower prices in other jurisdictions?

Deputy E.J. Noel:

I agree entirely with the Senator, both as a consumer and as a business operator at the time. We have more choice now at less cost.

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

I ask the Assistant Minister if he could sit down with the Economic Development Minister and look at an analysis of the producer and consumer surpluses within the market of telecoms and how that fits in with the current population and possible future population of Jersey going forward for competition in the industry.

Deputy E.J. Noel:

I am always delighted to sit down with the Minister for E.D. (Economic Development).

Deputy T.A. Vallois:

That is not really an answer.

The Bailiff:

That is for the Members to judge.

2.10.10 Connétable D.J. Murphy of Grouville:

Given that the States now has effective control over 3 telecom companies, i.e. Newtel, the Post Office and Telecoms, would he agree that it is very bad business practice indeed to have them all competing against each other? Would he also agree that the number of licences issued by the J.C.R.A. (Jersey Competition Regulatory Authority) is excessive?

Deputy E.J. Noel:

It is not my position to comment on the activities of the J.C.R.A. In terms of the States having an interest in 3 telecom companies, if the boards of those businesses believe that there is space in the marketplace for them then I see no reason why the board should not pursue those activities.

2.10.11 Deputy R.G. Le Hérissier:

Would the Assistant Minister not agree that Senator Routier's description of Jersey Telecom as ineffective and not able to meet competition is rather odd against the fact that he for many, many years was indeed President of Jersey Telecom's board?

Deputy E.J. Noel:

I think it is just a natural progression.

The Bailiff:

There will be a final question, Deputy Southern.

2.10.12 Deputy G.P. Southern:

Does the Assistant Minister consider that it is about time we restored the balance in our small jurisdiction markets and placed greater emphasis, where monopolies exist, in particular on regulation rather than competition? There is a limit given by size to competition.

Deputy E.J. Noel:

I do not believe that we need to meddle excessively and over-govern the telecoms industry. I believe that we have a robust industry and I believe that that will be sustainable in the future.

The Bailiff:

Deputy Trevor Pitman has a question to ask of the Minister for Economic Development.

2.11 Deputy T.M. Pitman of the Minister for Economic Development regarding Jayen's ownership and staff:

Will the Minister inform Members whether Jayen, the company designated to outsource the work of the 20 employees selected for redundancy by the Jersey New Waterworks Company, is owned by local residents and, therefore, subject to local taxation, and what proportion if any of the workforce of Jayen is locally qualified under Regulation of Undertakings and Development rules?

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

Jayen Limited was first incorporated in 1971 and is locally-owned and, therefore, is subject to tax locally. The vast majority of their staff are locally qualified for the purposes of Regulation of Undertakings and Development Law.

2.11.1 Deputy T.M. Pitman:

I thank the Minister for his time. In the letter from the company chairman it states that 10 positions will be available should this proceed. I presume this means positions created so could the Minister clarify that those positions will be at a far lower rate of pay?

Senator A.J.H. Maclean:

I think if the Deputy is referring to the possibility of Jayen taking some of the staff from Jersey New Waterworks Company, numbers have been suggested around the level of 10, I believe. I certainly cannot comment on either the terms or the conditions because I am not privy to that.

2.11.2 Deputy G.P. Southern:

In the response earlier to a written question the Minister says he cannot take action over the Jersey New Waterworks issues because he has received no complaints in the past 12 months from customers. Will he accept that today I am making a complaint as a customer of Jersey New Waterworks that £4 million profit on a £14 million turnover is excessive, that outsourcing up to 20 jobs in order to increase that profit is also excessive, and that I wish him to ask the J.C.R.A to take action on this matter and regulate this properly and state whether it is appropriate that the J.N.W.W. (Jersey New Waterworks) should be acting as it does over this issue?

Senator A.J.H. Maclean:

A number of questions there from the Deputy. First of all, I think he is aware of this: the Jersey New Waterworks Company is not regulated. With regard to ...

Deputy G.P. Southern:

It is a monopoly. If I may, Sir, I believe that is misleading. It is a monopoly utilities provider and the scope of the J.C.R.A. is to cover utilities and regulate them.

Senator A.J.H. Maclean:

That may well be the case, but the facts are that it is not currently regulated *per se* in the same way that telecoms are, for example. The other questions that the Deputy was asking about whether or not it is reasonable, he said, referring to the dividend and the profitability of Jersey New Waterworks Company, I think what the Deputy needs to understand is the company needs to have a long-term and sustainable future. The board is acting, in my opinion, in a responsible manner in respect of future investment. They spend approximately £3 million currently on capital investment. They have infrastructure, some of which is over 100 years old. It needs considerable investment and it is for those reasons that they have had to make these very difficult decisions.

2.11.3 Deputy G.P. Southern:

Will the Minister stop misleading the House? Is he aware of the report and accounts from last year which states clearly, from the retiring chairman: "It has infrastructure in extremely good condition and it is important that pressure for short-term gains are not pursued at the expense of the company's ability to provide for the needs of all of its stakeholders including the employees"? Will he accept that that is a more accurate statement than the one he just made?

Senator A.J.H. Maclean:

I am sure that both statements are perfectly accurate. The facts are that there is infrastructure within Jersey New Waterworks which is over 100 years old. Businesses such as this have infrastructure that needs continuous, ongoing investment and that is one of the reasons why the board is having to take this difficult decision for the long-term sustainability of the business.

2.11.4 Deputy D.J. De Sousa:

Can the Minister confirm or deny that Jayen (Jersey) Limited is a subsidiary of Jayen U.K.?

Senator A.J.H. Maclean:

What I can confirm for the Deputy is that Jayen Limited is a locally incorporated entity and has been since 1971 and is locally-owned.

2.11.5 Senator S.C. Ferguson:

Does the Minister know when J.N.W.W. decided to discuss outsourcing and, if not, would he find out and report back to the States?

Senator A.J.H. Maclean:

I do not know the answer to that question. I am more than happy to find out the exact dates of when this matter was first raised by the board.

2.11.6 Deputy S. Pitman:

Is the Minister aware as to whether or not it is in fact illegal that the jobs are being not made redundant, their jobs are just being given to another firm and they are just being dismissed for profitable gain?

Senator A.J.H. Maclean:

What is happening at the moment is that the process is still within the 30-day consultation phase. With regard to some jobs possibly going to Jayen Limited in the future, that is a separate issue together with the fact that that particular company has been contracted by New Waterworks Company for some years and has just recently, through a competitive tendering process, secured a further contractual agreement. That may well mean that some of these jobs that are going to be lost will in fact be transferred ... not transferred but taken on by Jayen. That is good news in that respect.

2.11.7 Deputy J.A. Martin:

Following on from that, if this was a competitive contract put out, were the staff informed when they could have then perhaps, with hindsight, maybe even formed their own company and put in a competitive tender? It may sound slightly outrageous but these are people with exceptional skills and they were the people who were kept out of the competitive tender, which I would suggest would not the Minister say this has been totally unfair?

Senator A.J.H. Maclean:

I think the Deputy is conflating 2 issues. First of all, I was referring to the competitive tender for Jayen to carry out services for the Jersey New Waterworks Company. That happened prior to this particular incident and I think, with the greatest of respect, Jayen have an employment force of about 25 or 30 people which do a whole range of different services. To try and conflate the 2 issues here I think is unreasonable.

Deputy J.A. Martin:

Sir, he did not answer the question. I was talking about the Jersey New Waterworks staff, not the Jayen staff, who could have then formed their own company to carry out the work that they are already carrying out and they would not be then made redundant. The Minister did understand the question but he did not answer it.

Senator A.J.H. Maclean:

I think the Deputy is really dealing with a hypothetical case: if, when, maybe. The reality is that there is an opportunity for some of the staff who may be made redundant from Jersey New Waterworks to have re-employment with Jayen, who is a contractor to Jersey New Waterworks. That in itself is potentially beneficial.

2.11.8 Deputy G.P. Southern:

Will the Minister finally answer my question or do I have to put my complaint in writing to him? Will he act on the £4 million profit on a turnover of only £14.3 million and will he suggest any other company that he knows of that is making those sorts of profits on that sort of turnover?

Senator A.J.H. Maclean:

I would suggest that if the Deputy wishes to put a letter in writing to me and a request for further investigation I would be more than happy to receive that and consider it on its merits.

The Bailiff:

We come now to question 12. The Deputy of St. John will ask a question of the Minister for Treasury and Resources.

2.12 The Deputy of St. John of the Minister for Treasury and Resources regarding the redundancy rights of the staff at Jersey Telecom:

Given that many of the staff at Jersey Telecom were formerly States employees, do they still have the same redundancy rights as public sector employees and is the Minister aware of any other States-owned companies which are considering making redundancies?

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

When Jersey Telecom was part of the States administration they negotiated pay and conditions separately with the union Amicus, now part of Unite. They were also subject to the overall States H.R. (Human Resources) policies such as redundancy terms. Jersey Telecom has informed the Minister that their employees' terms and conditions of employment are negotiated between the company and its employee representatives' union, the GMB. The terms on which redundancy payments are made are a matter for the company to propose in conjunction with its employees' representatives. We expect Jersey Telecom along with other States-owned companies to be good employers and to treat their employees fairly.

2.12.1 The Deputy of St. John:

Given the recent news that Jersey Post is to enter the telecom market, would there not be any merit in combining both Jersey Post and Jersey Telecom as one company? If so, has this been given serious consideration?

Deputy E.J. Noel:

I welcome the suggestion from the Deputy of St. John. I will take that back to the Minister to see if he wishes to progress it further.

2.12.2 Deputy G.P. Southern:

In the light of problems that Jersey Telecom may have in funding an additional mechanism of early retirement for some of its employees to cope with the slimming down, will the Minister for Treasury and Resources consider directing some of its dividend towards creating a fund which will enable voluntary early retirement to also operate in the coming year?

Deputy E.J. Noel:

I believe that the Minister for Treasury and Resources will not be making a request to the company along those lines. However, should the company approach the Minister I am sure the Minister will listen to their arguments and acting upon advice will make the necessary steps.

2.12.3 Deputy D.J. De Sousa:

As these employees were previously States workers are they still covered by P.E.C.R.S. (Public Employees Contributory Retirement Scheme) pensions?

Deputy E.J. Noel:

I believe that some of the employees may well do so, but since the ownership of Jersey Telecom and the employment came out of the States scheme there will be a number of members who are not in that scheme.

2.12.4 Deputy G.P. Southern:

Is the Minister for Treasury and Resources aware of current vacancies in this area that need to be filled for some very highly specialised and skilled workers? Does he accept that a reasonable estimate of the tax lost through these layoffs is of the order of £0.3 million annually?

Deputy E.J. Noel:

There are 2 questions there. The first is that at a recent meeting with some representatives of the board we were advised that they do not have any current vacancies for any staff. With regard to potential loss of tax revenue, that can only be done on an individual case-by-case basis.

2.12.5 Deputy G.P. Southern:

The Chief Minister in an email earlier in the week suggested that 92 per cent of what is now over 500 jobs in the telecoms industry are locally qualified. Will the Minister for Treasury and

Resources clarify that answer by giving the Members a breakdown of how many locally qualified employees are employed by J.T. and how many by the rest of the industry?

Deputy E.J. Noel:

I believe that really is a question for the Minister for Economic Development. It comes under the Regulation of Undertakings and Development Law.

Deputy G.P. Southern:

Will the Minister then seek an answer from the Minister for Economic Development?

Deputy E.J. Noel:

I would be happy to approach my good colleague.

2.12.6 The Deputy of St. John:

Could the Assistant Minister please tell Members how many apprentices and approvers, *et cetera*, are currently in training within Jersey Telecom to fill in vacancies as people get to the top of their profession and move to retire?

Deputy E.J. Noel:

I do not have the numbers. I am happy to get those for the Deputy. However, again I have recently met with members of the board and they have advised me that they do undertake training for all their staff and wherever possible to train staff up to meet any shortfall in skills that they have.

The Bailiff:

We now come on to question 13. The Deputy of St. Martin will ask the question of the Assistant Minister for Treasury and Resources.

2.13 The Deputy of St. Martin of the Minister for Treasury and Resources regarding the compatibility of the Draft Data Protection (Amendment No. 2) (Jersey) Law 200- with the Human Rights (Jersey) Law 2000:

Will the Minister inform Members why, in his view, the provisions of the Draft Data Protection (Amendment No. 2) (Jersey) Law 200- (P.147/2009) are compatible with the Human Rights (Jersey) Law 2000 and what particular Articles are relevant to the Data Protection Law?

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

The department receives advice from the Law Officers on compatibility with the Convention on Human Rights and it is on their advice which we act. In any case, due to Members' concerns we have made the decision to withdraw the proposition to allow scrutiny to review the proposed legislation including its compatibility with the Convention on Human Rights.

2.13.1 The Deputy of St. Martin:

I understood that the particular P.147 was going to be deferred, not withdrawn. Could I have confirmation from the Minister, please?

Deputy E.J. Noel:

The Deputy of St. Martin is correct. We have deferred it, not withdrawn it.

The Deputy of St. Martin:

If that is the case, may I have the answer? Surely the answer stands whether it is deferred or stands?

Deputy E.J. Noel:

On the advice that we have received we believe that it is compliant.

2.13.2 Deputy G.P. Southern:

“On the advice that we have received we believe that it is compliant.” This is a very neutral statement. Is the Minister stating clearly that he has sought proper advice from the Law Officers’ Department that this particular law is compliant with Human Rights 2000?

Deputy E.J. Noel:

I am happy to confirm that advice has been sought. With regard to this particular area it is outside my personal expertise.

Deputy G.P. Southern:

That was even more vague: “Advice has been sought” and the answer came back that it was compliant or it might not be compliant and a bit of a grey area was in there. What sort of answer was received?

Deputy E.J. Noel:

Yes, legal advice was received to the extent that the proposed legislation is compliant.

2.13.3 Deputy R.G. Le Hérisier:

We know the shadow and mirrors issue about legal advice. Could the Assistant Minister confirm what were the precise defects, if any, identified with the law which led to his or his Minister’s decision to defer?

Deputy E.J. Noel:

The main reason why I chose to defer it is because I have to inform the Assembly that I am not up to speed on Data Protection Law and, as it was down to myself to be rapporteur today in light of the Minister for Treasury and Resources being away, I thought it was more appropriate to defer it so that I can get up to speed and to deal with this matter accordingly.

2.13.4 Deputy R.G. Le Hérisier:

Would the Minister confirm that from some source in making his deferral decision he received advice that this was not quite the innocent bit of legislation that he thought it was?

Deputy E.J. Noel:

Quite on the contrary. The advice I have been given and from the limited knowledge that I have I believe that this proposed legislation is very suitable.

2.13.5 Senator S.C. Ferguson:

Would the Minister like to confirm that the debate on this was deferred at the request of the Corporate Services Scrutiny Panel because we are not totally happy with the implications of this particular amendment?

Deputy E.J. Noel:

Yes, the Minister did receive a request from the Corporate Services Scrutiny Panel, but at the end of the day the final decision to defer it was mine personally and I am happy to work with the Scrutiny Panel to bring this matter back to the House in January.

2.13.6 Deputy T.A. Vallois:

Would the Assistant Minister not confirm that in fact there are additional amendments to be made to the Data Protection Law with this amendment and that I myself, on behalf of the Corporate Services Scrutiny Panel, have sat down with the Data Protection Commissioner and asked for all this to be put together and for it to be scrutinised and to come back to the House?

Deputy E.J. Noel:

That is perfectly true. We are, along with the Commissioner, taking this opportunity to work with scrutiny to bring further amendments to those already outlined in the proposition.

2.13.7 Deputy G.P. Southern:

Will the Assistant Minister assure the House that the next time he is to act as rapporteur for a projet that he comes to the House fully prepared to deliver that activity and he is up to speed on his brief?

Deputy E.J. Noel:

That is exactly what I am doing.

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

If scrutiny played such a major role in this deferment happening, why was scrutiny not mentioned right at the outset in your replies to this question?

Deputy E.J. Noel:

I welcome the comment from the Deputy of St. Mary and I apologise to the Corporate Scrutiny Board. I should have mentioned their involvement.

2.13.9 The Deputy of St. Martin:

Will the Assistant Minister advise or inform the House why the words: “By notice to serve on the relevant data controller” have been removed from the particular article of the Law, and that was the purpose of the proposition, so would he explain why those words have been removed from the particular law at present or why it is intended to remove those words?

Deputy E.J. Noel:

Could I have the words again, please?

The Deputy of St. Martin:

“By notice on the relevant data controller” has been removed from the law.

Deputy E.J. Noel:

I am unable to answer that because I do not acknowledge why that was removed, if indeed it was.

The Bailiff:

We come on to question 14 which Deputy Southern will ask of the Assistant Minister for Treasury and Resources.

2.14 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the estimated cost in lost tax in respect of the redundancies at Jersey Telecom:

Or 15, Sir. I have skipped to this question before but the Minister did not answer so I will ask it again. Will the Minister inform Members what estimate he has for the costs in lost tax in respect of the redundancies at Jersey Telecom?

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

It is not possible to estimate the impact of any redundancies on tax revenues without investigating individual circumstances, which would not be appropriate.

2.14.1 Deputy G.P. Southern:

Does the Minister not accept that even at a reasonable estimate of the average wage with 115 redundancies in the offing that a figure of perhaps £400,000 annually might be reasonable to estimate for this loss?

Deputy E.J. Noel:

No, I do not accept that for the main reason that although in total up to 115 jobs, including those already taking voluntary redundancy, may be lost, the Deputy does not take into account that many of these and hopefully all of these employees will find alternative employment.

2.14.2 Deputy G.P. Southern:

Does the Assistant Minister for Treasury and Resources have some sort of crystal ball that he can find 115 vacancies for highly skilled and specialist technical people and, in fact, for anybody made redundant tomorrow or during the coming year that the vacancies are there? Because certainly the Minister for Economic Development does not know of them and the Minister for Social Security, I do not believe, can believe that they are there.

Deputy E.J. Noel:

I am confident that the economy of Jersey will recover and as it recovers more jobs will be made available.

2.14.3 Deputy G.P. Southern:

Is the Assistant Minister for Treasury and Resources therefore predicting that by this time next year we will be through the recession and not the 2 to 3 years being predicted by his Minister?

Deputy E.J. Noel:

No, I am not predicting that we will be out of this particular economic difficulty within 12 months, but the Deputy's question was on impact on tax revenues. Tax revenues are over a long period of time and I believe that the majority, if not all, of the workforce, or I hope the majority if not all of the workforce at Jersey Telecom who may be made redundant in the coming months, will find gainful employment in a reasonable period of time.

2.14.4 Deputy D.J. De Sousa:

The Assistant Minister has just said that tax revenue is over a length of time. If somebody is made redundant where do they find the money to pay the taxes? Surely it is an instant impact?

Deputy E.J. Noel:

Those unfortunate individuals - and we are talking about individuals and their families that are made redundant - will be receiving suitable redundancy packages from their employers. It is for those individuals to sort out their ongoing liabilities including the taxes that are due and I am sure that the Controller of Income Tax will have a reasonably sympathetic ear to those individuals.

The Bailiff:

We come to the last question, which is 15. Deputy Le Hérisier has a question of the Chief Minister.

2.15 Deputy R.G. Le Hérisier of the Chief Minister regarding the source from which staff under suspension were paid:

Would the Chief Minister identify the source from which staff under suspension are paid, identify the sum spent this current year, and advise what changes, if any, he is proposing to expedite the processes which determine the length of suspension?

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

The salaries of suspended staff are paid from the staff salary vote of the budget of the suspending department. There are currently 3 employees suspended from duty. In the case of 2 they are suspended pending police investigations. In respect of the third there is an interim court injunction

which prevents immediate progress with the disciplinary process. The sum spent this current year until 31st October in respect of salaries of suspended employees is £286,337. In addition to these costs £38,942 in employer pensions contributions was also incurred. Further consequential costs of suspensions are not readily available and will be forwarded to States Members as soon as possible. Every effort is made to ensure that staff suspension is not continued any longer than absolutely necessary and I am pleased to say that we are now down to 3 such cases. One of the main causes for delayed suspensions is the existence of a police criminal investigation and/or court proceedings where we are advised that we should not commence the disciplinary process for fear of prejudicing proceedings. I have written to the now previous Attorney General asking him to review that advice and I am sure his successor will be responding in due course. The States Employment Board has appointed a Suspension Review Panel consisting of public employees. It sat in October and November this year to review suspensions and to satisfy itself that the process was properly followed and all that should be done is being done to progress matters. A further review panel constituted under the terms of P.98 of 2009 will sit in December 2009 and monthly thereafter.

2.15.1 Deputy R.G. Le Hérisier:

I thank the Chief Minister for his comprehensive answer and the more that is to follow. Would he not, therefore, accept that his answer to my written question was incorrect when he said he was not, on the grounds of the matter being personal and confidential, able to release the source of the funding and would he further answer what is the absolute amount of money for suspension throughout States departments and that is indented in staff budgets?

Senator T.A. Le Sueur:

If I have misled the Deputy in a previous answer I am not aware of it, but if he would like to remind me of that properly I shall certainly if need be apologise, but I certainly did not intend to intentionally mislead him and certainly I have no reason to hide the fact that these sums are paid by the individual departments. What was the second part of the question?

Deputy R.G. Le Hérisier:

How much money is put into staff budgets in order to deal with the potential issue of suspensions?

Senator T.A. Le Sueur:

Nothing is put in the staff budgets. That means that Chief Officers and Accounting Officers have to manage within their budgets and deal with the additional costs arising from within their own resources. This is a challenge for the management.

2.15.2 The Deputy of Grouville:

The Chief Minister mentioned the costs, not the actual amounts but the costs in salary terms. But there are huge amounts of indirect costs, being the employment of the acting employees for the given period as well as their (j) category status, their homes, in some cases the education of their children. Could he prepare a statement to give some indication of all the costs involved in these suspensions?

Senator T.A. Le Sueur:

I did say in my answer that in order to give an answer straight away I had to make it brief but I said that further consequential costs of suspensions were not readily available but will be forwarded to States Members as soon as possible. So, I will do that as soon as possible but I was anxious that the question should be answered as far as possible today and I believe that Deputy Le Hérisier was happy that that approach was taken.

The Deputy Bailiff:

That brings an end to that part of oral questions. We now come to questions ...

Senator S.C. Ferguson:

I wonder if I could possibly make a correction to a statement made in a question earlier this morning. Deputy Martin said that I was mistaken when the Jersey Homes Trust accounts would need to be published. With respect to the Deputy, under my amendment to the Business Plan the accounts of all organisations receiving subsidies and grants from the States will have to be published by the Ministers in the form of a report to the States. This will include the Jersey Homes Trust accounts.

The Deputy Bailiff:

Thank you for that clarification.

Questions to Ministers Without Notice - The Minister for Economic Development

The Deputy Bailiff:

We now come on to questions without notice. The first question period is the Minister for Economic Development. I call on Deputy Lewis.

3.1 Deputy K.C. Lewis:

Further to my question this morning regarding the potential 80 redundancies at Jersey Telecom and the 20 potential redundancies at Jersey Water, if we add this to the present 908 people currently registered as unemployed in Jersey this takes us to over 1,000. Will the Minister for Economic Development agree to further reduce the non-local company employment licences to all but essential posts in order to give the local population a fighting chance?

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

The Deputy makes a very good point and it is certainly a point that the Regulation of Undertakings team in Economic Development are very concerned about and very aware about. Certainly any applications that come in in the current economic climate are scrutinised, as Members would imagine, with greater attention than would have been the case previously. So I can assure him that applications in all cases will be looked at very closely.

3.2 The Deputy of St. John:

With crab at £8 per kilo and lobster at £9 per kilo is the Minister aware of a crisis in the crab and lobster industry and given that D.E.F.R.A. (Department for Environment, Food and Rural Affairs) and M.A.F.F. (Ministry of Agriculture, Fisheries and Food) have failed to curb the relocation of wet fishing boats away from our shores and we are seeing them fishing in our local grounds, will the Minister investigate along with his department and have talks with D.E.F.R.A. and M.A.F.F. to review this at an early time?

Senator A.J.H. Maclean:

I think it is clear that the Deputy has very much of a luxury taste with regard to his interest in such items. In all seriousness, the cost of items such as that from a fishery point of view is of concern to the department. We are aware of some of the issues that the Deputy has raised. I am certainly prepared and happy to give an undertaking that we will look more closely at these matters and, indeed, if he has an input I would welcome his opinion as well to allow us to consider it in further detail.

3.2.1 The Deputy of St. John:

Also the Italian authorities have closed their borders to brown crab because of some falls of crab having been found to contain heavy metals in the crustaceans. Will he also take this on board and see if between M.A.F.F. and D.E.F.R.A. and the E.U. (European Union) those border controls can be lifted?

Senator A.J.H. Maclean:

The Deputy is straying into cross-departmental responsibilities here. The points that he raised nevertheless are serious. They would be matters for, I suspect, possibly Home Affairs but also the Planning and Environment - the environment element of Planning and Environment - to consider. I suggest that all departments perhaps should have some more input on this and give further consideration to the points the Deputy has raised.

3.3 Deputy G.P. Southern:

Will the Minister undertake to come to the House with figures comparing the R.U.D.L. (Regulation of Undertakings Development Law) licences for non-locally qualified employees issued in 2008 when the economy was still fairly high and the year to date, let us say the first 9 months of this year, to show whether a tightening of R.U.D.L. regulations and rules have been effective in this year?

Senator A.J.H. Maclean:

I am more than happy to supply the Deputy and Members with details on determinations and splits between qualified and non-qualified employees. In general that is not an issue. In fact, most of that information is available in the public domain in any event when it is published through the labour market statistics.

Deputy G.P. Southern:

By sector?

Senator A.J.H. Maclean:

Yes, I do not see that that would present a problem. I might also add I think the Deputy was inquiring earlier on about (j) categories in the telecom sector. He might be interested to know that (j) category licences within the telecom sector are about 3 per cent of the total workforce and, indeed, that currently Jersey Telecom has more (j) category licences than any of the other operators.

3.4 Connétable J. Gallichan of St. Mary:

Given the importance placed on green tourism and the potential benefits to Jersey and, of course, the environment, will the Minister advise whether his department is able to consider grants to local businesses who are participating in this scheme to enable them to invest in research, equipment or technology to enhance their green compliance, perhaps in a similar way to the grants available on the Rural Initiative scheme?

Senator A.J.H. Maclean:

The Constable is absolutely right in respect of the importance of green tourism. It is an area that my department recognises as having significant benefit for the Island. With regard to grants, through Jersey Enterprise there are a range of different grants available to businesses. It would simply be a question of an individual organisation if it wishes to avail themselves of the potential of such grants to make an application. Certainly in some of the areas that the Constable mentioned with regard to equipment there is a possibility that that would qualify for grant support.

3.5 Deputy D.J. De Sousa:

Can the Minister inform the house as to who is on the board of directors of the Jayen (Jersey) Limited company and who is the chairman of that company? Also, is the Minister aware that 3 of the recent major civil projects that were carried out by this company were actually carried out for Jersey Water?

Senator A.J.H. Maclean:

In reverse order, I am not surprised because the company does have a contract; it won a contract with the Jersey Water Company to supply services. That was through a competitive tender process

so I am not surprised that they have carried out work for Jersey New Waterworks Company. With regard to the directors of Jayen, I do not have those details to hand but I am sure that they will be a matter of public record, although I have a recollection that it may well be nominee companies, but certainly I am happy to supply further details to the Deputy in due course that I am allowed to supply.

3.6 The Connétable of Grouville:

Does the Minister agree that the J.C.R.A. have over-issued licences in the telecom sector and will he tell us under what criteria they were issued, what criteria were used, and will he impose a maximum?

Senator A.J.H. Maclean:

The issue of licences dates back to 2003 and, in fact, it was Ofcom who decided that 4 was the number of licences that was probably most appropriate to Jersey and that was based on the population size of the Island. With regard to the J.C.R.A., the J.C.R.A. look at the mobile network and they issue licences based on the applications that are put forward. The criteria are clear as far as they are concerned but it is, in fact, constrained - and this is an important point for Members to consider - by the spectrum that is available, and indeed from a competitive point of view the spectrum also constrains the availability of further operators in terms of expanding their operations within the Island.

3.6.1 The Connétable of Grouville:

In view of the fact that you have just told us that Ofcom agreed 4 licences being appropriate for Jersey, can you tell me why we now seem to have 7?

Senator A.J.H. Maclean:

There may well be some confusion with regard to the recent announcement, for example, of me:mo, the Jersey Post proposed network. That is not operating their own system. They are utilising spectrum and facilities operated by other companies and as such they do not require a licence. It is only the actual operator that requires the licence.

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

Recently Condor has put in an application for a winter subsidy to run its services. We have not heard anything more about that yet. I wonder if the Minister is able to enlighten us further as to how that is progressing and what is happening.

Senator A.J.H. Maclean:

I think in fact the Deputy is referring to a request that came in to support the fishermen from an export point of view. An application was made to my department from that company to provide support to the fishermen. We assessed the application when it came in. We could not justify the economic benefit to the request and I am delighted to say that the fishermen have since received the support anyway from Condor in providing extra winter services to support the export of their fish.

3.8 Deputy C.H. Egré of St. Peter:

Would the Minister indicate when he expects closure on the agreement between Jersey Airport and the residents affected by the P-Phos contamination?

Senator A.J.H. Maclean:

The Deputy will be well aware, as I have discussed this matter on numerous occasions with him, that it is almost impossible to give an exact date. Having said that, I am hopeful that all those involved in bringing this long saga to a satisfactory conclusion will reach that conclusion in the short term, but there are still a number of, I hope, minor hurdles that need to be overcome.

3.8.1 The Deputy of St. Peter:

As this on-going saga has in fact been going on now for nearly 4 years and as we have for the last 2 years been given reassurances that it was about to happen could he be a little bit more definitive than: “It is going to happen soon”?

Senator A.J.H. Maclean:

The Deputy may be aware that there is yet another meeting on the subject this very Friday and I would certainly ... and he is shaking his head so I can perhaps reassure him that there is a meeting this coming Friday to discuss the matter further. When lawyers are involved, with the greatest of respect to all concerned, legal matters are sometimes more complicated than us mere laymen perhaps appreciate, and unfortunately the matter has carried on and drawn on for much longer than all of us would have hoped. But hopefully we will have a speedy resolution.

The Deputy Bailiff:

When lawyers use the expression “with the greatest respect” they never mean it, Minister, but I am sure that is not true of you. **[Laughter]**

3.9 Deputy R.G. Le Hérisier:

The Minister was able to reassure me only in general terms about the speed with which small business loan applications are dealt with. Could he now confirm that he has been back to the department and a properly structured, objective, targeted system is truly in place?

Senator A.J.H. Maclean:

I am disappointed the Deputy was not satisfied with my answer of 2 weeks ago. I have certainly been back to the department and asked for clarification on the way in which such applications are dealt with. I am satisfied that the department deals with these matters in an appropriate timescale and in an appropriate fashion. There are of course always cases where perhaps a particular application is not progressed in the way that the applicant would have hoped both in terms of speed and outcome and we have an appropriate process in place to ensure that such complaints or dissatisfaction is dealt with as well.

3.9.1 Deputy R.G. Le Hérisier:

Notwithstanding the excellent work done by both him and his department, could he confirm that he is now confident enough to ensure that applicants get a deadline by which their application will be dealt with or at least by which the major decision will be made?

Senator A.J.H. Maclean:

I would say that the excellent work is not done by the Minister. The excellent work is done by the officers in the department, just for clarity’s sake. But with regard to a time process, any applicant or application coming in will be informed of the entire process and the expected timeframe that it will take for the individual application to be considered.

3.10 Connétable G.F. Butcher of St. John:

Just in time by the look of it. Given the Minister was on the radio this morning extolling the virtues of competition in our Island, would he advise the Assembly as to what efforts his department is making in creating competition on both our southern and northern routes for passengers?

Senator A.J.H. Maclean:

The Constable will be well aware that there is just one operator now on the northern route, as has been the case for many years, and that the Jersey Competition and Regulatory Authority do take an interest in pricing and other matters in relation to that area. On the southern route there is competition with passenger-only services, specifically in the summer months. I believe that the services we have both north and south currently are providing Islanders with both reasonably good value and a decent frequency of service. However, in the current economic climate there is no

interest coming forward from any other operators. In fact, ferry companies have been finding it more and more difficult to sustain operations in other parts of the world so I think it is unlikely that we will get any further interest in the short term.

4. Questions to Ministers Without Notice - The Chief Minister

The Deputy Bailiff:

We have come to the end of the 15-minute period with the Minister for Economic Development. We now come to the Chief Minister.

4.1 Deputy T.M. Pitman:

As the Island's political leader, does the Senator see any link or indeed anomaly in a company, J.T., needing to lay-off staff to protect profitability in the same year they pay out nearly £400,000 to just 7 managers? Does the Chief Minister think the 2 are wholly at odds with each other in terms of morality?

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

I do not think so at all. Dividends reflect the past success of the company. Its future staffing policy is there to look to the future of the company. I believe the 2 go hand-in-hand and it is the duty of companies to reward past performance but also to ensure future performance as well. I believe this company is doing both so there is no anomaly.

4.1.1 Deputy T.M. Pitman:

Could the Chief Minister just clarify for me the dividend that the States received from the company last year?

Senator T.A. Le Sueur:

Received from ...?

Deputy T.M. Pitman:

Telecoms.

Senator T.A. Le Sueur:

I do not have the exact figure. I believe it was in the region of £7 million, but I would also point out that the majority of the profits of the company get reinvested in keeping the company up to date.

4.2 Deputy P.V.F. Le Claire:

I return to my comment this morning for a written question. I was trying to table an oral question about 3 weeks ago to try to ascertain the amount that the States paid out in relation to law suits over the last 5 years across the board and the Chief Minister asked if I would please make that a written question and then asked for time to give a detailed answer, which I agreed to subsequently. I changed it from an oral, I changed it to a written and then I deferred it. Having seen the written answer this morning, that is no answer at all. Can the Chief Minister please assure us in the future that when he is asking Back-Bench Members to put off their oral questions that they will indeed get an answer and, as there appears to be no answer available because there is no information generally stored for these purposes, what is the Chief Minister going to do to ascertain what exactly has been paid out by the States in terms of law suits over the last 5 years and how he will be able to reassure Members in the future that he has some grasp of that number?

Senator T.A. Le Sueur:

I take the point of the Deputy. When the question was put to me on the Thursday or Friday before the States sitting asking for all the money paid out on all law suits for the past 5 years, I took the view that that was going to be a very difficult question to answer orally as it would require a range of figures to be produced. So, I therefore asked the Deputy if he would change it to a written question and also, recognising the complexity of the question, to give time for it to be answered. I had not appreciated that in fact it was so complex that it could not be satisfactorily answered and it was only as one went into the complexity of the question that that became evident. So, I do apologise for that but as my written answer this morning makes quite clear any answer that I would have given would have been incomplete and therefore potentially misleading. Rather than do that, I have explained why it is not possible to give a full answer.

4.2.1 Deputy P.V.F. Le Claire:

The tail end of the question was ... we understand that as capable, thinking Members, but what I was trying to seek from my question, and the reason why I put it, was now we understand there is no answer and there is no information or central gathering point for this information, what is the Chief Minister going to do, if anything, to take steps to identify these costs?

Senator T.A. Le Sueur:

It is not a simple question of what one can do to identify these costs. Many of these costs are in fact met by insurance companies as a result of the premiums that we pay to cover ourselves against such costs. I could give a net figure as pending claims and insurance premiums but I am not sure that that is what the original purpose of the question was and maybe if the question could be more specific then it would be easier to give a precise answer. But when we talk about how many cases are settled out of court, including non-disclosure agreements, cases are settled out of court for a whole variety of reasons, as you and Members I am sure are well aware. Many of those involve insurance companies and do not involve the States Treasury at all. So, I do not think that it is a particularly meaningful figure.

4.3 Deputy T.A. Vallois:

In 2005 a document was produced by E.D.D. (Economic Development Department) known as the Economic Growth Plan for the strategic plan at that time which promoted a 2 per cent real-term growth for sustainability and increased productivity in the Island. Could the Minister advise whether he knows of a new growth plan that is being arranged due to the expiry of this document, the Island currently being in recession, and that no real-term growth rate was agreed by this Assembly in the Strategic Plan 2009-2014?

Senator T.A. Le Sueur:

The Deputy is quite correct that the 2005 growth plan provided for an average 2 per cent real-growth over our economic cycle. The economic cycle for the period between 2005 and 2008 was indeed very positive with yearly growth far in excess of 2 per cent real-growth per annum. But it is over a cycle and as the Deputy also rightly pointed out we are now in the downside of that cycle as it was expected in 2005 that there would be a downside. The overall 2 per cent over an average period remains the case until a new growth plan is produced and to that extent the Strategic Plan did not introduce a new figure because the old figure is still in existence.

4.3.1 Deputy T.A. Vallois:

Can I ask the Chief Minister whether this growth plan is currently being looked at at the moment and if it will be brought to the House?

Senator T.A. Le Sueur:

The economic growth plan will be under regular review. I have no plans to bring it to the House in the immediate future. I think the priorities for the House at this stage are in terms of dealing with the spending pressures and the fiscal pressures which are being reviewed over the next 6 months.

4.4 Deputy M. Tadier:

Would the Chief Minister acknowledge that the likely consequence of competition in the telecoms industry, which was agreed by the previous Assembly, and in particular the introduction of large multinationals which can run at a short to medium-term loss to gain competitive advantage... that the inevitable consequence will be the continued demise of Jersey Telecom and perhaps inevitably that we would have one privately-owned monopoly with relatively little benefit to the States or to the taxpayer?

Senator T.A. Le Sueur:

I believe that if the board of Jersey Telecom did nothing to face the consequences of competition that have arisen as a result of globalising the market then it would indeed be in danger of facing extinction. That is why the board of directors of Jersey Telecom is taking responsible steps to ensure that the company does remain sound and able to go forward, probably in a different style and certainly in a smaller state than it previously was. That is one of the effects of competition undoubtedly, but from the company's point of view I believe if it is properly run and it does continue to make the right decisions at the right time it will have a sound future ahead of it.

4.4.1 Deputy M. Tadier:

I think the Chief Minister managed to sidestep the actual question fairly skilfully. Let us perhaps rephrase it. Does the Chief Minister acknowledge that it is a widely-held belief that the actual motive for competition in Jersey was that Jersey Telecom should be got rid of by stealth and the monopoly delivered into private hands? Because that is what the fundamentalist policies of our Council of Ministers wants to do.

Senator T.A. Le Sueur:

The objective of competition is to make the market more efficient, to bring down prices, to improve the state of the economy and to enhance the service provided to consumers.

4.5 The Deputy of St. Martin:

The Minister has given the answers in a written question that I asked this morning about the hospital consultant. In part D I asked would the GoodwinHannah consultants have access to the body of evidence already gathered by Verita about the management suspension and the Chief Minister said no, because there are 2 different issues. But I would ask the Minister what would the situation be if indeed the GoodwinHannah consultants wished to see that body of evidence to assist them with their review? Would that be denied of those consultants?

Senator T.A. Le Sueur:

I have no reason to believe that GoodwinHannah would need to see that information. If that information were required that would be a matter for discussion with Verita. At this stage Verita's conclusions are confidential to the parties concerned. Subsequent to them being published there is no reason why GoodwinHannah should not continue their search. But I do believe that the Deputy is getting confused between the objectives of the Verita investigation and the objectives of GoodwinHannah which focus on totally separate aspects of the situation.

4.5.1 The Deputy of St. Martin:

I would say I am not confused, I think there are very much overlaps, and that is why I am asking whether there is a possibility of GoodwinHannah having access to those papers, but maybe there is no need to because maybe the Minister will confirm or inform the House as to when the Verita report will be made public.

Senator T.A. Le Sueur:

I take the point that there could sincerely be overlaps. If that were the case then the consultant at that time would need to advise me. The date for the publication of the Verita report is in the hands of the Minister for Health and Social Services after it has been cleared by the various parties. She has already given an indication of when that date will be; I have no information to update that information but I believe that the details provided by the Minister some weeks ago remain still the case.

4.6 The Connétable of Grouville:

Does the Chief Minister agree with the Assistant Minister for Treasury and Resources when he says that it is commercially acceptable for the 3 telecom companies owned by the States to compete against each other, and could he confirm or deny that the J.E.C. (Jersey Electricity Company) have written off between a £5 million and £7 million investment in Newtel?

Senator T.A. Le Sueur:

I do believe it is commercially acceptable for 3 companies to compete if the market is sufficient to bear it, and the indications are that the market is sufficient to bear it otherwise I am sure that Jersey Post would not have ventured into it. As to the figure of J.E.C. writing off between £5 million and £7 million, I have no information about that whatsoever; that would be a decision for the board to take. They have made an investment for good, commercial reasons; how they decide to write it off or deal with it in their accounts is a matter for the board to consider, and that is their decision and not mine, but I am not aware of it.

4.6.1 The Connétable of Grouville:

Can I just say 2 things there? Firstly, you did not address the fact that I said 3 States-owned companies, you said: “3 companies compete”, okay; 3 States-owned companies. It seems to me an awful waste of resources when we could be just using one. Secondly, I just guide him to the J.E.C. accounts where you will find the figure that I mentioned.

Senator T.A. Le Sueur:

I am grateful for the information on the latter point. As to 3 different companies possibly wasting resources, no, I believe that if the market is sufficient to support these companies and several more, what it will be doing is creating new job opportunities in order that perhaps it can take up some of the slack of other staff who are no longer employed in another of them. I believe that it is positive for the staff concerned, positive for the taxpayer and positive for competition.

4.7 Deputy G.P. Southern:

With his vast experience of business and accountancy, can the Chief Minister comment on the Jersey New Waterworks profit of over £4 million on a turnover of £14 million and does he not consider that to be somewhat excessive for a monopoly utility supplier?

Senator T.A. Le Sueur:

I can certainly comment. What one needs to do in comparing profit ratios to turnover or capital involved or any other evaluations like that is to see what happens elsewhere in the market. I can point him to professional firms where the profit in comparison with turnover is quite high but I am sure he can guess that for himself. There are other cases where profit on turnover will be relatively low. A better comparison might be the profit in relation to capital employed and the capital employed in a waterworks company, or a utility of that nature, is considerable.

Deputy G.P. Southern:

It is water. The capital is water; it is written off.

Senator T.A. Le Sueur:

Whether it is written off or not is an accounting exercise. The fact is that the profit as a comparison on capital employed is something which can be assessed from one company to another and there are standard yardsticks. On those yardsticks, I believe a £4 million profit in relation to the capital of the company is a very realistic sum.

The Deputy Bailiff:

We now come to the end of questions for that matter.

Deputy G.P. Southern:

Sir, may I bring to your attention the fact that the Chief Minister answered that question within 30 seconds and then carried on talking. He deliberately, I believe, talked that out so I did not get a supplementary.

PERSONAL STATEMENTS

5. Personal Statement by the Deputy of St. Mary regarding the Depositor Compensation Scheme

The Deputy Bailiff:

We now come to item J, personal statements. I understand the Deputy of St. Mary has a statement to make.

5.1 The Deputy of St. Mary:

Yes, Sir. I will just find it. The procedure is I simply read it out, is it not, Sir?

The Deputy Bailiff:

It is.

The Deputy of St. Mary:

Near the end of the debate on the Depositor Compensation Scheme at the last sitting, the Constable of Grouville responded to my speech on the last part of the scrutiny amendment concerning the £35 million taxpayer contribution and said that I was anti-Jersey. I think it is right that I should clarify the omission in my speech which may have led the Constable to make such a remark and apologise to the local banking sector for any unintended slur on their reputation. I had pointed out the fourth reason for which States Members should realise just how extraordinary it was that the taxpayer should be asked to put £35 million into the D.C.S. (Depositor Compensation Scheme), namely that this was the very sector which had wrecked the world economy. I said that the image of the friendly: "Here to help you and your money is safe" banker had now gone and cited a recent *Daily Telegraph* front-page headline about the cost to each U.K. household of bailing out the sector in the U.K. But I left out, for reasons of time and tiredness, a qualification which was written large in my notes: "Not here in Jersey, I hasten to add, and at the highest levels." If I had quoted the Minister for Banking, Lord Myners, as I had intended, then this would have been abundantly clear. Earlier this year, Lord Myners said: "I have met more masters of the universe than I would like to, people who were grossly over-rewarded and did not recognise that. Some of that is pretty unpalatable. There are people who have no sense of the broader society around them. There is quite a lot of annoyance and much of that is justified. Let us be quite clear: there has been mismanagement of our banks." My criticism was therefore at the very upper policy-making levels of the banks; no criticism of local banks or bank workers was implied or intended and I apologise if that was the message which some would have gathered because of my leaving out some of my speech. I hope, too, that this statement clears up why the Constable may have thought my words anti-Jersey; they were not.

The Connétable of Grouville:

Just a quick reply ...

The Deputy Bailiff:

I am sorry, Connétable, you are not entitled to make any comment on the debate and no reply; no questions either.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

6. Statement by the Chairman of the Comité des Connétables regarding the use of warrant cards by the Connétables

The Deputy Bailiff:

We come on to K. There is a statement to be made by the Minister for Treasury and Resources regarding the regulation of gambling in the Island. The Assistant Minister does not seem to be here. Very well, maybe that has been withdrawn. There is the Chairman of the Comité des Connétables who will make a statement regarding the use of warrant cards by the Connétables.

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

On 3rd November 2009, Deputy Martin of St. Helier asked the following question: “Given that on 6th October 2009 the Chairman advised the Assembly that several of the Connétables, to his knowledge, still held warrant cards, could he state who they are, why they hold them and which of these Connétables, if any, served time in the Honorary Police in another capacity?” I now wish to advise Members that at present the Connétables of St. Brelade, St. Clement, Grouville, St. John, St. Mary and St. Peter hold a warrant card. The cards were issued to these Connétables as a proof of identity, should it be required. Of these Connétables, only St. John and St. Peter have served in the Honorary Police in another capacity.

6.1.1 The Deputy of St. John:

Yes. Given that these cards, we are told, were for proof of identity, can I ask the Chairman whether or not those States Members/police officers have used them to apprehend anybody or to speak to anybody in the course of so-called police work by that particular Connétable?

The Connétable of St. Ouen:

I cannot answer that without asking everybody the question, but I can tell the Assembly that, following the *Clothier Report* in 1999 on the reform of policing services in Jersey, the Connétables decided that operational police work would be the responsibility of the Chefs de Police and, to that end, brought a proposition to the States which was adopted by the States whereby a Comité des Chefs de Police was established and their role is to undertake the active policing of the Island.

The Deputy of St. John:

Possibly the Connétables who may have acted as police officers might wish to stand up and be counted.

6.1.2 The Deputy of Grouville:

The Chairman stated: “Proof of identity, should it be required.” Could he expand on that; proof of identity for whom and in what capacity is it shown, police or Constable?

The Connétable of St. Ouen:

I think I can probably best answer the Deputy by saying that I was challenged to produce proof of identity a matter of 3 weeks ago when I was asked by a fellow parishioner to assist in detaining someone who had attempted to break into their property. Although I did not get involved in it, I stood by and watched this gentleman hold the culprit until the States of Jersey Police arrived and that person did ask me, when it was pointed out to him that I was the Connétable of St. Ouen,

where my warrant card was and I did not have one. So I think that the Deputy is seeking to determine whether Connétables use the warrant card for policing purposes. I do not believe they do but I think that there is every good reason why the Connétables should carry a warrant card for means of identification.

6.1.3 Deputy M. Tadier:

I am not necessarily 100 per cent knowledgeable of warrant cards and how they work but I was under the impression that someone with a warrant card has the right to search somebody's house. First of all, can the Constable confirm that if that is not the case?

The Connétable of St. Ouen:

No, I am afraid that the Deputy's information is somewhat out of date. The ability to search someone's house was deleted from the law some 4 or 5 years ago, at least.

6.1.4 Deputy J.A. Martin:

Yes, on reading the reply, I am more totally miffed than hearing the reply on 6th October; some Constables still hold warrant cards. St. Clement Constable, St. John, St. Mary and St. Peter are all new Constables and the reason given by the Constable is proof of identity. Why is it not uniform? Why has he himself, who says he does not hold a warrant card, and 6 other Constables do not hold a warrant card, why would these Constables need it for proof of identity when other Constables do not need or do not require it? Should it not be uniform; either they all have these or none have these? Could the Constable please look into this?

The Connétable of St. Ouen:

I am more than happy to look into it. It may well be that all States Members should have an identity card.

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

If I may stand up and be counted, I have used my warrant card on one occasion in my relatively short time of roughly about 4 months into my position as Connétable of St. Peter, merely to identify myself to a member of the States Police. I have not used it for any policing work, just purely as a means of identification. May I also suggest that perhaps the newer Constables have that because at the time they are not well known among the generality.

The Deputy Bailiff:

Is this a question?

The Connétable of St. Peter:

No, just standing up and being counted as required by the Deputy of St. John.

The Deputy Bailiff:

Unfortunately, the Deputy of St. John was not entitled to require you to stand to be counted.

6.1.6 The Deputy of St. Martin:

I would like to concur with the Connétable of St. Ouen. I do think all States Members should have some form of identity. That is something that was raised by the B.B.C. some time ago and maybe we could unearth ... **[Interruption]** Could I ask the Connétable, do C.O.s (Officiers de Connétable), Vingteniers and Centeniers all have some proof of identity?

The Connétable of St. Ouen:

Yes, I can confirm that all serving members of the Honorary Police have warrant cards which they have to submit to the Connétables when their term of office finishes. A new warrant card would be issued to an officer once re-elected.

6.1.7 The Deputy of St. Martin:

Would the Connétable confirm that it would not be difficult, really, if one was issued to Connétables, if necessary?

The Connétable of St. Ouen:

No.

6.1.8 Deputy M. Tadier:

Does the Constable acknowledge that the underlying issue here is not about warrant cards *per se* but it is really about whether we should have policemen - albeit *de facto* policemen, who do not practise - in the States Assembly, and will this be brought up at subsequent Comité des Connétables meetings?

The Connétable of St. Ouen:

That is, of course, the Deputy's own opinion; it is not necessarily an opinion which is shared Island-wide.

6.1.9 Deputy M. Tadier:

A supplementary: does the Constable at least acknowledge that there are policemen in the States Chamber?

The Deputy Bailiff:

I think it is a question, Connétable. You were asked whether there are policemen in the States Chamber.

The Connétable of St. Ouen:

It depends on how you define a policeman.

6.1.10 Deputy J.A. Martin:

Yes. Just getting back to the difference, could the Connétable please explain exactly how one - I know how one becomes a Constable - applies for a warrant card or does one have to opt in or opt out to get a warrant card? I cannot understand why there is 6 with and 6 without. What is the actual process, please?

The Connétable of St. Ouen:

The process is exactly the same with every member of the Honorary Police that, on completion of being elected and sworn-in by the Royal Court, they can then apply to the office at St. Brelade which produces all the warrant cards. They will then go down and have their photograph taken and a warrant card would be produced.

6.1.11 The Deputy of Grouville:

There is a certain amount of training that goes on for the Honorary Police now. Can the Chairman confirm if those applying for warrant cards undergo training?

The Connétable of St. Ouen:

I thought I had explained that the active policing of the Island is undertaken by the Members of the Honorary Police under the control of the Comité des Chefs. These are the people who do the actual policing. The Connétables, although required in their oath to keep the Queen's peace in their Parish, no longer undertake active policing and therefore the question of what training they need to hold the warrant card does not exist.

The Deputy Bailiff:

We now have a statement to be made by the Minister for Health and Social Services with an update on Swine Flu. Minister?

7. Statement by the Minister for Health and Social Services regarding swine flu

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

I am grateful for this opportunity to provide Members with an update on swine flu. As Members will be aware, cases are increasing rapidly in Jersey. In the week leading up to 15th November, 119 cases were confirmed compared with 34 cases the previous week. 50 per cent of swabs taken from swine flu are now being confirmed as positive and 80 per cent of these are children. To put this into context, swine flu cases are now higher than the number of seasonal flu cases my department would expect to see at this time of year. We are also seeing clusters of swine flu occurrence in schools and it is for these reasons that a swine flu outbreak has been declared. The control of this outbreak will be led by the Consultant in Communicable Diseases, Dr. Ivan Muscat. With increased levels of swine flu activity in schools, it is our intention to move to a heightened phase of containment. By this Wednesday - tomorrow - all schools and nursery children will have been offered the vaccine. I am delighted to confirm that over 6,400 primary school pupils - that is approximately 80 per cent of the cohort - have already been vaccinated and that a further 1,000 children in nurseries would have been vaccinated as well. If the take-up is similar among secondary schools, it will mean that at least 80 per cent of all school children - that is nearly 13,000 of them - will have immunity to this virus by the first week of December. As it takes 14 days for immunity to develop, we have to do all we can to contain the virus until the vaccine takes effect. This means that, instead of waiting for the laboratory results as it happens now, my department will assume that everyone who has a clinical diagnosis of swine flu has the virus and, as a result, they and their contacts will be offered the antiviral drug Tamiflu. My department has written to all G.P.s (general practitioners) in the Island to notify them of this change and I want to take this opportunity of thanking them for all their co-operation and support. The school vaccination programme has been an incredible achievement; it has been a huge logistical exercise involving a great deal of work in a very short space of time. Members should know that this has been only possible because of excellent teamwork that I have observed in the past few months. I would like to take this opportunity to thank the public health team, hospital staff, Family Home Care as well as the Department of Education, Sport and Culture and especially the schools for all their hard work and co-operation. This has been a real community effort and we would not have been able to do so so quickly without all their help. Finally, I would like to remind everyone of the importance of continuing with the public health message: "Catch it, bin it, kill it."

7.1.1 The Deputy of St. John:

It is only a brief one. Tamiflu, is this taken orally or is it by way of an injection? If by way of an injection, does it mean that you will have to go through all the schools yet again?

The Deputy of Trinity:

No. Tamiflu is an antiviral drug which is in tablet form and is dispensed by the G.P.s. It is only given if you have signs or there has been a clinical diagnosis by your G.P. or consultant. If they have had Tamiflu they still can have the actual vaccine injection.

7.1.2 Deputy K.C. Lewis:

While I congratulate the Minister for the inoculation programme so far, I am sure the Minister is aware that there are quite a few parents who choose not to have their children inoculated against this swine flu. Is the Minister aware of any encumbrance involved whereby children are barred from nurseries or schools, *et cetera*, should the parents choose not to have the vaccine?

The Deputy of Trinity:

Yes. The Deputy is quite right; the vaccine is offered to any school child and the parents have to sign a consent form whether they want their child to be vaccinated or not vaccinated, the choice is theirs. A very positive campaign was put into place before we started the vaccinations in schools where a team - the Medical Officer of Health, Dr. Muscat and the Clinical Immuniser as well as a consultant from the hospital - went round to 6 public evenings to raise the awareness of the importance of vaccine and to answer parents' questions and concerns, which is quite understandable. I know of no incident that the Deputy was talking about.

7.1.3 Deputy I.J. Gorst:

I wonder if the Minister could just reconfirm that during this containment phase any members of the public who feel that they or a family member have flu-like symptoms which might be swine flu should phone their G.P. and ask them to do a home visit and that they will continue to be covered by the special regulations that this Assembly approved whereby they are only expected to meet the costs of a normal surgery visit. I wonder if she could just confirm that will continue to be in place during this extended containment phase. Thank you.

The Deputy of Trinity:

Yes. I can confirm that and also say if people are concerned that they have swine flu, with a high temperature or sore throat or whatever, that they do contact their G.P. first. Some G.P.s are arranging a flu clinic at the end of their normal clinic days, otherwise they will be doing a home visit and, if it is a home visit, as the Minister has said, it will be the same price as a visit to the surgery. I stress that people do make that phone call rather than turning up at our A. and E. (accident and emergency) department, please.

7.1.4 Deputy M. Tadier:

The question does follow on quite nicely from that of Deputy Lewis. I would like to say this question does not represent my own view but, because I have had quite a lot of representations from members of the public, I think it would be negligent if I did not at least raise it. There are concerns with the public that the vaccinations may not be safe, that the side effects for children, in extreme cases, may not be worth the while of their children getting it, on balance. There is also a general opinion in some areas that there is an element of overkill in the whole vaccination process. So the question I would ask the Minister is what steps have she and her department taken to make the public aware of the risks so that they can make a fully informed decision as to whether to inoculate their children?

The Deputy of Trinity:

As I said, this is important and we have been in containment and I think the Island should be congratulated for maintaining this containment phase. We are ahead of the game. As I say, there are 119 confirmed cases last week from Wednesday to Friday and 80 per cent of those were children so we know it was in their schools. But I understand the parents' concerns and the parents' evenings I have mentioned before, and that were arranged prior to the vaccination programme, have been very well attended and that panel answered everyone's concerns. But also, in the Education Department, the pandemic hub is set up and a variety of staff have manned it every day answering questions which have come in by phone or by email, not only from parents but concerned other Islanders as well as G.P.s. I stress if anybody does have any concerns to use one of those 3 methods.

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

I believe the question from Deputy Lewis was asking whether children who had not had the vaccination had to stay away from school and I am not sure that the Minister answered that question. I have just been notified, and I do not know whether the Minister can confirm this or not, that children who have not had the vaccination do have to stay away from school.

The Deputy of Trinity:

I am not aware, but I can give the Deputy that information. There have been at schools ... and also some parents are concerned, too, that they might have changed their minds because there have been some clusters, in 4 schools especially, and they now come back asking for that vaccination, of which we hope to do by the end of this week, go back and vaccinate. But the specific question I will check rather than give the advice, and come back to you.

7.1.6 Senator S.C. Ferguson:

In order to clear the air, has the Minister had any notification - has she in fact made it a notifiable requirement - that any side effects on either the vaccine or Tamiflu should be notified to the department and can she supply the statistics on these if they exist?

The Deputy of Trinity:

A lot of research is being done all over the world regarding Tamiflu, as well as the vaccine, ranging from Australia, U.S.A. (United States of America), too, and they were all fed into, as I understand, the W.H.O. (World Health Organisation). But the actual specific answers I do not have, but I can get back to the Senator with that.

7.1.7 Deputy D.J. De Sousa:

Can the Minister inform the House what the department is doing to inform parents of students that are away at university in the U.K. as to where they will be in the vaccine programme?

The Deputy of Trinity:

That is a very important cohort which we did identify and our aim is that when they come back from university they will be offered the vaccine.

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

How will that message be communicated to families and Islanders?

The Deputy of Trinity:

It will be communicated in the usual way. There is a set priority of whom to vaccinate first and our first priority was to vaccinate all healthcare workers because in fact they will be providing the care. Then it went on to Islanders who have got underlying medical conditions; I think that speaks for itself. Then research did show that children and pregnant mothers were in a high-risk area, too. So the pregnant mothers have been vaccinated or have been offered the vaccination and we are now coming to the end of the school programme, which has been a major exercise considering that over 16,000 children have been offered that vaccination within a week. I think we just need to understand that it has been a big exercise which has been done effectively and smoothly with the help of the schools. The next cohort we are looking at is the children that do not attend nursery or similar groups and so they are our next priority. Then we will be going on with that. It is assessed on a day-by-day basis because it is a very fast-moving situation. I would like to assure everyone that there is enough vaccine for everyone to be offered it and our hope is that we can vaccinate at least half of the population before Christmas.

PUBLIC BUSINESS

The Deputy Bailiff:

Thank you very much. It is time up for questions on that statement. We now come to public business. P.173/2009 in the name of Deputy Shona Pitman: Public holidays and bank holidays - designation of 26 December 2009. I ask the Deputy Greffier to read the proposition.

Deputy S. Pitman:

Before the proposition is read, may I ask that any other proposition which is concerned about appointing members to a board or council is taken before this proposition as my speech is going to be longer than 10 minutes?

The Deputy Bailiff:

We can have 10 minutes of business, Deputy. I think we will get on with your proposition if that is not too inconvenient.

Deputy S. Pitman:

Can I put that proposition forward?

The Deputy of St. Martin:

Could I make a proposition, sir, that I think the Deputy has a good point. I think it is customary, if one has a long speech, that if we could possibly find a shorter proposition to have between the time and I would like to propose that we do find a suitable proposition to the one that is being weighed-up, 172.

The Deputy Bailiff:

P.172, Chief Minister, are you ready to take that now?

Senator T.A. Le Sueur:

I am happy to, sir.

The Deputy Bailiff:

Very well, we will take P.172, if Members agree.

Senator A. Breckon:

What is 172?

The Deputy Bailiff:

Manual Workers' Joint Council: Membership. I ask the Greffier to read the proposition.

8. Manual Workers' Joint Council: Membership (P.172/2009)

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to refer to their Act of 9th November 1961 (amended by Act of the States on 14th September 2006) approving the constitution of a Manual Workers Joint Council on the basis set out in Annex B to that Act, and to approve the following amendments: in section 3, Membership of the Constitution: (a) in the first line of paragraph 3(a) delete the number "10" and insert the number "12"; (b) in the first line of paragraph 3(a) delete the number "5" and insert the number "6"; (c) in the third line of paragraph 3(a) delete the number "5" and insert the number "6"; (e) in the second line of paragraph 3(b) delete the word "Four" and insert the word "Five"; (f) in the first and second lines of paragraph 3(c) delete the words "Transport and General Workers' Union" and insert "Unite the Union". In Appendix A1 of Annex B, union membership: (a) in the sixth line of (b) delete the word "Five" and insert the number "six"; (b) in the seventh line of (b) delete the words "Transport and General Workers' Union" and insert "Unite the Union"; (c) in the second line of (c) delete the words "Transport and General Workers' Union" and insert "Unite the Union" and again in the first and third lines of (d). In Appendix B of Annex B, Rules for the conduct of business: (a) in the first line of paragraph 7, delete the word "four" and insert the word "six"; (b) in the first and second line of paragraph 7, delete the word "two" in both cases and insert the word "three".

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

Rather a long proposition, I am afraid, and I am grateful to the Greffier for reading it out in full. It seeks to achieve 3 objectives: first, it is to increase the number of members of the Joint Council from 10 to 12; secondly, to change the name of the Transport and General Workers' Union; and, thirdly, to slightly change the procedure for settlement of differences or disputes so that they go to Disputes Committee first before coming to the employer. The number of members at the Manual Workers' Joint Council had been reduced in 2006 in an effort to try to make the Council more compact and more efficient. Unfortunately, the union comes to the view that it is not really convenient to maintain that situation and may well ask to go back to the situation of having 6 members on each side. The States Employment Board has no particular problems with that and that is the purpose of the main amendment to this proposition. At the same time, as I say, the opportunity has been taken to change the name of the Transport and General Workers' Union to its new name of Unite the Union and that is the second part of the objective, and the third amends Appendix C for the reasons I have just said. I propose the proposition.

The Deputy Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak? Deputy De Sousa.

8.1.1 Deputy D.J. De Sousa:

Before I make up my mind on this, I would like the Chief Minister to elaborate on the alterations to Appendix C. It says currently thereafter, on continued failure to reach agreement at joint secretaries or their nominees at the level of Manual Workers' Joint Council in consultation with the Employing Committee and the Chief Officer and departmental representatives of the employee, it is now going to be changed that the result of this will be that the final arbiter of a failed agreement will be the States Employment Board. Can he please elaborate on this because I do have some difficulty with this?

The Deputy Bailiff:

Does any other Member wish to speak? Deputy Southern.

8.1.2 Deputy G.P. Southern:

Yes, indeed. This is a strange set-up which cannot be satisfactory in, I would have thought, legal terms. I thought where any dispute or grievance procedure was in hand, there must be some trustworthy external way of resolving, ultimately, a dispute and yet it seems to me that on page 3: "The result will be that the final arbiter of the failure to agree or appeal against disciplinary action will be the States Employment Board", the States Employment Board has a vested interest in employing people but it is involved, it is the employer. So the final arbiter is the employer of any dispute over a disciplinary issue that takes place anywhere in the States. It seems to me that that cannot be an independent final arbiter and, therefore, if you like, the convention whereby any disciplinary procedure or any process is seen to be independent cannot, in this case, take place. It seems to me that this should be re-examined and looked at very carefully. I am aware that the union involved, Unite, is very concerned about this and also, like me, objects to the ultimate arbiter being an employer. It seems to me that that is no solution to any way out. It may be difficult to put it to a disciplinary board, a disputes resolution board; it may be somewhat difficult to find an independent arbiter who can rule one way or the other on issues like this, but surely a way must be found because I cannot see that this would be in any way human rights compliant.

8.1.3 The Deputy of St. Martin:

I will just follow a little bit on what Deputy Southern was saying because later on today we will be asked to vote to decide on a tied vote in one of my propositions and, in fact, in 2 weeks' time we will be asked again ... on the States Employment Board we have the same situation there with a tied vote and I say no one should have 2 votes. It is quite interesting here that this particular document no one has 2 votes so maybe, in summing up, the Chief Minister could inform Members as to why he does not think that in this particular document someone should have 2 votes but rather

he should go back to, as Deputy Southern says, the employer. So in other words, they have a very much vested interest in it. It does not seem quite logical.

The Deputy Bailiff:

Does any other Member wish to speak? The Connétable of St. Brelade.

8.1.4 The Connétable of St. Brelade:

Could I just ask the Chief Minister to confirm in his response to Deputy Southern that the changes proposed have been discussed and agreed with the regional industrial organiser of Unite the Union?

The Deputy Bailiff:

Can I ask for an indication? Are there many more Members, apart from the Deputy of St. Mary, who wish to speak?

Deputy G.P. Southern:

Might we give some space for consideration about the approach of this because this, I believe, is a serious issue. You cannot have a tribunal that has a vested interest and can be clearly seen not to be partial, it seems to me, and it is a very serious issue.

The Deputy Bailiff:

As it is 12.45 p.m., I have to invite a Member to propose the adjournment.

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

Thank you. The States are adjourned.

LUNCHEON ADJOURNMENT

The Deputy Bailiff:

We do seem to be rather short of Members. I invite Members to return to the Assembly. Very well, Greffier, will you call the roll, please?

The Roll was called

The Deputy Bailiff:

I can happily announce we are quorate. We now return to the debate on P.172. The Connétable of St. Brelade was going to be speaking next. Deputy Trevor Pitman.

8.1.5 Deputy T.M. Pitman:

Very briefly, I think we should thank Deputy De Sousa for identifying the flaw in this. She did raise it with me 2 or 3 weeks ago and I must say I am quite surprised that the Chief Minister did not pick up on it with all his teams of researchers. What I would ask is perhaps whether the Minister would consider a reference back or if the Scrutiny Chairman, which I believe is Senator Ferguson, would consider calling this in and we can move on.

Senator S.C. Ferguson:

Yes. I understand that Deputy Pitman would like to call it in or to refer it back to scrutiny on the grounds of Appendix C, the procedure for settlement of differences, but that does not form part of the proposition. As I understand it - and perhaps the Chief Minister can confirm this - Appendix C, any alterations to that will come as a separate proposition to the States, and if that is the case then I do not think that it is necessary to refer this back to scrutiny.

Senator T.A. Le Sueur:

I can confirm that that Appendix C does not form part of the proposition and I am not quite sure what the fuss is about.

The Deputy Bailiff:

If I can advise Members, it is quite clear Appendix C does not form part of the proposition although it does appear in the report. Does any other Member wish to speak? Senator Routier.

8.1.6 Senator P.F. Routier:

As has been highlighted by the previous speakers, Appendix C does not form part of this proposition but, looking to the proposition itself, I can remind Members that I chair the Manual Workers' Joint Council and the 2 particular matters which are in sections 3 and in the remainder of the proposition have come from a joint meeting and a request of the union side, the employee side, to effect these changes. With regard to the matter that was raised before lunch, I would just like to perhaps read to Members an extract from the Manual Workers' Joint Council meeting on 15th September where this particular issue, with regard to Appendix C, which I know we are not debating today but as it is in the report, does receive in the minutes the full endorsement of the Joint Council and is supported fully by the union leaders. Perhaps if I just read a section from those minutes: "It was reported that the Deputy Chief Executive and both the employer and employee-side secretaries had concluded their meeting to discuss the implications for the council arising from the adoption of the employment of States of Jersey (Employees) Law 2005. Both parties had expressed the view that the council had remained influential in resolving matters of concern since ministerial governance began and that meetings at joint secretary level continued to be productive." This is the important bit: "Although the Disputes Committee consideration of a recent dispute had revealed an anomaly, the parties had concluded that this could be resolved by reversing the latter stages of the procedure for the settlement of differences. Accordingly, the States Employment Board would hear any such case at the final stage." That was agreed by both sides of the Manual Workers' Joint Council and does have the full endorsement of the union leaders and that is the matter that was just reported in the report. So I do believe that what is being brought forward today, the proposition itself which deals with the matter of increasing the numbers of the membership, which is as a specific request of the union to change the title of the union to Unite which is what we are debating, those 2 matters I believe the States could support. With regard to the matter which is in the report, which is identified as 6, it has been discussed fully with the Manual Workers' Joint Council and everybody is fully behind it so I hope Members will support the proposition.

8.1.7 Senator A. Breckon:

My understanding of this when I first read it was that it was an opportunity being taken to do a sort of a tidying up exercise to change some of the terminology and do what was necessary to make the Joint Council work. I think Appendix C, although it is not for debate, it does say it is intended to alter Appendix C but my understanding is that again it changes the terminology from "employer" to "States Employment Board" and also I believe, procedurally, if relations got to that extent where this thing was exercised then there would be an opportunity for an outside agency to get involved as well. That would be my understanding. So although they have a role in there, that is to say the States Employment Board, my understanding is also there is an opportunity for somebody outside to also look at that so I do not think it is the end of the process. If it was the end of the process then it is questionable, but I do not think it is. As I say, I have never studied all the procedures but, to me, that looks like a natural extension of where it would be.

The Deputy Bailiff:

Does anyone else wish to speak? Deputy of St. Mary.

8.1.8 The Deputy of St. Mary:

I have to say I am still puzzled after the explanation of Senator Routier. There are a couple of things: you see, the proposition as it stands, as Senator Breckon said, is a tidying-up exercise, it is upping the numbers and changing the name of the union and so on. But we have this discrepancy between the report where it says that: "The final arbiter of failure to agree or appeal against disciplinary action will be the States Employment Board." I know it is only the report but the fact is that there it is on page 3, and then on page 11 under Appendix C we have: "In the event of the Disputes Committee failing to reach agreement, the matter may by agreement between the employer's side and the employee's side of the council be referred to the Industrial Disputes Tribunal or such other form of arbitration as they may determine on terms of reference to be agreed by both sides." Those 2 things are completely different. It is claimed that this is not material but where it says about the States Employment Board, the first sentence in that paragraph is: "It is also intended to alter Appendix C." If you go 2 paragraphs up above that it says: "It is also intended that the quorum for council meetings will be increased from 4 to 6", which is one of the things in the proposition. So they are using the same form of words: "It is also intended that" to apply to this change in Appendix C. So I am just asking the Chief Minister to clarify this because one minute: "It is also intended that the quorum shall go from 4 to 6" and we are being asked to vote on that, that is in the proposition, and the very next minute: "Which is also intended to alter Appendix C", and that is not part of the proposition, it has nothing to do with it, it is not important and we can somehow just take it on the nod. I would ask the Chief Minister to clarify that because it is certainly not clear to me.

8.1.9 Deputy G.P. Southern:

If I may, I recognise I have spoken before, sir. I wish to seek your advice. I noticed that the Attorney General is out of the Chamber at the moment and I wish to ask of him whether this change, whether both sides have signed it up or not, is appropriate in a legal sense in that the final arbiter becomes the employer. It seems to me that is not an independent process and, therefore, it is subject to extreme dangers.

The Deputy Bailiff:

Deputy, the Attorney is not very well today although he is on call and, of course, he can be asked to attend if you wish. So if that is the request I am sure that the Greffier will make arrangements to ask him to attend. Does any other Member wish to speak? Yes, Deputy Green, I am sorry.

8.1.10 Deputy A.K.F. Green:

I do not know whether it will help Members or not or whether it will cause more confusion but I was present at the meeting that Senator Routier referred to and, indeed, the thrust of these changes came from the union. Their request was to increase their numbers on the Manual Workers' Joint Council because of a change in their organisation. So they requested it and, as I remember, it was unanimously agreed. With regard to Appendix C, how we got there, and I am working from memory, I have not got my notes with me, but with regards to Appendix C, how we got there was that under the current arrangement or the old arrangement, the employer is the Chief Officer. We had had a case where there had been a failure to agree, it had gone to a Disputes Committee hearing and there had been a level vote, as I remember, and it had gone to the Chief Officer for final determination and it was felt that it should go to the true employer, the Employment Board. I think that is how we got there, from memory.

The Deputy Bailiff:

Does any other Member wish to speak? The Chief Minister.

8.1.11 Senator T.A. Le Sueur:

I hope I can deal with the point raised by Deputy Southern in the course of my summing up. If I have confused Members by using the words: "It is also intended" twice in different contexts, I apologise, but what I was aiming for was to ensure that Members were fully informed about the

activities of the Manual Workers' Joint Council and had I not referred to the fact that there had been a change to Appendix C I am sure that some Member could equally have picked me up and said: "Why did you not mention that?" so you cannot win sometimes. But I do have to stress that Appendix C has always been in existence and all that is changing is the order of that procedure between 2 parties; a change in order which is agreed by both parties as being the better way forward. But to pick up Deputy Southern's point that the States Employment Board is not the final arbiter, that is the final arbiter in that Manual Workers' Joint process, but there is still, as the Deputy of St. Mary quite rightly says, the right for either side to go to arbitration. So, that is in fact the final solution, so I hope that that should put Deputy Southern's mind to rest, although he is still frowning. I do repeat to him that that is the situation which exists now and that is the situation which will continue to exist in the future. This is simply a very minor procedural matter of tidying-up, done with the knowledge and approval of the Transport and General Workers' Union, now Unite the Union. So, I really did not expect to have to explain that in such detail and I think some Members may have tried to read into Appendix C far more than there is. As I say, this was discussed by the parties concerned and really this proposition is brought not so much at the behest of the States Employment Board, but brought at the behest of Unite the Union. Indeed, if Members were to oppose this they would be opposing the wishes of Unite the Union. Certainly I do not intend to oppose those wishes which I think are quite reasonable. I believe the proposition is quite reasonable and if I confused anyone I apologise for that. I now make a quite simple proposal that we pass this proposition.

Deputy G.P. Southern:

May I ask the Chief Minister when he proposes to bring the changes to Appendix C to this House because that is when we would need to debate the legality or otherwise of what is being proposed?

Senator T.A. Le Sueur:

Appendix C is the internal procedures of the Manual Workers' Joint Council. Those matters have never been brought to the House. They are matters to be decided by the Manual Workers' Joint Council themselves.

The Deputy Bailiff:

If I may say so, the report indicates that the Act does not need to be amended to achieve changes to Appendix C, which is really what the Chief Minister has said and I confirm for the guidance of Members that the adoption of this proposition will not affect Appendix C one way or another. So, the proposition before the States is to approve the changes in the Act approving the constitution of the Manual Workers' Joint Council as set out in the proposition. All Members not in the Chamber are invited to return. The Greffier will therefore open the voting.

POUR: 44		CONTRE: 4		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy G.P. Southern (H)		
Senator P.F. Routier		Deputy S. Pitman (H)		
Senator T.J. Le Main		Deputy T.M. Pitman (H)		
Senator B.E. Shenton		Deputy D. De Sousa (H)		
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 St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				

Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Deputy of St. John:

The Members who arrived after the appel, are they permitted to vote, Sir, without having the appel lifted?

The Deputy Bailiff:

They are permitted to vote. The Roll was called and the States were quorate and they have already entered their appearance for the day. The Assembly will now return to P.173 - Public Holidays and Bank Holidays Designation of 26th December 2009 - in the name of Deputy Shona Pitman, and the Greffier will read the proposition.

9. Public Holidays and Bank Holidays: designation of 26th December 2009 (P.173/2009)

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to refer to their Act dated 8th October 2009 in which they agreed to transfer the Boxing Day Bank Holiday from Saturday, 26th December 2009 to Monday, 28th December 2009 and (a) to agree that Saturday, 26th December 2009 should be designated as an extra public and bank holiday for 2009 in addition to 28th December 2009 to enable Islanders who do not work only between Monday and Friday to benefit from this holiday; and (b) to request the Chief Minister to bring forward for approval the necessary Act under the Public Holidays and Bank Holidays (Jersey) Law 1951 to give effect to the decision.

9.1 Deputy S. Pitman:

The reason I felt that this proposition had to be brought to the States was because of our decision a few weeks ago that left those people who usually work on a Saturday but looking forward to having Boxing Day off were now going to have to work that day and have that 3-day break interrupted by a day of work. This is a wholly unsatisfactory situation that we have put these people in and it was a wholly unsatisfactory proposal to our States Members to choose between allowing people who work Monday to Friday and those working Saturdays included in a 5-day working week holiday, a position I know a significant number of us felt uncomfortable with. Furthermore, we were asked this while public sector workers and private sector workers, depending on their contract of employment, who work Monday to Friday would have been owed time in lieu or paid for a day, as Boxing Day fell on their day off. I cannot believe that the Chief Minister and his Assistant with their vast knowledge were not aware of this when they brought their proposition P.151 to the House as it is outlined in the Council of Ministers' comments to my proposition. But these comments are contrary to what the Assistant Chief Minister said during his summing up of P.151, which was that it would mean if you did not vote for P.151 it would mean your private sector side - your Monday to Friday - will not get a bank holiday this year in relation to Boxing Day. It also means any public sector workers who work 9.00 a.m. to 5.00 p.m. Monday to Friday will also not get a public holiday. So, why was P.151 brought to the House? I would argue that it was about saving money and I will explain why. As the majority of States employees whose normal day off is a Saturday, but this year Boxing Day, a public holiday, fell on a Saturday, they would have been owed time in lieu or be paid for that day. As the 28th, a Monday, is now a public holiday this means that the majority of our States employees will not be owed time in lieu or a day's pay because it is a day they normally work, so not as simple as Deputy Le Fondré suggested while proposing P.151. I would like to refer Members to the Council of Ministers' comments on page 4 on the first bullet point and it says this: "The cost of doing as proposed to the public sector would be of the order of 0.5 per cent of the pay bill, approximately £1.5 million. This is because under collective agreements any employee working on 26th December would be entitled to payment at double time and a day off in lieu and any employee, day worker or shift worker who is not expected to work that day will be entitled to a day off in lieu if the 26th is declared a public holiday." If Boxing Day was left untouched the States would have been financially equipped for this through the agreed 2009 Budget because the Council of Ministers would have known that Boxing Day was going to fall on a Saturday this year. I refer Members to the last sentence on that first bullet point: "Employees would enjoy this in addition to public holiday conditions on the following Monday, 28th December." If Boxing Day again was left untouched it would not have necessitated a move such as this proposition to bring back the traditional Christmas break to all. Instead many Islanders will currently get a 4-day break while others with one day for Christmas, then one day working and then 2 days off. This could have been avoided, but it was not. It was created with the success of P.151. I refer to the third bullet point on page 4 of the comments and it says: "It would be a requirement for departments to fund any costs arising from this proposition out of their existing budgets. It is unclear whether this could be achieved at such short notice, but for example the impact upon the Health budget would be an additional unbudgeted cost of £500,000 at the very minimum, given the high proportion of shift workers employed in that department. It is unclear whether this could be achieved without cutting services as a result." If Boxing Day was left untouched the States would have been financially equipped through the agreed 2009 Budget. However, now that I am calling for 26th December to also be designated as a public holiday there will be an additional cost of £500,000 and the Council of Ministers are unclear whether this could be achieved without cutting services as a result. Have we not just found before the pay freeze debate, I might add, a surplus of £14 million? May I also say if the Council of Ministers is that concerned about such expenditure they should be looking at how they can cut their overtime bill and they should have done this years ago. So, money has been put before equality; money has been put before our so-called strategic aims of creating a more equal society, before people, before family life, before the meaning of Christmas, whatever that may be. The Council of Ministers also refer to the cost to the private sector and I refer Members to the second bullet point on page 4 of

their comments and it says: “Clearly there will also be potential costs for private sector employers very largely depending on their contractual arrangements and pertaining to public holidays.” Would employers not already have planned for this, like the States did last year, knowing that Boxing Day was going to be on a Saturday this year? But if this proposition is agreed there will be an additional day of time in lieu or pay that employees will have to be compensated for. Again, I ask who created that inequality and for what reason? It was, I believe, about saving the States money. May I ask a couple of Members who have been speaking throughout my speech if they could just stop talking until I have finished.

The Deputy Bailiff:

You certainly may, Deputy. It is a courtesy to allow the proposer to speak uninterrupted.

Deputy S. Pitman:

So, again I ask who created this inequality and for what reason and, as I said, I believe it was about the States saving money. But if the Council of Ministers is really concerned about these companies losing money through the economic downturn, why not give it to them? They managed to find £600,000 for a few shareholders without even going to the States. We have just found £14 million and of course our utility companies will be costing us less because we are about to allow for about 80 redundancies. Is it not about time this Government admitted a mistake and paid for it? Also, what about employers’ workers? What about the few thousand people who will, as it currently stands, be working on Boxing Day? Even the Council of Ministers acknowledge this, that inequalities have been created by the success of P.151, and they say in their comments while it is expected that in theory it would be inconvenient if their Christmas holiday is spoilt by having to work on Saturday, 26th December and while not ideal for every working scenario, it is generally fair. How nice; nice and fair for us because we are getting the day off. It reminds me of the old saying: “We are all equal, but some of us are more equal than others”, words I would say are closer to the truth as to what P.151 has achieved. We have recently heard complete fantasy as to how retail workers apparently want to work on bank holidays, Sundays and the like; indeed naively from the Chamber of Commerce. The reality is that workers often do not have a choice but to work on such days and I have already been informed by an employee of a major U.K. clothing retail chain that a notice has been put up in the staffroom declaring that any employee who does not turn up at 5.00 a.m. on Saturday, 26th December to prepare for the sales will be sacked. I know that some Members may think it is hearsay. I am fine with that, but as I said earlier the reality is that people would be obliged by their employers to work on 26th December. We have also heard that the Co-op will be opening many of its shops so many others will feel they need to open and we will get a chain reaction. Although we know at least Jersey Post - one of our utility companies - will not be asking their employers to work on Saturday, the 26th, and how they refer to it as “the real Boxing Day”. Good news, but I believe that we as Government need to now ensure all retail workers, who are among the lowest paid in the Island, and others who would have benefited from 26th December being a holiday, and their families do not have their Christmas ruined by having to work on this day, which has traditionally been part of a 2-day celebration of Christmas. So, I guess the real question is, is Boxing Day worth £1.5 million? Let us remember that it is taxpayers’ money. We have a surplus of £14 million of their money. Do they want to see people working on a traditional Christmas break because the States want to save money? I hope Members consider this during the debate and I make the proposition.

The Deputy Bailiff:

The proposition is made. Is there a seconder? [**Seconded**] Does any Member wish to speak?

9.1.1 Deputy A.K.F. Green:

I think it is a real shame that we find ourselves here today and regretfully I have to say: “I told you so.” Members may recall that I warned in the Bank Holiday debate for P.151 that aside from my

own views about people working Boxing Day, the proposition was unfair and that weekend workers would be disadvantaged and that it would lead to extra expense. Boxing Day is the day after Christmas, the day after the birth of Christ; not 28th December or any other day that the States Assembly might choose to make it. The Constable of St. Brelade said when we debated 26th December - my proposition over Sunday working on 26th December - to the effect that “sometimes people win and sometimes people lose” depending on where the bank holiday falls. Of course this would be true if we did not move the bank holiday, but when we move it the “winners” are always the Monday to Friday workers and the “losers” are always the weekend workers. As it stands, moving the bank holiday... every time we move it to a Monday from a Saturday or a Sunday and every time it is the Monday to Friday worker and not the weekend shop worker that gets the opportunity to be with their family at Christmas. I have real difficulty with this because I know the cost is £1.5 million and there will be other costs to other employers, but the problem for me is families should be together on Boxing Day and the way that we have gone about it has created a situation where some families will be together on Boxing Day and other families will not. What we should have done is to have left it alone in the first place. Boxing Day is 26th December, the day after the birth of Christ, and regretfully I do not want to do this but I will support the proposition because I think people should be off on Boxing Day.

9.1.2 Deputy D.J. De Sousa:

I am really pleased to be following on from Deputy Green. He has raised most of the points that I would have wanted to. What right do we have as a States and a government body to mess about with dates that have been around for God knows how many years? **[Laughter]** Yes, God does know, but the States of Jersey does not, I am afraid. We really meddle at our peril and we should not be messing about with dates that are set in memoriam and I will be voting for this proposition.

9.1.3 The Connétable of St. Ouen:

Like Deputy Green, I opposed P.151 for exactly the same reasons. I have always felt that the day after Christmas Day was Boxing Day and should remain as such. But the proposer said that P.151 was deficient, but unfortunately I feel that this proposition is deficient as well. This proposition should have attempted to get P.151 reversed and moved back to 26th December. I cannot support having an extra day because the States made that wrong decision. That first decision should be changed in the first place.

Deputy S. Pitman:

Point of order, please, Sir; it is my understanding that it could not have been rescinded given the time after the debate of P.151.

The Deputy Bailiff:

I agree that is correct, Deputy. Does any other Member wish to speak?

9.1.4 The Deputy of St. John:

Just a point of clarification. I was not aware that States employees are paid when they are not supposed to be working. The private sector was moving on this, I am sure, as soon as possible. Can it be clarified, do people like the court staff really get paid or have time off in lieu when Boxing Day falls on a Saturday?

The Deputy Bailiff:

Does any other Member wish to speak?

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

It will probably come as no great surprise that I am not supporting this proposition. Unlike the debate on what I shall call the “Sunday Trading” a couple of weeks ago which was to do with trading days, as far as I am concerned this strikes directly into terms and conditions of employment

and it creates an extra day's holiday. This is not about valuing money above people. This is about saying that there is sufficient protection and financial remuneration built into the system already. So, as far as I am concerned we have already made the appropriate safeguards. To pick up on a point that Deputy Pitman has made, certainly the information that I have been told time and time again, and possibly to clarify the Deputy of St. John as well, is that for the States employees if we had not moved the holiday - because we have not moved Boxing Day; we have moved the holiday - and the bank holiday had been left on the Saturday, they would have received a day off in lieu for that Saturday because the holiday fell on a day that they would normally consider as off. This is for people who work Monday to Friday. Whereas the private sector - and I use the analogy of people working Monday to Friday - would not have had that extra day off in lieu; therefore, the day would have been on the Saturday on a day that they would normally have had off. Therefore, what one is trying to do is to make it more equal - and I will put it a bit more formally later and try and put consistency across - because the "*status quo*" if you like before the proposition was brought was that it was unequal. I know Deputy Green made some comment about some families will be working on Boxing Day and some will not. Well, that is going to be the case whatever happens because of the nature of certain types of work. People will be working and do have to work every day of the year for certain types of services. For example, I suspect the store that was referred to is the large U.K. multiple and 5.00 am - if it is the one I think it is - that has been a U.K. directive that has come down to the local store and they will open whatever the labelling we put on that Saturday. Having said that, I believe that Deputy Green's amendment on the trading rules will mitigate that in the future, but this proposition will not solve that problem. So, they have tried to be reasonably clear as to what the consequences of this amendment are in the comments, but I want to reinforce those and I am going to repeat the point about shift workers. If you are working shifts, the actual day is not that relevant, if that makes sense. It is not particularly critical whether it is a Saturday or a Sunday or a Wednesday. The days fall into a pattern of days on and days off. If a working day falls on to a bank holiday or if someone is called in to do cover arrangements that should already be built into the package. Therefore, when the bank holiday occurs is largely irrelevant. So, to reiterate, if a public sector shift worker is required to work on a bank holiday he will receive premium payments normally and a day off in lieu and if the bank holiday falls on his day off he will automatically receive a day in lieu as compensation and that is all part of the package; it is built in. But by creating another bank holiday we are amending a package above what it is at present. Now, as I said, it gets even better as far as I am concerned. If a public sector office worker ... this proposition gives him an extra day because by moving the day to the Monday we have given him a day and then by this proposition we create another day. So, States employees will be entitled to a day off in lieu to offset the bank holiday on a Saturday. So, what we are effectively doing is for Boxing Day the States employee working Monday to Friday will have 3 days off which, daft as it sounds, can be clarified by day one, a Saturday, when a typical public sector office worker will be at home because he does not work on a Saturday normally. Then we will have a holiday on Monday, the 28th, because we have done that because we agreed that would be the public holiday this year, but because of the States agreements when a public holiday falls on a day off, if Saturday, the 26th, becomes a public holiday they will be entitled to a further day off in lieu; 3 days for one day and that is really good. That is at a time of extreme financial uncertainty and I am getting these very quizzical looks, but - and it has been reiterated time and time again - that is the practical result of what this proposition would be: 3 days for one for the public sector at a time of extreme financial uncertainty and with job security we are seeing time and time again at the moment and certainly in the private sector is less now than it has been for a long time. Again, to remind you, if we had not done anything with the bank holiday the entire private sector working Monday to Friday would probably not have received the benefit of a day off for Boxing Day, but the public sector worker would have had the benefit. It is built into their employment package. Many public sector workers would have had a day off in lieu because that bank holiday falls on their day off. That is in their terms and conditions of employment. Private sector workers, one day off for the Saturday when normally they would get 2, which would be the Saturday and the normal day of Boxing Day, and

the public sector would have 2 days, the Saturday and the day off. So, if that is not inconsistent, I do not know what is. There was a lovely headline around the time we were going to be doing the debate which is: "Do not act like Scrooge." So, is this "Scrooge" or is this just "smoke and mirrors" again? Is it not just "slinging the mud", of going for innuendo, insult and smear but ignoring the reality of the position and trying in particular to get an indirect pay rise for States employees when we have already agreed to a pay freeze? That is where this cost of £1.5 million comes from, effectively. We have just agreed to protect 26th December under, as I said, the Sunday Trading rules, as I refer to them, and that will come into play at some point and that will protect shop workers. But the reality from my understanding of the position will be that very few stores are intending to open on 26th December this year and therefore very few employees will have to work. It is not many thousands of people. What I am clear about is that we cannot keep giving the cash away. This proposition does exactly that. We have moved the holiday from a Saturday to the Monday to give the greatest benefit to the most number of people. Now, if we had not done that we would have had a lot of complaints and in my mind would not have acted in the wider interests of the wider population. We have not taken away a holiday. It falls on a Saturday and therefore we have moved, not removed, the holiday to the Monday and that to me was a sensible decision and it ensures that everyone is entitled to a day off. It may not be on Boxing Day, but it is in respect of Boxing Day. It is not taking away people's rights. Given it is the Christmas weekend, it does mean that you will still have people together on the Christmas Day, the Sunday, and the Monday as 2 days together, but most people will also get the Saturday. This debate, as I said, is not about winners and losers; this proposition is not about treating everyone equally. That has already been done. The proposition is wrong on at least 2 counts. It talks about people losing a day's holiday. Well, that is plainly wrong because it has been moved, not removed, and it infers that only those who are employed Monday to Friday will get the day's holiday. Well, that is wrong because everyone will get it, but on the Monday, not the Saturday. Now, I have to say I think it skirts over the cost. Well, if £1.5 million is insignificant then I think we are losing our grasp on reality here. It blindly states that departments will have to absorb the costs. Well, as the comments state, Health will have to cover over £500,000 at roughly 6 weeks' notice. Did we not just award them some extra money? So, do we do that to pay for an extra holiday? I do not think so. How long does it take for the penny to drop? We are announcing the imminent arrival of structural deficits. Yes, we have had a better year than we might have expected now. Next year is not that great. We cannot just keep throwing petrol on the fire and keep hoping it is going to go out and I really urge Members not to support this proposition.

9.1.6 Senator A. Breckon:

Following that last speech, I do not want to go into the contractual differences or niceties. I would, through you, Sir, just like to ask Members if they are aware of a couple of things that have happened following our last decision. One concern is Jersey Post and their services and it ends today. There is a consultation through the Jersey Competition Regulatory Authority that is asking the public and anybody else who wants to contribute - as we have now decreed that 26th December is a Saturday and they are obliged under their Universal Service Agreement to open the post offices to deliver mail on the Saturday - whether we think that the post office should be allowed not to do so. I would ask Members, through you, Sir, if they would like to consider how many have responded to that and said no, they would not? I have because I do not believe there is a need for it. Royal Mail are doing a similar thing in the U.K., and also to acknowledge - as I think Deputy Pitman is saying but maybe she has not responded or anybody else has to the postal thing - that the families perhaps deserve some time together, having done some work leading up to Christmas, the same perhaps that the retail trade are where this problem is. So, although the post office have an obligation to provide this service I think commonsense will say that they need not do it because does anybody really need a stamp or whatever it is on that Saturday or do they need their gas bill or electric bill or their water bill, whatever it is, delivered or a late Christmas card? Perhaps we can all survive until the Tuesday. So, maybe Members would be mindful of that and perhaps if they are

supportive of this then they would respond to the J.C.R.A. by close of business or as soon after today because the consultation ends today, so maybe they could show some support for that. The other consequence of the former debate is I think there is now some retail pressure, if I will call it that, building up - especially for U.K. multiples - to open on the 26th, which is a traditional thing, Boxing Day sale as well as taking jumpers back and things that people have been given. There is also this stuff that is piled high and sold cheap, but perhaps there is another way of dealing with this because there is "people power". If others are joining in and people do not support that then what you can do is "vote with your feet", respectfully. We can do that and perhaps we can encourage others to do the same and if retailers are perhaps putting pressure on people who are vulnerable - and that will not be the case with all; they are looking for volunteers - but if they are not doing much business then they will get their fingers burnt and the law will cover it in future years. So, that is why I am not very comfortable with doing this at this stage. I would rather have a good dingdong and say: "Well, for people who are going to open on the 26th let us have a boycott and let us stay away." Let us use 'people power' and pressure and support those who have to work and see them as being perhaps pressurised into that. Because I see something circulating around the trade and what it was saying is that the trade is building up, more are joining in: "If a few are going to open then we had better open." So, I think it is heading that way. So, if we could fire a warning shot I think for me that would be more useful than doing this because at this stage this is a very, very expensive thing and the people who will benefit - I think it has just been demonstrated by Deputy Le Fondré - are sometimes people who have some sort of contractual arrangement where they are going to get something for nothing here. They are going to get A and B and it adds up to all of it, the time off and another day off or something else, and there is a cost to that and there are also premium payments. I think generally contractual issues should deal with it if people are vulnerable. We are talking retail; we are talking the high street. I think we as consumers can do something about that and we can encourage others to do the same and we can support organisations like the post office and say: "Yes, you can have the time off and this is why." I would like to think that is the way that we could deal with this because for me I agree entirely with the sentiment, but it is too late and it is too expensive at this stage and it does not target, I do not think, the people who we want to because those people who are vulnerable, there is still not the cover in there for them not to have to work on Boxing Day at this stage. So, it is not going to do, I do not think, what Deputy Shona Pitman thinks it will do. So for that reason I will not be supporting this.

9.1.7 Deputy J.M. Maçon:

As was said in the last debate, the whole problem about this is the issue of timing and when this was decided. Deputy Le Fondré did comment on shift work and those working on a Saturday, but I would suggest perhaps they would have known from the beginning of the year when they were going to work, whereas I know I certainly have been contacted about people who have made travel arrangements over this period expecting their families to be off on Boxing Day and now have a member working on the 26th and that, of course, has thrown a spanner into the works for their festive season, which is why I found myself unable to support the original proposition and that is why I voted against it. Coming to this proposition is a very difficult ground because I do accept the argument that yes, we are in a hard time; yes, people will want to work and get as much money as they can. At the same time there will be those who will be forced to work and who will not have a good festive period, so I find it very difficult. Something which perhaps we should praise ourselves for is... Deputy Le Fondré commented how on a bank holiday those who will work will get a day in lieu. Perhaps that is a work practice which we should try and extend to the private sector because I think it is a good one and perhaps would help in the future. Of course, we also have the other issue of some people only working on a Saturday and again have already made their plans for what is going on because of what has happened in this late decision. I will wait for other Members, but I am stuck.

9.1.8 Deputy J.A. Martin:

Yes, I would like to follow on from Deputy Green and the Constable of St. Ouen because I think it was me who started this debate on P.151 about moving Boxing Day because I was not happy. What a fine mess we have got into because nobody checked with anybody out there what was happening. We have just heard from Senator Breckon; Jersey Post is not doing it for those reasons. Even if they went into work they cannot get the post off the Island until the Tuesday. Has anyone checked with Checkers and Safeway? No, Safeway and Checkers are not going to now open on the Saturday. Nothing to do with: "Our customers do not want us to open", it is because they cannot get any fresh produce into the Island and they are going to open on Monday, so what another fine mess we have got ourselves into. A day's holiday, Boxing Day is Saturday, it is 26th December. We have had a great speech from Deputy Le Fondré who obviously brought P.151 and has to defend it to make it sound like it is very reasonable. It was very reasonable and he was making a lot of people equal. Well, who is equal? I will tell you what it did make. Even if you look at the percentages, what this may cost, the equal people are the very rich people who are earning quite a good "thank you very much" Monday to Friday and you have given them another day on Monday now **[Approbation]** and doing very nicely. Not the low end of the scale whose percentage out of this would be hardly anything. No, they will not get the money. I have heard about: "Oh, well, with Boxing Day." Now, I am from London and somebody might have noticed that **[Laughter]** and I have spent Christmas in London and some people have got no more better life than to camp outside some of these shops all night to go to the Boxing Day sales. As far as I know, I do not remember that in Jersey and I think that is quite a nice thing about Jersey **[Approbation]** but they could have had the sales on the Monday. The people could have gone in maybe on the Sunday. But what you are asking and it really gets to my "craw", you have not done your research. We have passed P.151. You are asking the main people who work in the little shops - when I say "little", the little Co-ops, the little Checkers, the little Spars and sorry for all the publicity, but whatever - who do stay open until 9.00 p.m. on the Thursday night. They will get Christmas Day off and then they are back in work on the Saturday. Now, what sort of a message are we sending out to them? Nobody consulted with them. Deputy Breckon says it is one year because of what we passed with Deputy Green. I urged everybody not to support P.151 and it went through with a few votes and I really could not recognise who we were protecting, which it does tell me now who we are protecting. I really am angry. As the Constable of St. Ouen said, maybe if we could have turned it around and been where we are because to me a 3-day family break for everyone, I know, and people know who are contracted, sometimes we do every Christmas and sometimes we do one in 3. If you know that on a rota and you book a year before, people have booked holidays. In the long weekend people have got family coming over. Now, forget it all, you have got one day off and then you are back to work and you know when it says about being equal, please have a look. Please have a look. Our last day to work is the 8th. I will tell you what, cut speeches short; you wait until it comes to the 11th on the Friday and we all want to go home and we are back in here on 19th January. I know we work in between, but what message does that send out? "Do as I say and not as I do." We are getting all that time off and the lowest paid workers who, I do believe Deputy Pitman, are being told: "Get in here at 5.00 a.m." and what are you going to do Christmas Day when you have to go into work to sort out the sale shelves? What are you going to do? One year, I am sorry. You made the mistakes, the Council of Ministers. You brought the proposition to move the sacrosanct day and when the Deputy of St. Mary speaks he can tell you what it is. It is a very, very important religious day. To me it used to be watching the football and my Dad having a bet on the horses, but it was a day's holiday **[Laughter]** and I still say the day's holiday comes after Christmas Day. I would love to know where the Boxing Day comes from if someone could enlighten me, but I will support Deputy Pitman.

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

Well, perhaps I can tell Deputy Martin my understanding of Boxing Day. Boxing Day falls on St. Stephen's Day, which is the day after Christmas Day, and Boxing Day as I understand it was the day that families would get together and open the gifts that they had had for Christmas. They did

not open them on Christmas Day. They kept them until the following day. But I would appreciate if the proposer in her summing up would outline what she believes has happened when Christmas and Boxing Days have fallen on a weekend in past years. My experience has always been that it moved to the next week day. When I was working my holiday entitlement had: "Plus 8 bank holidays." It did not state Christmas Day or Boxing Day; it stated the bank holidays. It appears to me that this proposition in fact would make that 9 bank holidays in a year, thus adding an extra day's holiday for everybody. I would be grateful for the proposer's comments in her summing up.

9.1.10 Deputy G.P. Southern:

Well, I have been in some debates in my time in this Chamber and this one I think probably "takes one of the biscuits out of the barrel". We have heard some sort of defence by Deputy Le Fondré of his initial move I believe in the wrong direction to interfere with St. Stephen's Day, Saturday, 26th December this year, and what he suggests when he makes a comparison between the private and public sector, yet again he suggests that rather than level up and give some people extra, he wants to level down. He referred quite correctly to the headline in the *J.E.P. (Jersey Evening Post)* accusing some Members of the States of being "Scrooge-like" and then suggested that this was merely "mudslinging", "smoke and mirrors" and "pouring petrol on the fire". Well, he gets my vote today for King of the Cliché. **[Laughter]** However, they are inaccurate clichés. The only person here who is mudslinging, using smoke and mirrors and throwing petrol on the fire is good old Deputy Le Fondré himself. Level down rather than up. Okay, we have seen, I think, a knee-jerk reaction to the Chamber of Commerce desire to level down rather than up. We made a clear mistake in accepting P.151. As the Constable of St. Ouen has pointed out, why could we not just rescind it? We cannot rescind something we have done in the same session, so therefore this is the only alternative way forward if we are for once in our lives to level up rather than level down. It is worth noting once again that, as has been pointed out, Deputy Green's amendment to the Sunday Trading Law has, we hope, cured this problem for the other years. We have got one year left; this year. I think we should act to level up rather than down and I remind Senator Breckon - because I was disappointed in his speech and his lack of support - that we are not just consumers. If we were the Consumer Council, then fine, his speech would have been appropriate. Act as consumers and boycott these people and make sure your intentions are known. We are legislated. Again, and I will repeat it - I think it is the fourth time in this speech - let us for once level up rather than level down and give some people an extra day off; the most hardworking, the least well off in our society by and large, give them an extra day off.

9.1.11 Deputy M. Tadier:

I know that Deputy Le Fondré did not want to be accused of being called a Scrooge. Nonetheless there did seem to be a definite air of humbuggery about his speech. **[Laughter]** I think the real problem here is that while Deputy Le Fondré has a firm grasp for facts and figures and nobody would debate that, and he put a fairly compelling argument over certainly from an accountant's point of view, I think that he fails to grasp the actual philosophical issue which is here and that is probably understandable. The problem - and I think it has been elucidated already by the Constable of St. Ouen - is that the whole problem here is that we are in a mess because we made the wrong decision in moving the bank holiday to the Monday. What we have done here is we have not really solved the issue of Boxing Day because what we have done is we have created a new bank holiday which is 28th December, which is not Boxing Day. We have created a new bank holiday and it is called Monday, 28th December, but we have not dealt with the underlying issue which is Boxing Day which has already been said does follow from Christmas Day. The day after Christmas Day is called St. Stephen's Day. I was under the impression that originally it was for the servants to exchange gifts on the 26th, but I may be mistaken because it has been a little while since I learnt about that. But the point is really that Boxing Day follows Christmas Day and this is what we have to try and resolve. So, I know Deputy Maçon was asking for reasons to support this and I can understand that there may be Members who are feeling torn at the moment. So, I would like to give

a few reasons why I think we can support this and why I think we should be supporting this. First of all, this is about the issue of compensating workers - if you like, to put it crudely - for having to work Boxing Day. Now, if you do not have to work the weekends then that is fine, you are not really affected. You get the Monday off in addition. You do not have to work Boxing Day anyway, so that is not really an issue. This is about people who do have to work on Boxing Day, which is on the Saturday, remember, and giving them some kind of remuneration for having to work on the Saturday, which would also apply to people in the private sector. I think the second reason is the idea of having 4 days off and I think if you happen to be lucky enough to work a 9.00 a.m. to 5.00 p.m. job either in the State sector or in the private sector you will get 4 days off. You will get the Friday, Saturday, Sunday and Monday off. You can spend that with your family. As we have heard earlier, we know that Christmas is a religious holiday. Many people will have been worshipping hard on the 25th. Out on their worship maybe all day from early morning until late at night and their knees will be tired and they need it to relax the day after and spend some proper quality time with their family recuperating from the hard worship that they have had the day before. So, I think it is important and those people will get 4 days off. But think about the person who works in the shop, maybe in the private sector, who just gets one day off in a row so they may have to work Friday, Saturday, Sunday and then they will get a Monday off possibly. This is what it is really about, so it is about equity. I did like the idea ... I think Deputy Southern put it very eloquently about levelling up and I was thinking of the idea of positive discrimination, if you like. We know that we are in a mess. We know that we are in a mess because we made the wrong decision a few weeks back and this is really about making the best of a bad job. Also I believe that it has been pointed out this could have been avoided a long time ago; that the calendars are fixed in stone and we can tell what the bank holidays are going to be for the next hundred or thousand years if we wanted to. So, to say that this sneaked up on us without us knowing is not a valid excuse and it can be interpreted and perhaps should be interpreted best as a cynical act on the part of the Council of Ministers. Now, I hope that is not the case, but really, Deputy Maçon, if you want an excuse to support this proposition it is so that we do not let the Council of Ministers get away with this kind of ploy. **[Approbation]**

Deputy J.M. Maçon:

If the Deputy will give way, surely I would not use such a reason to support or reject a motion?

Deputy M. Tadier:

I think, Deputy Maçon, anyone in the Chamber can have a whole host of reasons to support this other than that particular point if he does not like it. This whole idea that the money is somehow lost, sure, we do have to compensate people for having to work on bank holidays. We do know that statistically compared to other parts of the world we are undersubscribed when it comes to public holidays and it will save money perhaps in the long term. People will take less sick days off if they felt that they have had enough time off at Christmas and also the money is not lost. This idea that we are just throwing this money away and perhaps burning it, it is going back into the economy and people will be spending it. It is our own type of fiscal stimulus, if you like, at grassroots. That money I am sure will be spent either in the pubs or in the collection plates in churches. This whole idea, if we are saying that bank holiday is now being moved to the Monday, I would ask my colleagues in St. Brelade - Deputy Power, Deputy Jeune - presumably if you do not support this that you would like me to phone up on the Saturday so we can talk about work; we can talk about parking in Les Quennevais. **[Approbation]** Because if that is what we are saying, if we are saying it is just an ordinary day like anyone else, I have no problem in calling up my colleagues on the Saturday, the day after Christmas, because after all it is not Boxing Day, is it, because we have moved it to the Monday. I think we do need to support this proposition and we need to send out a strong message, especially in these times, to our workers right across the board that they are entitled to a day off on Saturday and I do not think we should be Scrooges about this.

9.1.12 Deputy E.J. Noel:

What I find is fascinating is the inconsistency approach. In the Sunday Trading debate, having heard his speech, I am sure that Deputy Southern will be supporting this proposition, but he could not support Christmas Day as being a special day. He could not support Liberation Day as being a special day. Those are 2 incredibly important days in our calendar; our national day and, if there is one day that is any more about the family than any other, it is Christmas Day. The rapporteur did not vote on that matter, so I am not sure what she would have done. This proposition will cost us £1.5 million. As Assistant Minister for Health and Social Services I cannot support this as we simply cannot find £500,000 in the next 6 weeks. This proposition is significantly flawed and I ask Members to reject it.

9.1.13 The Deputy of St. Mary:

I have a real problem with this proposition. On the one hand you have got the wonders of Deputy Le Fondré's: "It may not be Boxing Day, but it will be in respect of Boxing Day." That is precisely why people get paid double and have a day off in lieu as well when they work on a public holiday. So, we are in a bad place and Members have said it was the wrong decision before and now we are stuck; we are completely stuck and I am finding this very difficult. We cannot go the right way because we have made the mistake already. Now, I would like a point of clarification from the Chair, if I may, before I go on. Did I hear the Chair say we could rescind P.151?

The Deputy Bailiff:

No, Deputy, you heard the Chair say you could not rescind P.151.

The Deputy of St. Mary:

Right, I missed the "not". Okay. **[Laughter]** The other sad thing is that we have heard from 2 sources that Deputy Green's amendment has solved this problem. Well, it has, but the trouble is it does not come in this year. That is the problem, is it not, and Deputy Le Fondré himself said we have just agreed to protect shop workers on Boxing Day, but we have not because this year will be too late. I therefore just want to ask the Council of Ministers or whoever whether there is a way of building on what Senator Breckon said: "Voting with our feet." Now, that is an appeal to the public not to go into a big store that just says: "Well, we will have a Boxing Day sale as if we are in Oxford Street" and just not go there. But is there not something ... is there not any pressure to bear that E.D. could not do or the Constables could not do to have a quiet word with the Chamber of Commerce and say: "This is not the way to go. Give your folks a break"? I cannot see that we cannot do this because what we are in effect doing by that, it is putting into effect ... we are not waiting for the Queen to sign it in 10 months' time, what we put through a month ago. We are trying to say let us bring in Boxing Day as a Sunday Trading day now. Surely we can hear from somebody from the benches opposite, what can be done to ensure that shop workers do get Boxing Day as a day off. I am very uncomfortable with the £1.5 million and I have read this Council of Ministers' comments and the case is made. The extra day off in lieu for a day that you would not be working anyway grates and I find it very difficult. Even if the money was there, even in normal times it would still be unfair in another direction, but the problem is we are in the wrong place anyway, so I just ask for a little bit of oomph from over there to try to do something about ensuring that the shop workers in the big shops do not have to work on Boxing Day.

The Deputy Bailiff:

I call upon the Deputy of St. Peter.

9.1.14 The Deputy of St. Peter:

It was just to offer a point of clarification during the proposer's speech, where the proposer mentioned the fact that the Co-op was open on Boxing Day. I have checked on that and it would appear to be the case. However, I am fully aware, from the Co-op, that the staffing on Boxing Day will be entirely on a voluntary process without any form of coercion and that the staff will be paid at full premium rate.

The Deputy Bailiff:

I call upon Senator Routier.

9.1.15 Senator P.F. Routier:

I was unfortunately out of the Island when we had the previous debate about the original decision. I would not have supported that proposition because it has created a real problem for us and I think many of the speakers today have recognised that that decision was probably the wrong decision to have made. So, what is being proposed in this proposition is another wrong, I am afraid, and 2 wrongs just do not make a right in my mind, especially when a second wrong is going to cost us £1.5 million. On that basis, I think a lot of the speakers have spoken about the “whys and wherefores”, but really the £1.5 million just grates with me and I just cannot support this proposition - , especially after what the Assistant Minister for Health and Social Services has said, that they are going to have to find £0.5 million in 6 weeks’ time from a budget which is already stretched.

Deputy T.M. Pitman:

Could I ask for a point of clarification? I would like to speak but I think it is important. Is it the case that any retailers among the Assembly would be conflicted in this? Because I believe there might be some. I am not sure.

The Deputy Bailiff:

Standing Order 106 says this: “A Member of the States who has, or whose spouse or co-habitee has, an interest in the subject matter of the proposition must, if it is a direct financial interest, declare the interest and withdraw from the Chamber for the duration of the debate and any vote on the proposition. If it is not a direct financial interest but a financial interest which is general, indirect or shared with a large class of persons, declare the interest. If it is an interest which is not financial, declare the interest.” So in my view, my ruling is that there will be no need to withdraw from the Chamber because this would be a financial interest, if it exists, which is shared with a large class of persons, but it should be declared.

Senator P.F. Routier:

If that comment was aimed at my interest in a retail outlet, perhaps it would help reassure Members that I certainly - well, my business - will not be opening on Boxing Day in common with many that I am aware of.

Deputy T.M. Pitman:

I did not even know the Senator was a retailer. I thought he was a full-time politician.

The Deputy Bailiff:

Does any other Member wish to speak? The Connétable of St. Brelade.

9.1.16 The Connétable of St. Brelade:

Just a couple of points. This is really aimed principally at the retail sector only, because the effect on the public sector, and principally the States employees, is really that it is going to increase the overtime rate, which is one thing the Deputy alluded to in urging the Council of Ministers to reduce. So, speaking as a member of the States Employment Board - the employer - it is not something I would be keen to support, and I would suggest that the Connétable of St. Helier is probably one who has a little bit of power in his hands to discourage retailers from opening. My feel is that in my Parish most retailers would not wish to open on Boxing Day and I do not think it is going to be the problem that is sometimes envisaged by others, so while I can understand the sentiment of the proposition, I do not feel that I can support it.

9.1.17 Senator T.A. Le Sueur:

I do not have much to add to what has already been said this afternoon, but maybe to clarify a couple of points. I do understand that a number of Members felt it was the wrong decision to pass P.151/2009 last month. That is as may be, but I do think that we should try not to get into the habit of revisiting every decision when one of us or some of us disagree with it. We move on, but I think this proposition does not move us on. It gets us into a deeper and deeper hole, and to those who felt that P.151/2009 was not the right answer I think this is even further from being the right answer. All this projet is doing is making the outcome even more confused and more unclear. To deal with the question of the Deputy of St. John, yes, States staff do indeed get a day off in lieu. If there are 2 bank holidays, I do not know what the situation is but they probably get 2 similar days. More realistically, the Deputy of St. Mary asks what the Council of Ministers can do to try to alleviate the situation. Well, the answer is that we have already spoken to the Chamber of Commerce but, as a previous speaker said, it is mainly in terms of the retail industry that this matter is concerned. The Chamber of Commerce themselves and their members are urging their members not to open on 26th December and I believe that will be the majority view. There will be some U.K. national chains who notably will follow the U.K. national chain lead and there is nothing we can do about that. I suspect that that is really the nub of the problem: that for a number of people there is nothing we can do about them having to work. Some people have to work on ...

The Deputy of St. Mary:

Could I ask for a point of clarification? Will the Minister give way? Is the Chief Minister saying that next year, under the amendment which we agreed a month ago, that these national chains will continue to follow the lead of their national headquarters, or will they be subject to Sunday Trading Law?

Senator T.A. Le Sueur:

All businesses operating in the Island will be subjected to the Sunday Trading Law, but that does not mean that they will necessarily be closing. They will have to abide by whatever the terms of the permit issued by the Constable would be. I think that is our problem, that this is not a question of giving everyone a day off. For many people, that option will not be there. This is simply a matter of terms and conditions of employment and what we are doing here is making a situation even more unfair and worse. I do go back to the point that if we are trying to resolve the issue for retail workers, or even for States employees, I would point out that the majority of States employees do not work shifts, so we are again only affecting a minority of our States employees, the majority of them will simply get an extra day off, an extra day in lieu for no particular benefits. For retail employees, they will or will not work, depending on whatever their employer says and their terms and conditions will be adjusted accordingly. But this proposition does not dictate that they will have the day off. This proposition cannot dictate that. Any discussions about days off are a matter for trading legislation, not for this legislation, so I think this proposition in effect is trying to solve the problem in the wrong way. It does not solve the problem and it should be rejected.

The Deputy Bailiff:

Does any other Member wish to speak? Then I call upon ... sorry, Deputy Trevor Pitman.

9.1.18 Deputy T.M. Pitman:

I am sorry. I was looking in my dictionary to see if I could find Deputy Tadier's new word and that is why I waited quite a long time. I could not find it, by the way. At the risk of losing my reputation as a sort of bolshie, lefty-leaning politician, I have got to praise another Constable. Earlier today I praised the Constable of St. John and the Constable of Grouville for what I thought was their excellent summing up of the problem with Jersey Telecom, and now I find myself having to refer back to something else that was very concise and to the point, which the Constable of St. Brelade said in the debate a couple of weeks ago when he pointed out that if we just left things to the natural cycle, some years you are lucky and some years you are not. Hindsight is a wonderful

thing, but we have got ourselves into this mess. I find the excuses now being made from the Council of Ministers really disappointing, I am afraid. It has been a very, very difficult year. None of us would argue with that. Pay freezes, the global situation, things that we have got no control over in many ways, but if ever there was a year to do the right thing and put people first, and consider that special time of year, Christmas - and it does not matter if you are Christian or not - I think this year was it. So, to the point; having made that interference with the natural cycle, a big mistake, and I have to say that it is normally the people of my sort of politics who get accused of always wanting big government and government intervention and yet here we see a different picture. The Council of Ministers creating a fine old mess, as I think Deputy Martin said, perhaps because - and it seems like that - they could not resist the whisperings of the Chamber of Commerce. Well, like many Joe Publics - and, okay, they are the variety I speak to, but I do speak to a lot of people - they comment on the fact that the question really needs to be asked sometimes with things like this: who is running Jersey and who is it being run for? Surely it must be us within the Assembly who are running the Island, and if that is true, and I really hope it is, we should be making our decisions in the interests of fairness and equality for all, and I think that is what a lot of this is about. I said in supporting Deputy Green's amendment in the last session that the Christmas period was special or magical, even for many who are not Christians or perhaps have no faith at all. Yet whatever one's faith or lack of one's religious feelings, it is a time when we do all manage to be pretty much nice to each other, which is pretty incredible really, but there you go. It is a special time and I think maybe it demands special decisions. I have to say, do we value God or spirituality or just wellbeing, if I can put it that way, or do we worship, as some other Member said, money and profit above all else? I would hope that the answer lies in the former. That is why I have to say that it cannot be right that we have foolishly - and I know many Members do share this view, taken from one group to give to another - taken from one group of taxpayers to give to another, taken from one group ... and a group, let us not forget, who are among the lowest paid and, I am afraid, viewed within the perspective brought by the Council of Ministers last month, it seems the least valued within our Island, yet who all of us will in some way use the service of nearly every day of the year. Retail workers deserve better from us, far, far better. Now, we all make mistakes, of course. I know I certainly make my share. The key is putting those mistakes right. This might not be perfect, indeed I think the proposer said it was not perfect, and it is not, but it does give us the opportunity to show these workers that we do value them and that we do recognise that they and their families have the right to enjoy the Christmas period like everyone else. To stress the anomaly, States Members will be at home in their beds, or someone's bed somewhere, on holiday or whatever at any rate, 5.00 a.m. on the morning of Boxing Day, and Deputy Le Fondré is mistaken, because I have been contacted from people in quite a small store who have been told they are there at 5.00 a.m. to start a sale or they will be sacked. Now, that is not acceptable and it should not be acceptable. Would any of us even want to take that phone call at 5.00 a.m. on Boxing Day morning? How fair is that? Do we really value people so lightly that we are prepared to let that happen at Christmas? I do not think we can take that view. It makes me quite angry. Where will all of us be, as I say, on Boxing Day morning? Well, I bet wherever we are, we will probably try and be with family and friends, other people we care about. I know that I can say hand on heart that I work hard during the year, but I am not intending doing anything on Boxing Day. Why should we ask other people to be put in a situation where they have to have their whole livelihood threatened due to a decision that we made? I never really criticised the staff within the States, but I have to say I had a problem with Hansard because in introducing this proposition, Deputy Le Fondré, you have to say, runs the risk of being labelled "The Man who stole Christmas." He made the comment - and it is not on Hansard - that this was all very simple. Well, it is not very simple. It has led to a fine old mess and I think every one of us would agree with that. The Chief Minister himself has just acknowledged that. So, what do we do? Do we just accept the fine old mess that was brought to us because it is the Council of Ministers? I think that is wrong. One Member pointed out how few holidays Britain gets in comparison with elsewhere in Europe, and I think that is a point worth thinking on. Thanks to Deputy Green, it will not be a problem another year, will

it? We should congratulate ourselves on this, but what about this year? One year. What is our problem? People are more important than money, than cold hard cash. I hope no one is going to say social justice costs money, because you know this is Christmas. A special time, a magical time, wherever you come from, whatever your religious views. I think the House for once, as someone has pointed out, should act that way and support this proposition. Is it really okay, even if it is only a small number of businesses that are going to open up? They are still people with families. There might well be people ... well, they are going to be someone's constituents, are they not? Is that really fair? I hear a lot of people make quite a big thing about their Christian beliefs and their religious beliefs, and I just ask them to think about this. Maybe the way to tackle this is to vote in line with what this is actually all about: Christmas, probably the most special time in the year. To close, I would just say that it has been a very difficult year, as I have pointed out. In fact, I know we do not need reminding of that. Pay freezes, recession, *et cetera*, redundancies coming left, right and centre. This is a chance to really show people we do care and we are not just those cold, hard businessmen that we may have to be for the rest of the year. This is a chance to put our humanity first for once. In another year, I think, as Deputy Green said, it might not be the right thing to support this amendment, but this year it is and I stress, thanks to Deputy Green and of course those of us who supported it, it will be the last and only time, in fact, that we have to face up to this problem. So I say for once let us all put aside our political differences and let us vote on this in the true spirit of Christmas. We have made a mess; it was a very close vote as people will recall, 23-20 I believe. If some Members had been in the House it quite possibly could have been 26-23 the other way. We have made a mess where maybe there are no winners, but this is a chance to show some good faith in people in a very difficult time, and I really urge everyone to put those people who vote for them first, for once. Thank you.

Senator P.F. Routier:

A point of clarification from the previous speaker. He mentioned that there were some people being forced to work, being called in at 5.00 a.m. on Boxing Day to open up the shop. For the life of me, by reading this proposition, I cannot see how this proposition is going to stop that because it has nothing to do with trading on Boxing Day.

Deputy T.M. Pitman:

Because they will not be open otherwise from our decision. That is my response. That is what I have been told.

Senator P.F. Routier:

This does not do it.

The Deputy Bailiff:

Does any other Member wish to speak?

The Deputy of St. Mary:

Can I raise a point of order, Sir? I have already notified the Deputy Greffier. You mentioned rescindment. I have looked in my Standing Orders. I can only find one Article. Maybe I am looking at the wrong one, but what I read under Standing Order No. 23 is that there is no limit on a proposition that the States rescind an earlier decision, apart from that at least 3 Members of the States must sign it and it has to be accompanied by a report.

The Deputy Bailiff:

The starting proposition is Standing Order No. 20, paragraph (3): "The proposition cannot be in the same or substantially the same terms as the proposition which the States have previously debated and voted upon unless at least 3 months have elapsed since that vote," and then Standing Order No. 23 provides for an additional requirement, so it is a stand-alone Standing Order in my view and

therefore does not overtake or overrule Standing Order No. 20, paragraph (3). Well, that is the ruling, Deputy.

The Deputy of St. Mary:

Can I just respond to that?

The Deputy Bailiff:

I am not sure it is a case of response. That is the ruling. Deputy Dupre.

9.1.19 Deputy A.T. Dupre:

I would just like to say that I think the important day is Christmas Day. That is the day that is the holiday and I think that is what we have got to focus on. Not so much the Boxing Day, but Christmas Day, and it is very important to keep that one very special. Thank you.

The Deputy Bailiff:

Does any other Member wish to speak? If not, then I call on Deputy Shona Pitman to reply.

9.1.20 Deputy S. Pitman:

I would just like to start firstly by thanking all of those who have spoken, but also just a couple of responses I wanted to make to a couple of Members. First of all, Senator Breckon spoke of we should be encouraging people to vote with their feet and maybe that is a good thing, but those people will still be out to work on 26th December if this proposition is unsuccessful. In response to Deputy Jeune who asked what usually happens on Christmas and Boxing Days if they fall on the weekend, my understanding is that they have been left to those days, but as I pointed out in my proposition on a previous year regarding the New Year's Day in 2004, it was declared that 3rd January would be designated ... yes, I believe New Year's Day was on a Sunday and then the Monday was designated a holiday. That was in 2004. In response to Deputy Le Fondré, he said that his understanding has always been with regard to public sector workers when their public holiday fell on the Boxing Day then they would get a day off in lieu. Well, in actual fact, as I said in my speech, in his summary speech on P.151/2009 he left the House with the fact that public sectors who work 9.00 a.m. to 5.00 p.m. Monday to Friday would also not get a public holiday, so his understanding has not always been there. He also - and I thought this was rather misleading - spoke of the public sector workers will get a 3-day holiday, 3 days off, and I think it was unfair because he spoke about the Christmas Day, the Saturday, which they would have got off anyway, and the Monday, so I thought that was a bit misleading. They would have got those days, Christmas and Boxing Day, off already. Of course, we know that this proposition, if successful, would cost us more money, but again, as I said in my speech, who put us into this mess? I certainly would not have felt the necessity to bring this proposition and of course we do have a £14 million surplus. Again, I think there is scaremongering there that we have not got the money. We have got the money. Deputy Martin spoke of, or considered, those people on the low end of the pay scale and the fact that there was no consultation of P.151/2009 with these very people. She also spoke about equality and the fact that this proposition is trying to do that. It is certainly something that the Assistant Chief Minister, and the Chief Minister himself, signed up to when they voted for the Strategic Plan, with one of its main aims being to create a more equal society. They just went totally against that by bringing P.151/2009, with some people now having a day of work in the middle of their Christmas holiday. I would like to remind Members what Economic Development said in their proposition P.111/2009 on the Draft Shops (Regulation of Opening and Deliveries) (Jersey) Law 200-: "There has been a creeping commercialisation of public bank holidays and the majority of St. Helier shops are now open, for example, on May and August Bank holidays, and many Christmas sales now start on Boxing Day." It was this creeping commercialisation that led to the States adding Liberation Day to the law in 1999, to ensure that this important day in the Island's calendar was observed, as well as Good Friday and Christmas Day, so why not this year? Why can we not do it this year? I would also like to remind Members how we came to have Boxing Day. It

is a day - and this is a short history of it - the higher classes gave gifts to the lower classes. Before, or on 25th December, people of a similar class would exchange gifts to celebrate the Christmas season. Gifts were not exchanged with the lower class until the next day, called Boxing Day. The holiday is named Boxing Day because of the tradition of giving gifts of cash, food and clothing and other goods to the less fortunate which were placed into boxes for easier transportation. The goods were distributed based on family needs and their services to the giver. So, we are going to allow the creep of commercialisation and consumerism to take hold of this traditional break this year, if this proposition is unsuccessful. Well, as Deputy Green pointed out, it is a special day. It is a religious day for many and it is a family day for most and I would suggest, in the words of Deputy De Sousa, that God knows best and the States do not. Thank you and I call for the appel.

The Deputy Bailiff:

The appel is called for. All Members outside the Chamber, kindly return to take their seats if they wish to vote. I ask the Greffier to open the voting.

POUR: 14	CONTRE: 33	ABSTAIN: 1
Deputy of St. Martin	Senator T.A. Le Sueur	Deputy of St. Mary
Deputy J.A. Martin (H)	Senator P.F. Routier	
Deputy G.P. Southern (H)	Senator T.J. Le Main	
Deputy of Grouville	Senator B.E. Shenton	
Deputy J.A. Hilton (H)	Senator J.L. Perchard	
Deputy P.V.F. Le Claire (H)	Senator A. Breckon	
Deputy S. Pitman (H)	Senator S.C. Ferguson	
Deputy K.C. Lewis (S)	Senator A.J.D. Maclean	
Deputy M. Tadier (B)	Senator B.I. Le Marquand	
Deputy T.M. Pitman (H)	Connétable of St. Ouen	
Deputy M.R. Higgins (H)	Connétable of St. Helier	
Deputy A.K.F. Green (H)	Connétable of Trinity	
Deputy D. De Sousa (H)	Connétable of St. Brelade	
Deputy J.M. Maçon (S)	Connétable of St. Martin	
	Connétable of St. John	
	Connétable of St. Saviour	
	Connétable of St. Clement	
	Connétable of St. Peter	
	Connétable of St. Lawrence	
	Connétable of St. Mary	
	Deputy R.C. Duhamel (S)	
	Deputy R.G. Le Hérisssier (S)	
	Deputy J.B. Fox (H)	
	Deputy of St. Ouen	
	Deputy of St. Peter	
	Deputy J.A.N. Le Fondré (L)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy I.J. Gorst (C)	
	Deputy of St. John	
	Deputy A.E. Jeune (B)	
	Deputy A.T. Dupré (C)	
	Deputy E.J. Noel (L)	

10. Draft Gambling Commission (Jersey) Law 200- (P.139/2009)

The Deputy Bailiff:

We now come on to P.139, the Draft Gambling Commission (Jersey) Law 200-. I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

Draft Gambling Commission (Jersey) Law: a Law to establish a Gambling Commission to supervise and regulate the conduct of gambling and for related matters. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

The Deputy Bailiff:

I invite the Minister, Senator Maclean, to propose the principles of the draft law.

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

If I may, could I ask my Assistant Minister, the Constable of St. Clement, to act as rapporteur for this proposition?

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

This draft Law is a direct result of the States decision in March 2005 when they debated the proposition Modernisation of Jersey's Gambling Legislation. That proposition included that the legislation should be brought forward to create new independent regulator and that is the Jersey Gambling Commission. If this Law is approved this Commission is to be responsible for licensing, regulation, harm reduction, social responsibility and ensuring that gambling issues do not harm the Island's international reputation. With the creation of the Shadow Gambling Commission in December 2006 and the development of this new draft Law considerable progress has been made towards achieving this aim established, as I say, in 2005. During that debate 4 years ago understandably there was much emphasis on the social responsibility and harm reduction responsibility which lent support to our aim of creating an international recognisable regulatory environment. In October 2006 the Minister for Economic Development was invited and attended an international summit which was held in the United Kingdom at Ascot, along with many other jurisdictions, where those attending were able to reach a common consensus about the overriding priority when legislating in respect of gambling. This included these principles: that it should be conducted responsibly and with safeguards necessary to protect children and vulnerable people; that it should be regulated in accordance with generally accepted international standards to prevent fraud, money laundering and other crime and should not be permitted to be the source of crime; and that it should be verifiably fair to the consumer. Governments also agreed to actively explore the scope for greater international co-operation in the regulation particularly of remote gambling, such as effective measures to protect children and vulnerable people, and that is the theme which is recurring throughout gambling legislation. It is about sharing research and expertise on gambling and methods of preventing problems, promoting public awareness of how to gamble responsibly, developing effective licensing regimes and working with the financial sector to secure these priorities. But these principles are enshrined in the law before us today and consolidate the tenets of the Shadow Commission, which are to ensure that Jersey retains its excellent international reputation as a well-regulated jurisdiction and ensure potential harm is minimised and programmes are introduced to protect the young and the vulnerable. I believe that these priorities in conjunction with the areas of co-operation also identified during the Ascot summit provide governments and regulators with an excellent foundation to build on - something that we must build on - to develop the core standards necessary to address the risks associated with gambling however small they might be. This Law if approved will create a Commission independent of the States comprising 3 to 5 commissioners, including a chairman - a chairman of the highest calibre who has been acting as shadow chair for the last 4 years. As I say, the highest calibre with unique experience and his C.V. (curriculum vitae) was attached with the comments on the Deputy of St. Martin's amendment to this Law which was distributed a few days ago. This Law also transfers all responsibilities for

licensing, registration and regulation already in legislation which is currently the duty of the Minister to the new Commission. The role and responsibilities of the Gambling Licensing Authority is likewise transferred to the Commission; however, functions in relation to the Channel Islands lottery or any Order-making powers clearly remain with the Minister. As far as the lottery is concerned, it is envisaged that while the award of contracts of point-of-sale and production of games for the lottery will remain the preserve of the Minister, the Commission will be charged with regulatory responsibility in respect of agents and responsible gaming adherence. Gambling is not an industry that can be left to get on with things as it likes and there is no such thing in my view as a high standard of self-regulation. Self-regulation is only as high as the lowest denominator in the chain of self-regulation. In 2008 the States approved the Disaster Recovery Regulations and in there we enhanced the due diligence regime on all applicants seeking to host their businesses in Jersey or data farms based on the Island wishing to offer hosting facilities. The level of scrutiny extends beyond just the applicant firm to the examination of subsidiaries, controllers and ultimate beneficiaries. More recently the gaming industry in Jersey has adopted social responsibility codes, including a self-exclusion policy and prior to the I.M.F. (International Monetary Fund) visit, anti-money laundering guidelines. These are not self-regulating principles, they are standards enforced by the department and, if this Law is passed, then enforced by the Commission and in line with Regulations adopted by the States. In 2005 we recognised and we hope we still recognise today that we need a strong and dedicated regulator that can be trusted to give the Minister and the States consistent professional advice and which is independent and, as I said, professional. Moreover the Commission must maintain the powers to perform its duties in a manner that keeps the Island's reputation as a centre of excellence as its ethos. Furthermore, in accordance with the suggestions during the 2005 debate for the formation of a gambling trust, this Law creates a separate ring-fenced fund for research, promotion and education of responsible gambling and enables treatment for those who require it. The current industry understands that the trust will be funded from their voluntary donations. However, while there is no reason in my mind to doubt the will of the Jersey gambling industry to voluntarily donate to this fund, we cannot ignore the situation faced by the U.K. Government which, having established a similar fund, discovered a less than willing industry to donate the funds necessary to meet the requirements of promoting responsible gambling and treatment programmes. Therefore, this Law provides for both a voluntary donation route and an enforced levy route capped at an agreed percentage should the voluntary route prove inadequate. Initially the Commission, in consultation with the industry, will seek to agree a voluntary donation from the industry to subsidise the fund otherwise the Commission will enforce the legislative levy route. However, good regulation comes at a cost and, as such, the Commission will require funding during initial years of operation or until it becomes self-funding. As previously agreed, the department will fund the Commission with a grant of up to £225,000 per annum. This represents the current differential between costs and income, and I think Members were provided with a note of that information this morning. That will come from existing resources and will reduce over a maximum period of 5 years unless Deputy Noel gets his way and then it will all be done in one go. Anyway, that will be reduced over the period of 5 years and for which the Commission will have to perform to a strict service level agreement and provide the department with reports on the key performance indicators stipulated in that agreement. The Law also provides for the transfer of experienced staff in the gambling field so the Commission continues to build on the good relationship that exists with the industry. The Minister for Economic Development recently issued a policy statement on how gambling in Jersey should be regulated and building upon the key licensing principles of responsible, fair and crime free gambling he sets out in that policy statement the requirements for regulation. We want a strong but not draconian regulator that regulates in the public interest. Primarily the need to protect the public, the need to maintain public confidence in the gambling industry and the Commission, and the importance of the clearing and upholding proper standards of conduct and competence of licence holders at the same time. I believe this is a sound and necessary Law which forms something of a combination. The germ for sound regulation goes back beyond the 2005 debate. Various Gambling Control Committees worked towards

modernisation of Jersey Gaming Regulation bringing forward in the region of 93 amendments to patch inadequacies in the 1960s legislation. While mending is not enough, we require this proposed regulator to supervise that which we have now and the proposed modernisation programme which we will be bringing forward next year. I believe these prioritised in conjunction with the areas of co-operation also identified during the Ascot summit provide us and the regulator with an excellent foundation to build on, to develop the core standards necessary to address the risks associated with gambling to those who require it. This is a sound and necessary Law which builds on the research and hard work of a number of former committees. It will push Jersey forward from the lower tier of poorly regulated jurisdictions back up to the top tier where we belong. Importantly, it will give the States and the people of this Island a professional and independent regulator who will be able to advise in an impartial and professional way for the future. In delivering this draft Law we have fulfilled perhaps the most important requirement of the 2005 States decision regarding modernisation. Much still remains to be done but Members will know that when a new Gambling Law is presented to the Assembly next year it will have been scrutinised and audited by a professional and independent regulator. This is what the States called upon us to do and I am delighted to be in the position, hopefully, to deliver it. I commend this draft Law to the Assembly and propose the principles.

The Deputy Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak?

10.1.1 Deputy J.B. Fox:

It is very important that anything to do with gambling is well regulated, we accept that. But the thing that concerns me at this moment in time is the in-building of the user pays principles. It is a creeping thing that we made a promise when G.S.T. (Goods and Services Tax) was brought in to keep it at 3 per cent and not put it up until 2012. Systematically we are getting a lot of these regulations that affect people in indirect ways. I can understand if we are trying to become self-sufficient in financial terms at the prospect of a casino or other forms of gambling - electronic gambling, *et cetera* - but some of the figures that have been looked at here is a huge hike and at the end of the day it is down to the individual, and although gambling is not my preference or my wish, nevertheless there are people that that is part of their life and an important part of their life, whether they go horseracing or whatever it is. This is the dilemma that I have at the moment. The principles of law that you have laid out I concur with because I have also seen the other side of the coin where people do suffer because of an addiction and it affects not just them but it affects the whole of their family. But on the other hand, I can also see that a user pays charge gets passed on to the next person and then you get the repercussions of that which makes the debt even worse and goes in to a greater degree. Yes, I appreciate that there is a proposed Commission, *et cetera*, but I shall be listening very carefully to what the words are because I think ... I am in 2 minds at the moment. One mind is saying: "Yes, we must have this" but the other mind is that I think we are running a little too fast in the consequent charges that make this work with a user pays. I see the Connétable frowning at me but I think it is important that we understand that once you start down a route of user pays in its entirety it can have knock-on effects, and certainly when it comes down to that if you cannot get people in the industry to contribute voluntarily to supporting the trust, with the amount that is being asked to pay for I do not perceive they ever will want to contribute voluntarily and, therefore, there will be resistance in enforcing the amount that is required or, more to the point, it will not amount to the amount that should be required in order to do its effective preventive work. I will leave it there at the moment.

10.1.2 The Deputy of St. John:

After attending the gambling presentation at the Jersey Museum the contents of the package had nothing to do with casinos and the like but to update the various laws that had fallen behind over recent years and to put in its place changes to cover costs of running the department, again because

this has not been fixed to annual cost of living charges, *et cetera*; in the past things have been allowed to stagnate. The change in the design of gaming machines from, shall we say, clockwork for ease of expression to high-tech electrical chip and pin machines has meant re-writing of the various laws. Having been a member of a former Gambling Control Committee in the 1990s when technology was still in the embryo stage, it was realised that at some time in the future changes would need to come forward and this was reported in RC.20 of 2002 Modernising Gaming Legislation. These new pieces of legislation are there to help the regulation of gambling within our sphere of influence, whether it is beyond-Island or when disaster recovery business comes to our shores. It is important to understand by updating these laws that we will be putting in place new benchmarks for the industry and, at the same time, the regulatory authorities will be changed to the Minister thereby saving the Assembly and Judicial Greffiers' valuable time. Further to this, hopefully we will see a better return to the Treasury by this section because currently it is a very poor return. Correct, no return. Of course, one has to be mindful of health issues which the previous speaker was talking about. People within, whether they drink, whether they smoke, whether they take drugs, there are health issues; likewise in gambling, and we have to be sure that legislation is in place to help these people also. In supporting this I must say I feel comfortable that we can rest assured that the Island will be well served by the new legislation to take us well through in the 21st century.

10.1.3 The Deputy of St. Martin:

Members will note that I put a considerable amount of work into this particular projet and the reason for that is twofold really. One is that ever since I have been a Member of the States I have taken an interest in licensing matters. I think it is fair to say that every licensing issue on alcohol, every amendment I think that I have dealt with in the 15 years I have been in the States ... there is one that E.D. (Economic Development) came through on my proposition, but I handled that, and likewise firearms. I have brought a tremendous number of amendments to the Firearms Law and, indeed, also to the Gambling Laws. I can still close my eyes and I can see the former Senator Rothwell taking out his handkerchief and having tears on behalf of the Deputy of St. Martin who was pleading the cause of the 4 bookies, and what I was trying to plead on, of course, was to allow them to have a bookmakers operate on a Sunday. If you went up to Les Landes on a Sunday you could bet on the tote but you could not have a live bookie and all they were asking for was to have some comparison to be fair. In fact, they got it. The other reason was that I did speak to Deputy Higgins and said this was really one of those issues where I really think it could do with a fair bit of scrutiny because it was really, I think, a little bit over the top, as far as what one can support the intention of the Law, it was the cost of it. We are setting up a very, very expensive quango and Deputy Higgins is quite understanding of what he was fully concerned with his other issue, which we debated last time, and it was the old compensatory scheme. So, I have taken this upon myself to give myself a lot of work but at the same time I think it has been well worth it because I think there are a number of amendments going to come through, if we do agree to the preamble, which I think will strengthen, and there has been a lot of agreement between E.D. and myself on really many of the amendments, so it is going to make it strong. I think what we really ... my concern always has been about this particular Law, is really are we over the top, and I did ask ... those Members who went to the presentation last week I said: "Can E.D. really tell us what they mean by 'the industry' because the industry at the moment really consists of ..." and if Members would like to look at the very, very late green forms we have been given - I did ask and ask repeatedly for, but we have got them only today - and one will see that really the industry today really is only 29 bookie or betting shops and then only 29 because the law says you can only have 29. We have had 29 since 1964 so they cannot expand. In fact what we do know, for a fact, and I have got the figures here themselves from the industry themselves, there is a fair possibility that a number ... the smaller ones will close because they will not be able to compete with the added cost to it, as being envisaged by what E.D. is asking for and if they go along with what Deputy Noel has brought today, well, we should all go out and close up tomorrow because there is no way they can pay those sort of things. Also the fact

is the Constable of St. Clement quite rightly said that they have been well-regulated. There has not been a major problem from our betting offices and I have checked out with Samaritans. I have checked out with Salvation Army. I have checked out with the Citizens Advice Bureau. They said there is not a problem at all, no major concerns from gambling, and I did check on the credit card concern because one of the difficulties one has if you have online betting ... and, of course, this is what this particular gambling commission will do, it will allow for online gambling. The biggest concern people have is that online you bet with credit cards; however, if you go into a betting shop, Crown and Anchor, go to see a bookie they will not accept credit cards, just all cash. We have not had a concern in Jersey with money laundering, so that said. So we are not looking at an industry that can expand. In fact, when one looks again at the papers, the evidence given to us by E.C., we will see that there is an income of around £130,000. You can add on another almost £30,000, which has been thrown into as an income as part of the lottery which was not there originally, but I see it has been added today. So if we want to be generous we are looking about an income from £147,000 coming from the 29 betting shops, your 2 hosting providers - that is the new thing which has come to the Island, the recovery licences, they pay £5,000 each, and that is £10,000. Your machines, the gaming machines, currently at £2,000 - they bring in about £58,000. There is the 9 racecourse meetings at Les Landes, and the bookmakers up there have to pay every time they go and you can see the money coming in there. About £8,000 comes from the bingo that will be held at Springfield or maybe St. Martin's, Battle of Flowers will run a bingo, you have to pay for a licence, and also the raffle. So there is not a lot of money to come. When one looks again ...

Senator T.J. Le Main:

Just on a point of clarification if the Deputy would allow me. There is also the question of a considerable income from G.S.T. on - the Minister for Treasury and Resources is telling us - the income of these bookie shops.

The Deputy of St. Martin:

I had not included it but I think we take those for granted. There will be obviously income come from that. But when one looks at the expense ... and, again, this is what it is going to cost us if we have the Commission. This is the dilemma I have because I can understand, I can see their need for the Law, but can we find a way in which the Law does not have to be so expensive to run? I do not know. When we look here ... and the Minister, in answer to a question I raised on 21st September, said that the States are subsidising the gambling industry by almost £200,000 a year and, in fact, has absolutely beguiled Deputy Noel. I know he is not here, but he has run away, and this morning threshed out a draft gambling ... another amendment to raise the fees even further so obviously he is well impressed by what E.D. has got to put here but maybe I could encourage a few people to take a little bit more notice of what E.D. are saying because what they are saying here, that you need 3 members of the department, this is costing at the moment £220,000-odd or £368,000 because ... to have to run the 29 betting shops and bingo and the raffles and the one lottery here and, on top of that of course, you add all the extras. I see you have got to pay for electricity and the water rates and the Parish rates and the insurances, and I think Deputy Fox was talking about user pays. It is user pays gone mad because what do we need 3 of these very highly paid people to do? Not only that we are also going to pay 3 commissioners and the other day we saw 2 of them, obviously the other was so busy he could not get there, but the main commissioner gets £48,000. His 2 sidekicks, the 2 officers alongside him, get £12,000 each. What we have not got here is... because on another form which I did ask E.D. for costs, we have not got in this sum here the expenditure, we have not got the cost of conferences, the hotel and accommodations, the travel, entertainment and refreshment of course, that has not been included. Guess how much that is? Around £33,000. They are not my figures, they are the figures given by E.D. So here we have the dilemma that we need a Gambling Control Law but can we really afford it. If it was the Deputy of St. Martin coming forward and suggesting that we have this it would be kicked out the window. Yet, here we are, asking the States to come along and support this. Not only that, we are going to give £225,000

a year of taxpayers' money to subsidise the 29 betting shops to run it. Now, that is the quandary I have. As much as I want to support the particular Law, because I think there are some things in there which are important, but can we really afford it. That is the dilemma I have got. One other thing we should look at is that if we are going to have user pays ... and I said earlier that I had an interest in the Liquor Licensing Law. Two years ago the States accepted an amendment of mine, or proposition of mine, asking that the liquor licence fees do not go up, are not raised until they have had a thorough review. At the moment the liquor licensing fees bring in around £275,000. Now, £275,000 from all the pubs, the restaurants, the nightclubs, *et cetera*, and the off-licences, and to fund this Gambling Commission, we are asking the industry to pay thousands of pounds to their licensing fees and, yet, one large supermarket anywhere in the Island pays £114 for their licence. £114. So, you can see how the industry is a little bit confused, where they do not mind having a social responsibility fund, and Deputy Fox again was quite right to point it out. They will volunteer to have it. They do not think there is a need for it, but they are quite happy because they think they have been carrying that responsibility for some years. So, here we have a user-pays policy. We are asking the States to put up £225,000 a year. We are probably going to make life very, very difficult for a number of booking shops, and what are we going to get from it? Well, we are going to pay 3 commissioners a nice sum of money. We are going to show ... I do not know what these people are doing, but if one would care to look through what some of these officers are doing, I see that a lot of it talks about "develop". The word "develop" comes so many times, with all 3 officers' roles, and I wonder, what are they going to develop? Is it online booking or betting or gaming, whatever you are going to call it, because that is the future? I do not have a problem with that if only E.D. had come clean and said: "This is what it is for. This is the future, and it is going to be paid for by those people who are going to invest in the future, not off the backs of the betting shops." Why should they be subsidising the future? No advantage for them. So, I have a problem, because as much as I want to support the Law, what I want to know is, is it too costly? Have we got a Rolls Royce when really we could do with something a lot better? So, I am not sure. I want to support the proposition. I put a number of amendments which have been accepted by E.D. which I think would make it better, but really, can we afford it?

10.1.4 Deputy J.M. Maçon:

The Deputy of St. Martin raised an issue about poor bookies. Well, I certainly would like to meet a poor bookie. As for the funding, the report of £225,000, I would just like to ask the rapporteur where is this coming from, from the Economic Development budget? What is going to lose out? Tourism? Agriculture? Where is this money coming from within the overall budget? Also, the Deputy of St. John sitting next to me did point out, if we look at the green sheet, there is an issue of building and maintenance, and building rent. What contracts are we signing ourselves into with this as well? Surely the building maintenance should be part of whatever rental agreement is going; it should be included within the rent that we are paying. So, I would like clarity on these points.

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

I am pleased to follow the previous speakers, because I too have concerns about this particular proposition. We are told that as far back as 2005 we, the States, agreed that the legislation be brought forward to establish a gambling commission. We are told that the purpose of the commission should be to license regulation and equally pay attention to harm reduction and social responsibility. We also know that a shadow gambling commission was established by the Minister in December 2006. We are not told exactly what they have done and how they have met those objectives as agreed in 2004. Indeed, have they been successful? We are told that the new regulations will provide and support and cover the social responsibility function. Indeed, the commission is required to make certain that gambling services should be conducted responsibly, with safeguards necessary to protect children and vulnerable people. Here is the problem for me, that the view of protection given in documents that we have received is that all that is necessary is a link to the Gordon Moody Association Gambling Therapy website. I do not believe that is

anywhere near enough to meet the need of protecting children and vulnerable people. Indeed, picking up the point that Deputy Hill raised earlier regarding the current expenditure that is faced by the commission, no account has been given to real and considerable sums of money that would be required to indeed actively support these children and vulnerable people from the effects of the increased promotion of gambling on this Island. We already have a situation, we are told, that this Island is subsidising gambling to the extent of £225,000. If we are to really mean what we say, I would suggest that a sum of an extra £250,000 would need to be put towards proper and targeted, meaningful support. I am equally concerned, and I hope the rapporteur when he sums up will deal with exactly what the commission within the Law is entitled to do, because the concern I have is that this Law opens the door to increased gambling on the Island without necessarily the sufficient safeguards in place for this Assembly to determine what is appropriate and what is not.

10.1.6 Senator S.C. Ferguson:

I think both the Deputy of St. Martin and the Deputy of St. Ouen have summed up the position admirably, and particularly the figures that the Deputy of St. Martin has included. Originally I was against a casino, and I have also been against using the Island as a centre for gambling excellence. I do not think that is the position for Jersey. **[Approbation]** It has been my impression, and perhaps the rapporteur will confirm this, that the importance of this particular proposition is that it would eventually allow online gambling to be hosted in the Island and to be operated from here. I do not agree with this. I am not happy about the implicit enlargement of the gambling industry. Do we really need more than 29 betting shops? If this quango is merely the precursor to online gambling, then I think that this is detrimental to the position of Jersey. It is, in effect, setting up an international gambling industry, and is that really the sort of image we want to portray? There has been much said about the addictiveness of slot machines. I do not have the information at the moment, but I will find it before the end of this debate; I would suspect that online gambling is equally addictive. I would also suspect that the social costs of online gambling are as great as those of slot machines. If the gambler is located elsewhere in the world, then it may not directly affect us, but it will indirectly affect us because the industry will be operated from here. I am sorry; it really does not make sense. In our original debate on the casino, the international estimates were - particularly from Australia - a significant amount of the tax income from casinos which went to the government was required to pay out in social care for addictive gamblers. The Deputy of St. John says that this is allegedly updating laws. Well, that is fine, but it is the underlying implications which bother me. This is, in fact, an expensive quango to enlarge the industry internationally. This is just the first step on the slippery slope, and I shall not be supporting this proposition.

10.1.7 Deputy P.V.F. Le Claire:

I wonder if there has been any thought given to these commissioners requesting admission to the pension scheme as an admitted body, as we have seen recently with other organisations such as the Jersey Heritage Trust and other bodies such as that, that set up organisations and then transfer over; and whether or not there has been any calculations done as to what the costs of those will be. I certainly am not happy with gambling in Jersey being paid for in general by the taxpayer. I think the industry, with 29 gambling outlets, is detrimental to an island this size. So, I find the whole thing uncomfortable. I find it difficult to support, although I realise it is a responsible thing to do now that the States has made this decision, and I do not wish to reopen the debate. But this is going down rather badly, and my own view is that it is not very palatable at all. The costs for this sort of operation should be met entirely by the industry, and maybe the rapporteur can just identify how that is going to be done and leave us with enough money to have the benefit, albeit arguable.

10.1.8 Deputy A.K.F. Green:

When I first read this, I was concerned, and I am even more concerned having listened to several speeches today. My initial reaction was, this is a sledgehammer to crack a nut, or perhaps we have got again delusions of grandeur. Do we really need this commission costing £370,000 a year to

look after 29 bookmakers and a few other associated things? £370,000 a year, and yet we cannot help or support the women's refuge. **[Approbation]** I would like to ask a couple of questions in a minute, before I finish, but I would like to just pick up on something Senator Ferguson said about social costs. If we go for online gambling, which I believe is at the bottom of all this, then the social costs of course will be mainly somewhere else. But that does not make it right. That will hurt our reputation as an international finance centre. So, I have got real concerns about this. I have got some questions for the Assistant Minister. How many staff are we talking about here? I looked at the J.D.s (job descriptions) for a number of posts that were provided in the Green Paper today, and we see the Director of Regulatory Services will have, if I read it correctly, about 17.1 staff. Now, I know a lot of those are not involved in gambling. They are other parts of the organisation, and they say 50 per cent of his or her time will be spent on gambling. But if you look at the other job descriptions, we fail to list the staff providing support to the Regulation and Licensing Manager and the Technical and Compliance Manager, or the Legal and Intelligence Manager. We fail to list the staff in the J.D. which is very unusual. Even if we say at the moment there will be only a few staff, I wonder how many staff, how many people at these levels, will not be working without a secretary, without an assistant to the secretary, and the whole thing is just going to grow way beyond £370,000. **[Approbation]** I would like to think it was an error that those posts were missed out of the J.D., because it is normal to put them in the J.D. So, my suspicion is aroused. I very much will not be supporting this. I am very concerned about it, and I do not think it is the way for Jersey to go. Again, I say, I think we have got delusions of grandeur.

10.1.9 Deputy M. Tadier:

It is interesting to follow after some of the speakers. I do suspect, like many other Members, that there is some overkill going on here that this body and the whole commission is being set up in a way which is far too big, and the delusions of grandeur, I think those words are still ringing in my ears. I think that is certainly one concern I have. Also, this whole idea that this is being set up as a Trojan horse to ultimately get online gambling is of concern. Really I have a couple of questions for clarification. They really relate to Part 4 of the Articles, number 9 which is on page 20 of the report. This whole concept of responsible gambling education and setting up a fund all seems very vague to me. I will give Members a moment to have a look at it. It is on page 20, number 9; you have got 1, 2, 3 and you have subsections (a), (b), (c). It is saying that the commission must take action if it considers appropriate to protect children and other vulnerable persons, *et cetera*. Paragraph (2) goes on to talk about: "Without prejudice to the generality of paragraph 1, the action that may be taken includes funding, co-ordinating and otherwise promoting action by others," and particularly sub-paragraph (b) is quite interesting, this whole area of: "Education, information, prevention, treatment, counselling and other measures." Just an observation, but it seems very strange that on the one hand where we have a very *laissez-faire* attitude towards gambling, which I think we necessarily have to whether we agree with it or not, we cannot be moralising; but then we are saying we are going to provide education. This all seems very vague. I would like to know what kind of education measures are going to be taking place. For example, there seems to be an inconsistency in gambling over here. I will give one example of the idea of expectancy when we talk about it in mathematical terms. When you gamble ... "expectation" - I have been corrected - is the term. So, when you gamble on a fruit machine, for example, anyone who has had the misfortune to do it, or maybe the fortune if they are lucky, will notice that at the top, I think, it is a legal requirement to say what the minimum payout is, and usually I think it is about 70 to 72 per cent payout on those machines. I would ask if there is going to be any uniformity in the whole spectrum here, because when you buy a lottery ticket there is nothing on the ticket which tells you what your odds are, what your expectancy is. Of course, when you go into a booking shop you know what the odds are: you know the odds are either 6 to 1, 10 to 1, although again you do not know what the real odds are. So, I think there does need to be uniformity right across the spectrum in that respect, whether you are buying a lottery ticket, you are using a fruit machine, or if you are playing crown and anchor; again, a very local tradition, and one which I think many people would

be sad to see go. You do not know what your odds are. So, would the commission be making a case to put big signs up saying: “When you gamble, for every £100 you put down on the table, you can expect to get £60 back,” because I think that is roughly how crown and anchor works? Also, if we are going to have roulette over here, if we did have that, for example, we would need signs telling people to bet on the red or on black, but not to bet on numbers because the odds are worse. So, it really does get into the ridiculous area, and I would like some clarification on that whole gambit. I quite liked the idea of the Deputy of St. Martin of the analogy about supermarkets not having to pay very much for their licences, and I think off the top of my head he said it is £114. Again, it is this whole idea of that, you know, when you gamble, you know that for every £100 you spend you might only be getting £70 back; so you are buying a product which is worth £70 and you are paying £100 for it, and included in that is all the service. But that can be extended to supermarkets as well, because we know at supermarkets we do not know the true value of the product we are getting. We may be getting products which are worth £5 and we are paying £10 for them. So, if we are going to really pick holes in this, then these are considerations that we need to be taking on board. So, really, what I would maybe like to float here is that we could refer this back. I do not necessarily want to be the one to have to ask for a reference back, although maybe it is, perhaps, on the grounds that we need more information about the actual value for money. I think there is great scepticism in the Assembly that we do need such a big organisation, if you like, with all these commissioners. It just does not seem good value for money, and I would perhaps test Members to see and ask for a reference back on those grounds.

The Deputy Bailiff:

Sorry, Deputy. Can you say precisely what are the grounds on which you ask for the reference back?

Deputy M. Tadier:

I think we need more information about the value for money that will be provided, and as to whether the number of commissioners that are being proposed is necessary. I think there are other Members who have exactly the same worries that I do. The specific information: I can give some more information in the notes about the number of staff which are being required. I think it is number 3 in the report that we have been given, under the heading of “Dimensions.”

The Deputy Bailiff:

Without the comments of one of the Senators, I agree that it is a reasonable request for a reference back. Is the proposal seconded? **[Seconded]** Very well. The proposal is for reference back to the Minister to seek more information about value for money and whether the number of commissioners is absolutely necessary.

10.1.10 The Connétable of St. Clement:

I can be very, very brief on that narrow idea, because you are quite right that I did wonder how much smaller we could make the commission. Three commissioners. I think if you had one commissioner then ... **[inaudible]** ... consideration of other views. There could be a maximum of 5, but my intention certainly would be for 3, and 4 staff which we currently already have. No more than that; no extra money coming from the taxpayer. As we can see from the paper that was handed out this morning, the current year costs will remain the same, and the income will remain the same unless the States agrees to the increase in fees which the Minister for Economic Development is proposing at the next sitting, or the amendment that Deputy Hill is proposing which would be less, or the amendment that Deputy Noel has brought forward, which would be more. Whichever one of those, the fees would be ... the fees have not increased for about 9 years, so there is some room for some increase there, whichever one of the 3 the States might choose. That would reduce the subsidy the taxpayer is providing the current gaming industry. So, that will be a matter for the States to decide with this value for money, because the costs will not reduce, or

they will reduce marginally, because there will still have to be the sort of regulation - if you can call it regulation - that we are able to do now without the commission. It will be very, very limited, but there will still be a cost. We will still need to regulate the industry, and the costs will not go down. So, the value for money that we are getting by paying 3 commissioners £72,000 to bring in the social responsibility fund, to bring in the harm reduction programme, I think is extremely good value for money because if we reject this there is no levy, there is no social fund, there is no harm reduction programme and things will go on as they are: very light touch regulation, effectively self regulation which is no regulation at all. Value for money, 3 commissioners, 4 staff. At the moment we have 3 shadow commissioners, 4 staff. Value for money has not changed. It is as good as I think it possibly can be.

Deputy P.V.F. Le Claire:

Could I ask the speaker to give us some indication as to what the pension issues may be?

The Deputy Bailiff:

If I may say so, the proposition is for reference back, so that this information might be provided to Members at a later stage. I think that if we can contain our debate to simply the questions of whether or not the proposition should be referred back to the Assistant Minister for the information to be given on these subjects of value for money and the number of commissioners.

Deputy A.E. Jeune:

Can I just ask a point of clarity from the proposer when he just spoke now in that he referred to 4 staff, yet under Dimensions, number 3 in the report, it is showing 8.1?

Deputy M. Tadier:

On a point of order, I think I am the proposer, so maybe the Deputy did not want to ask a point from me.

The Deputy Bailiff:

If the Deputy was asking a question of the Assistant Minister for a point of clarification, I did not hear it.

The Connétable of St. Clement:

There will be a maximum of 4 staff. We could not afford 8 staff out of the budget which is in front of us.

10.1.11 Senator T.J. Le Main:

I was not really going to speak, but I feel that I ought to stand and to say a few words. I was Gambling Control President for 7 years. In those days I was the one that brought in the regulation of containing the bookmakers to 29 shops, because of the concern of the general public, and in those days we had a very, very thriving, buoyant Channel Islands lottery, and to run all the social events on licences and all the issues including all the booking shops, visiting the booking shops, regulating, checking them, we had 2 members of staff. We had Chris Fairbairn in those days and the lady that is there existing at the moment. If any of you have seen a family decimated with a gambler in the family, then I do not wish it on anyone.

The Deputy Bailiff:

Senator, I must ask you to keep your remarks ...

Senator T.J. Le Main:

No, no. I am coming to the point. I have great sympathy for what has been said, particularly by Deputy Green, the Deputy of St. Martin and Senator Ferguson. I was not going to speak on this commission. I was minded to support it today because of the recommendations in the Michael Foot

report that we should have some regulation, but I am completely bemused at the costings as highlighted by the Minister and commissioner fees of £72,000 when we have got people in this Island who I am sure would do it willingly for nothing, quite honestly. This is a start, in my view, of something that wants to set up this Island, as Senator Ferguson has ably said, as an Island that is going to be top of the league in e-gambling and that, and I am going to be vigorously opposing that. I am going to support Deputy Tadier on this reference back today. I do apologise for my co-Minister for opposing it, but I am very, very concerned about where we are going to end up with this, and I do not really think that this Assembly has had all the information of the repercussions of where we will end up in 2 or 3 years' time. So, I am going to support a reference back and allow Members to really question the Minister and his team on some of the issues. In fact, I had a call from a big player in the market, not of gambling but of one of the local companies who is very much involved, and he has offered to come and talk to several of us who are interested maybe next Monday to give us his indication of why we should be supporting a gambling commission. But at this point I am not minded to go with the Minister, and I am minded very much on the point made by Deputy Tadier, and I think we are going to have to be very careful. I do not think this Island is prepared for an all-out open house gambling situation, as I think one of the views is going to be, and the promises that have probably been made to several people.

The Connétable of St. Clement:

... [inaudible] ... comments made by Deputy Tadier which I think are fair enough. I did not try to argue against some of the comments that were made by other Members regarding e-gaming machines and so on which have got nothing to do with this proposition at all anyway.

The Deputy Bailiff:

Assistant Minister, you have taken the words out of my mouth. There are 4 Members waiting to speak. The only issue at the moment on this reference back proposition is whether Members have enough information about value for money and the number of commissioners to enable them to reach a conclusion on the proposition itself. That is the only subject for this current debate. Could Members please confine themselves to that?

10.1.12 The Deputy of St. Mary:

I just want to point out that an evaluation of value for money includes risk, and the proposition talks about encouraging business growth. I want to see the costs and benefits of doing that: costs and benefits of doing that as part of value for money.

10.1.13 Deputy P.V.F. Le Claire:

Value for money: I think if we do have a reference back, it would allow the Minister for Economic Development and the Assistant Minister who is bringing this today to better inform States Members as to what the money will be used for. It will also give them an opportunity to address the issues such as what effect it would have, if any, of this body becoming party to the pensions scheme, which we have a proposition up for soon, to take liability issues and decisions upon. I think rather than us kicking it around all afternoon, it is quite simple. I do not think that the job has been done. I do not think the case has been made. At the moment there is a light touch. We are going from what is a light touch, which has been argued by the proposer as no regulation whatsoever, to something that is over-regulation, and I think we need to have something in between. Is the proposer really suggesting that a light touch, no regulation, is what Jersey has been operating under all these years? Because that certainly should not be the message that is going out to the international community. It should be appropriate regulation at the level of activity that this jurisdiction is engaged in. I do not see that activity changing dramatically in the near future, and unless it is spelt out clearly why it is going to change in that direction, then this sort of money that we are speaking about seems quite a lot. It is also worrying me as most of these things do. They start with a telephone; they then need a fax machine; they then need another desk, and then need a

wastepaper basket, and they need 2 people, and they need somebody else to fire in case they lose their jobs, and it grows topsy-turvy. So, I think Members would be much better, rather than repeating all of this *ad infinitum*, just to support the proposition. Let us get some more information and debate this another time.

10.1.14 Senator B.E. Shenton:

As chairman of the P.A.C. (Public Accounts Committee), there is certainly not enough information with regards to cost benefit analysis to pass this proposition today. I realise that my politics and the Constables are completely different. I would prefer light government and he prefers Soviet-style heavy bureaucracy. **[Laughter]** We saw it, funnily enough, down the harbour where we had a Director of Harbour Development appointed and then I saw in the paper recently that now we need an Assistant Director of our Harbour Development. **[Approbation]** We are meant to be belt-tightening and showing a little bit of austerity at this time. You do not pass propositions on the back of a fag packet, and I certainly think that we need far more detail than we are having at the moment.

10.1.15 Deputy T.M. Pitman:

Very quickly: sledge hammer to crack a nut, Deputy Green said, and I have to say how apt a comment I felt that was, unless of course what all of this is really about is ultimately turning Jersey into a major gambling centre. As a former professional youth worker with young people I have to oppose that. I want to know more of the cost benefits, and the so-called social responsibility angle, because I am certainly not convinced. So, just to say that we have seen that Christian or family values no longer apply to more than 30 Members maybe. When it comes to Christmas, I just hope that those values can be applied now, because it is deeply flawed. £370,000 is a shocking fee for what we have just opposed today. I will definitely support Deputy Tadier.

10.1.16 The Deputy of St. John:

I think I was one of 9 Members that attended the presentation given by the department last week. If Members had taken the time to attend, they would have heard and could have questioned the Minister and the officers and shadow board as to what was going on. I will not support the reference back. If such Members had done their homework, they were invited to a presentation and they failed to attend. So, therefore, I think the information was there. I know Deputy Hill attended and put questions; therefore, I accept where he is coming from. But the majority of Members did not attend.

Senator T.J. Le Main:

On a point of order, the Council of Ministers were given a presentation as well. So, it is not ...

The Deputy Bailiff:

If I may say so, Senator, that is, as I said, 2 weeks ago and is as far away from a point of order as you could possibly be. **[Laughter]**

10.1.17 Deputy J.A. Martin:

I did receive the invitation and it said it will take no longer than 15 minutes. I may have read it wrong, **[Laughter]** but I think I was being rushed. Anyway, no, to get back to this. On page 4 in the report, Economic Development give 3 corresponding ... they give U.K. Gambling Commission, Alderney Gambling Control and the Isle of Man Gambling Supervision Commission. What they do not give me is a comparison of these 3, which would be quite easy for me to see with the population, the amount of licensed premises, what they are doing, is this good value for money. It is not anywhere here. Now, to me, that would be something that I really need to hear before I can vote on this. They have got 3 very highly paid officers out there, and I am sure they have probably got that information to their fingertips and maybe someone could get it in here, explain this to me,

explain why it is not in the proposition, and maybe the reference back will not succeed. But at this rate, I am sorry, I will support it.

10.1.18 Deputy G.P. Southern:

This is entirely appropriate use and good use of a reference back. I think today is turning into what in Darwinian terms was known as a black swan day, because the perspicacious and very experienced Minister for Housing and I are as one, **[Laughter]** because there seems to be no (and the correct term is) cost benefit analysis attached to this. We seem to be going gung-ho with the approach adopted by the Minister for Economic Development and his predecessor for competition: open up the market, let us get some competition going, and then we can afford this because we will make lots of money from it. But they are far weaker, as we have seen in telecoms market and other places, on regulation. So, it is competition first, open the market, let us introduce some competition and not about regulation. I do not think the House can put its hand on its heart and say that what is being presented today is some confidence about where we are going and what the cost benefit analysis is of these particular proposals. So, I will be joining the call for a reference back. Entirely appropriate.

10.1.19 Senator A.J.H. Maclean:

There has been so far in this debate conflating of numerous issues. I will confine myself to dealing with the reference back, which is extremely narrow: narrow in respect of the fact it is asking about value for money and it is asking about the number of commissioners. I think my Assistant Minister has put it very ably. Can we really do with less than 3 commissioners? The department with regard to regulating gambling has only got 4 staff. I think it was Deputy Jeune who asked the question about the 8 staff mentioned. That is in regulatory services within Economic Development. It is 4 staff to deal with gambling. Now, what Members need to understand is that the costs that have been referred to, to date - the £368,000 - are existing as we stand. Within that sum is included £72,000 for the shadow commissioners. They are there now; they are doing their job and they have been doing it since 2006 without statutory powers, but nevertheless they have been doing some very valuable work with anti-money-laundering, improving provisions for vulnerable and so on. That is the sort of work we need to ensure continues. Now, what Members will be doing if they vote for this reference back is delaying the protection of people within this Island, residents within this Island. I know Senator Le Main is concerned about, the Deputy of St. Ouen is concerned about, many Members and myself included are concerned about vulnerable people who may be affected by gambling issues. The U.K.'s most recent prevalence study showed that in fact there are 0.6 per cent of people who get involved in gambling are destined to become problem gamblers; they have an issue, they are vulnerable, they are being affected. Of those, just to mention one other point, 7 per cent are affected by online gambling. Now, I should hasten to add here many Members have talked about the fact that this proposition is all about moving on to greater and bigger things, expanding the industry. That is absolutely not the case. What we must do, what we have to do, is regulate an industry that prior to 2001 had absolutely no regulation: zero regulation. Since 2001 there has been a modest level of regulation. The I.M.F. when they visited Jersey recently attended upon the department and they supported strongly the introduction of a gambling commission for the very reasons that we are keen to do it: to ensure that the industry that we currently have is properly regulated. That is all it is. As far as the reference back is concerned, **[Laughter]** which I may say is extremely narrow in its request: "Is this value for money?" Yes, it is; you will not get it any cheaper. It is quite simply in the figures here: £72,000 for the commissioners. There is no additional cost. We cannot stroke anything else out from this. We cannot strip anything else out of this. Sir, I am finding it very difficult talking over Deputy Southern who is ... Thank you. We cannot strip any more out of this. It is as simple as that. The reference back will not provide any further information whatsoever. What I would suggest to Members if they do not like the idea of the gambling commission is to let the debate go ahead; reject the reference back. Let us have the debate on the gambling commission; let us have that out and all the details. That is the appropriate

time to do it. It is not time now to play, if I may say, Russian roulette with vulnerable people's lives. We have the need for a gambling commission. I would finally say that in 2005 this Assembly, including a number of Members who today are suggesting they are not going to support it, voted overwhelmingly for a gambling commission. I do urge Members to allow the debate to continue.

Deputy I.J. Gorst:

Could I ask the Minister a point of clarification? The Minister was not necessarily addressing the reference back when he said that this proposal was not about the introduction of e-gambling. I am not sure if that is exactly what he said. I wonder if he could give an undertaking to the Assembly that he will not be bringing forward regulations to license e-gambling within this States session, being the electoral cycle.

Senator A.J.H. Maclean:

I am happy to answer that question, and I can tell the Deputy that I will not give such an undertaking. The reason that I will not is not related in one iota to this particular proposition; this is about a gambling commission. Next year the department intends to bring forward modernisation of our gambling laws, laws that date back to the 1960s. At that stage, and included within that, will be provisions for e-gaming. Members will have an opportunity at that point to debate and vote out if they do not like that part - and I stress that part - of the modernisation of gambling laws next year. But it has absolutely nothing to do with the gambling commission.

10.1.20 Deputy R.G. Le Hérisier:

Just a brief point about the social responsibility fund. I notice the Minister used, in his nicest possible way, a form of moral blackmail, suggesting that value for money would be lost if we were not to go ahead with the commissioners who were themselves driving the social responsibility fund. I did go a few years ago when this was all being discussed, but was unable to make last week, and what I would say in terms of value for money on that fund is that there was a very strange inference behind the setting up of that fund. It was basically that this, which in some people's eyes is a great social pleasure, in others is a social evil which somehow has to be allowed to come forth but under strict controls, if you allow it to happen you must accept there will be casualties along the way. But, and this is what the learned professors told us at the time, we have a social responsibility fund or approach which will enable us in a value for money sense to minimise the casualties that will fall out of the growth. In terms of value for money, which is a very mercenary way of talking about the social casualties, the big issue is what are the costs and who has come up with the studies? Because as I recall from those early debates, it was people who had a vested interest in setting up these funds and running these programmes who were trumpeting their successes. Certainly, in a value for money sense, if that is indeed the criterion and it is a rather narrow one, I would like to see evidence of how these funds have worked. Because we have in Britain a major social calamity, for example, when Britain moved to the possibility of 24-hour drinking. There was this feeling that a café-drinking culture would be created, that violence would be dissipated, *et cetera*. There were all sorts of assumptions put forward about how it was going to work out, which sadly did not work out, and the social and economic costs through our misreading of that situation have been enormous. I often wonder, and I think we need to know a lot more about this side of it.

The Deputy Bailiff:

Deputy, you got back to value for money just in time. There are 3 other Members wishing to speak. I hope we may hear from them, and then perhaps we can reach a conclusion, because this is a relatively straightforward matter: is there enough information?

10.1.21 Deputy A.K.F. Green:

Well, in a nutshell, no, there is not enough information. The Minister gave us very good reasons why he would like to see this pursued, and while the headlines are in the report, the information is

not. So, there is not enough information to make a decision other than to reject the proposition if we get that far.

10.1.22 Deputy A.E. Jeune:

Keeping to the reference back, I have to agree with the Deputy of St. John in that I too attended the presentation last week from E.D.D., and I found it extremely valuable. I was able to meet and observe the members of the shadow gambling commission, who it appears to me seem to be very well suited to the position and I frankly found very reassuring. I think it is an awful shame that more Members did not attend that, because it gave a greater understanding of what the proposition covered. I think it is a great shame that more people did not attend that.

10.1.23 The Connétable of St. Mary:

Very briefly, I understand the arguments that these expenditures are already being expended now. I understand the argument for a commission. I am just concerned, at the moment, even now we are not getting value for money. Looking at some of the figures here, I know there are many public buildings on this Island who have a smaller cleaning bill than this one here, which is just to have 4 members of staff. I would like information on those fixed costs and how they are reached. I would like information on the future secretarial support, because the secretary is mentioned in the job descriptions but we are told there are only currently 4 members of staff. I am simply concerned we have too many chiefs. There is not a single person in this under a manager level. Having said that, those people are probably necessary for the roles that they undertake, but they must also by definition be undertaking much lesser roles that go along with their management role, and there is no support staff to do it. Therefore, even though those people may deserve their salary, and may be working very hard, they are not being used efficiently, and I would like that taken into consideration in the information I would require.

10.1.24 Senator P.F. Routier:

From hearing speakers, obviously they are fairly convinced that this is not value for money, what is being proposed for the future. But what is being proposed is exactly what we have now. We already are paying. The green sheets of paper that we have all been provided with show the detail of the costing, and that money is being spent right now. There was also a question, I think, from Deputy Le Claire about whether the commissioners were going to be on the pension scheme, the P.E.C.R.S. They will not be included. The figures which talk about pensions in this scheme are the States employees. Another one of the comparisons which was asked for by one Member was about the value for money: for instance, Alderney spent £1.25 million on regulating their gambling.

The Deputy of St. Mary:

For your information, they have a vast e-gambling industry, do they not?

Senator P.F. Routier:

Exactly. We do not, and we do not have that provision at the present time. All I would say, Members seem to be fairly set in their minds on this. But I will say, in defence of that - and hopefully I can encourage people not to support this reference back - that there is no additional cost on what we are already providing currently. The only thing by stopping this is a delay, a delay in protecting people. We need to get a commission in place as soon as we possibly can.

10.1.25 Senator T.A. Le Sueur:

If one voted for a reference back, one hopes that as a result we will come back to the debate older and wiser and with better knowledge. I just wonder what better knowledge we are going to get as a result of the reference back, because we know what the current costs are. There is a shadow gambling commission in existence. We may have concerns about those costs. We know what those costs are, we can read from the report what the benefits of the gambling commission are, and it is then very subjective matter for Members to decide whether those benefits justify the cost of the

operation. Whereas the Minister can quite happily come back and say: "Is the cost beneath benefits?" and in my view the benefits outweigh the costs and therefore would you go ahead; other people will say: "No. Those are the costs and those are the benefits." The same costs and the same benefits, but they will feel that that does not justify going ahead. So, all that information is available now, and all that the reference back strikes me as being able to achieve is a delay in this proposition, which I suspect is really what Members are after.

10.1.26 Deputy D.J. De Sousa:

It is probably a point of clarification from the Minister. I did turn up at the presentation but had to leave because it went on longer and I had an appointment to go to. I was going to ask this question then. Perhaps you could enlighten me now. Is it not the case that we need this legislation in order to have e-gambling; without it we cannot have that? Is that the case? Is that why we need the urgency?

Senator A.J.H. Maclean:

The 2 issues are not directly linked. As I have already pointed out, e-gaming as part of the modernisation of the gambling legislation will come before this Assembly next year. That is the point when Members will have an opportunity to accept or reject. This issue is far, far more important than that. It is about regulating our existing gambling industry which has not been done properly in the past.

10.1.27 The Deputy of St. Martin:

I just feel I want to tidy up a few things that have been said, just as Deputy Martin mentioned about the Gambling Commission Law. There is a Gambling Commission Law in the U.K. quite clearly, in the U.K. and Alderney, because they have on-line gambling. Guernsey does not have one. They have only got 4 betting shops and their betting fees are very much the same as ours. Also, if one looks at the job description, all 3 of them, there is only one really where a fair amount of time is given to the actual running of the thing. Unfortunately, this here is very much a red herring. It is showing that a lot more caution is necessary. That is the concern. I think Deputy Tadier is quite right. I think the reference back is required really to get better figures so we can get the cost analysis, value for money. The danger, and I think the worry we have and I have, is I think in many ways generally there is no problem, no issue, from the industry itself. They are quite happy to have some oversight. There is not a problem with that. They were happy with the old gaming control thing. What I am concerned about and everyone is concerned about - most of us here - is the cost of it, and the only way we can get an answer is having a reference back, getting all the figures back here and then we can make a decision. The way things are now, if we reject the reference back, we are quite likely to reject the main proposition and everything will get lost. So, it is down to the Minister, I would have thought, personally and it might make more sense to accept the reference back. At least you have got half a pie. The other half might be lost.

10.1.28 Deputy M. Tadier:

I will keep it brief. Certainly it has been a well contributed to discussion. I just want to pick up on one criticism that has been made of the reference back and the reasons for doing that. It is said that it was very narrow. But in fact I think, to be more precise, it was specific. It needs to be specific: by its very nature, when you have a reference back you need to give the grounds on which you do that. But I would like to make the point that it is the general value for money which needs to be looked at. It is not simply a case of looking at the commissioners and the staff but, as has been pointed out already, what the proposition is setting out to achieve; for example, we have heard about education, about social responsibility and the social work social responsibility fund being set up. Is that going to provide value for money? I am looking through the report and it says that only £30,000 is going to be allocated to that fund. If we presume that is something like, let us say, 300 people that need to make use of that, there are 300 problem gamblers in Jersey in one year, that

works out at £100 each. We know that people can get into serious debt from gambling. This is just one area. That is just one example. So, I think although it is specific in one sense, in the whole area of value for money the case needs to be made. I think that is understood by the majority, so I will not labour that point, but simply comment on the Deputy of St. John's comment about the presentation. We are grateful when presentations are put on. I know for my part I was in Cardiff with a Scrutiny Panel; if it was on Wednesday, then that is where I was. But you know even people who went to that presentation still have issues, as we heard from Senator Le Main. So, it is not simply a case of go to a presentation and everything is okay. I really believe that Deputy Le Hérisier summed it up correctly that we are being presented with a form of moral blackmail here. Senator Maclean talked about playing Russian roulette if we do not get this through now, but in fact I think he is the one who is holding the gun to our head. So I would say that we need to reject this argument but support the reference back. So, I would ask for the appel and ask Members to support the reference back.

Senator A.J.H. Maclean:

Just before we go to the vote, if I could ask for some clarification: if Members were minded to reference back, to send this back, would it be a case that it would be sent back to the department to supply information, or what is the actual process? Because it does strike me that, for example, the P.A.C., the chairman of which did not turn up to the briefing, would they not be an appropriate body to look into the matter? I just wanted to know what the proper procedure was.

The Deputy Bailiff:

It is a reference back to the Minister to provide further information.

Senator A.J.H. Maclean:

To provide further information in what fashion? I was curious because we held briefings and only 6 Members turned up to the briefings, and I was wondering what the normal format is.

The Deputy Bailiff:

I am sure part of it, Minister, is to ensure the briefings are there in a written document which is available for all Members. The appel has been called for. Those Members who are outside the Chamber wishing to vote, would they kindly return to their seats. The proposition is to refer P.139 back to the Minister for Economic Development for further information about value for money and concerning the number of commissioners. If all Members are ready to vote, the Greffier will open the voting.

POUR: 32		CONTRE: 14		ABSTAIN: 0
Senator T.J. Le Main		Senator T.A. Le Sueur		
Senator B.E. Shenton		Senator P.F. Routier		
Senator S.C. Ferguson		Senator A. Breckon		
Senator B.I. Le Marquand		Senator A.J.D. Maclean		
Connétable of St. Ouen		Connétable of Trinity		
Connétable of St. Helier		Connétable of St. Brelade		
Connétable of St. John		Connétable of St. Saviour		
Connétable of St. Peter		Connétable of St. Clement		
Connétable of St. Lawrence		Deputy of St. Peter		

Connétable of St. Mary		Deputy J.A.N. Le Fondré (L)		
Deputy R.C. Duhamel (S)		Deputy K.C. Lewis (S)		
Deputy of St. Martin		Deputy of St. John		
Deputy R.G. Le Hérisier (S)		Deputy A.E. Jeune (B)		
Deputy J.B. Fox (H)		Deputy E.J. Noel (L)		
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Deputy Bailiff:

Perhaps I can take this opportunity to advise Members that there has been lodged today by Deputy Noel the Draft Gambling (2010 Fees) (Jersey) Regulations 200- (P.141/2009): second amendment **[Laughter]** ; the Jersey New Waters Company Limited Report of Jersey Competition Regulatory Authority on Outsourcing - P.195 - lodged by Deputy Southern; the Review of the Roles of the Bailiff, Attorney General, Solicitor General, Appointment of Chairman and Members of the Review Panel, lodged by the Council of Ministers, P.196; and P.197, Committee of Inquiry, Confidential Files held by Jersey Police on States Members and Others, lodged by Deputy Higgins.

Deputy S. Power:

Might I be allowed to make one comment with regards to the briefing that was referred to by the Minister for Economic Development? Some of us had meetings last week, particularly planning meetings, which were set in January of this year, and it is almost impossible to change a Planning Applications Panel meeting, and the 7 of us who are on Planning had no chance whatsoever to go to the meeting on gambling.

The Deputy Bailiff:

I am sure the Minister will take that into account. The adjournment is proposed.

ADJOURNMENT