

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 15th MAY 2012

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

[9:30]

QUESTIONS

1. Written Questions

1.1 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE REPLACEMENT AND COST OF SQUARE MANHOLE COVERS:

Question

Would the Minister advise how many square man-hole drain covers have been replaced with round ones in the last three years, why they have been changed, and at what cost?"

Answer

Approximately 230 square manhole covers have been replaced with circular ones in the last three years at a total approximate cost of £107,000.

They are being changed for a number of reasons. Some changes have been necessary as the existing covers have been damaged or have been showing signs of surface wear which is a hazard to traffic.

However, there is also an ongoing long term programme to phase out the use of the square covers due to the difficulty and risk to personnel that exists when these covers need to be opened. The existing square covers are very heavy and require at least two men to lift them and as a result pose an injury risk to those operatives tasked with this operation, particularly as many of the covers are 'jammed' into the frame and require a significant effort to release them.

The decision to use the circular covers currently being installed was based on their method of opening and the fact that this could be achieved by just one operative with little risk of injury to the operative involved. These covers also incorporate a neoprene seal in the frame which will reduce the risk of the cover becoming jammed over time.

The approximate cost to replace one manhole cover in isolation is £575. However, approximately 70 manhole cover replacements included in the total given previously have been incorporated into the current road resurfacing programme which has reduced the overall unit replacement cost to approximately £465.

1.2 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING JERSEY TELECOM'S FIBRE OPTIC EXPANSION:

Question

With regard to the Jersey Telecom (JT) fibre optic expansion, would the Minister, as the representative of the shareholder, advise Members –

- (a) whether this new infrastructure will result in higher prices and, if not, how it is intended JT will recoup its outlay;
- (b) whether those JT customers who were offered a free trial will face an increase of £60 a month for their broadband;
- (c) why the recent offer of new jobs was handled by outside consultants and at what cost;
- (d) how many additional people have been employed as a result of the expansion?

Answer

- a) JT's price for existing broadband speeds will not change, so the current price offering of the 2/4/8/16 Mbit/s products remains the same. However, these products will be offered across a fibre network instead of a copper network which means that the quality of the product will be far superior. The new higher speeds of 100 Mbit/s and 1 Gigabit/s are offered at £44.99 and £59.99 respectively, prices which rank at the lowest per megabit in the OECD (Organisation for Economic Co-operation and Development).

Based on the superior quality of the product and the phenomenal increase that telecom operators are seeing in user demands for increased download and upload speeds, JT's independent Board of Directors is confident that the investment will be recouped through the numbers of customers opting for the higher speeds. The investment also ensures that the company will continue to provide for the communication needs of a modern finance industry while providing a huge opportunity to diversify the economy with Digital Jersey.

- b) The customers offered the free trail have the choice of remaining on whichever service they wish to. These details, as well as further information, are publically available on www.gigabitjersey.com.
- c) The recruitment programme for the "100 jobs" was run through JT working closely with the team at the Social Security Department and the two companies that specialise in the provision of the engineering workforce for such a specialised programme of work, CH2MHill and Total Technical Solutions. As JT already uses CH2MHill on an outsourced agreement to provide JT with a flexible engineering workforce, the cost of this extra effort (which is commercially sensitive) was negotiated as an overall price to provide the services.
- d) So far 75 roles have been offered to local unemployed people and, currently, we are looking to recruit a further 25 from the local labour market.

1.3 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE USE OF 'ZERO HOURS' STAFF:

Question

Will the Minister explain the discrepancy between the response to written question 6833 (2 staff on zero-hours contract as at 31/03/12) and that given by the department to me on 30th April 2012 ("27

staff employed through temporary agencies (who) would normally use zero hour contracts to employ temporary staff”)?

How does his statement that ‘genuine zero hours contracts are necessary and appropriate’ apply to his department’s use of zero-hours contracts and is this “casual or irregular work” where no number of hours or times of work is specified?

How frequently will Income Support will be reviewed to ensure that the benefit is adjusted in line with actual earnings in respect of those working zero-hours?

What discussions, if any, has the Minister had with the Head of the Jersey Advisory and Conciliation Service regarding the latter’s reservations concerning “non-genuine” zero hours contracts, which enable employers to avoid holiday, overtime and sickness pay?

What costs are involved in the use of temp agencies in recruiting staff to positions within his department compared with normal recruitment and were agencies required to tender?

What additional training was involved in recruiting staff (themselves unemployed) to the sensitive area of working with the unemployed?

Answer

Both answers previously given to the Deputy are correct.

The Social Security Department does employ directly 2 cleaning staff members on zero-hours contracts (Question 6833) to cover planned or unforeseen absence in the cleaning team.

The Department does also engage Recruitment Agencies to supply temporary staff to work in the Department. These temporary staff are not employed by the Department – they are employed directly by the Recruitment Agencies. Their contractual arrangements are a matter for the Recruitment Agency and the individual. Recruitment Agencies do though typically use zero hour contracts for the staff they supply to the Department. Temporary staff are used in the Department to cover short-term fluctuations in workloads or where permanent funding is uncertain.

Income Support Claimants are required to notify the Department of fluctuations in income. For claimants working sporadically on zero hour contracts then we would normally expect to be notified once every 5 weeks to ensure that benefit levels are set appropriately according to the needs of the claimant or household concerned

1.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING ASH FROM LA COLLETTE:

Question

Following the report compiled by Capita Symonds in April 2011 "La Collette Energy from Waste (EfW) Residues: Technical Options and Disposal Sites", what further investigation, if any, has the Department conducted into potential treatment methods for the two forms of residue from the EfW plant, Air Pollution Control residues (APC) and bottom ash?

Will the Minister outline for members what the current practice is for the treatment of both APC and bottom ash?

In light of the possible acceptance of Guernsey's waste, what new technologies, if any, have been investigated for the treatment of the more hazardous components, APC residues and, in particular, what assessment has been made on technical and cost grounds of the potential of Accelerated Carbon Technology for the treatment of Jersey (and Guernsey) APC residues?

Answer

The Planning permit for the new EFW required TTS to produce an ash strategy to set out how the residues from the plant will be dealt with. This was submitted in October 2010. The strategy described the continuation of disposal via engineered cells at La Collette and committed to a detailed review of leading practice in ash management in other jurisdictions.

This work commenced with the technical assessment by Capita Symonds and continued through 2011 including officer visits to UK facilities where IBA is being successfully recycled as a construction aggregate. The review team also visited a facility chemically treating APC and met with companies offering hi-tech solutions such as plasma-arc vitrification.

With regards to the specifics of carbonation technologies for treating APC, these are currently being assessed by the Department's technical advisors and will form part of the options assessment.

Alternatives to disposal in cells clearly exist but none of the options are immediately available. Local recycling of IBA into an aggregate requires a detailed characterisation of the material produced by the new plant which is currently being carried out. The product, once processed, is low grade in construction terms so work will be required to build confidence within the industry in accepting its use. As a government we will also need to be confident that the material is safe to use locally where our water catchments are all classified as 'sensitive' in environmental terms.

For APC, which is classified under European standards as 'hazardous', local treatment will be difficult to achieve efficiently with such low volumes. Export for treatment is an attractive option but would require permission from the receiving authority under the terms of the Basel Convention. The negotiations for this have been initiated.

There are a number of workstreams underway on this subject. Some will take time to produce the results required to inform decision making so the Department has created a 'roadmap' to set out a way forward and ensure ash management policy evolves effectively for our Island setting. The Environment Scrutiny panel has now commenced a review of the emerging strategy.

Current Disposal Practice

Incinerator Bottom Ash (IBA)

The non-hazardous IBA generated from the new EFW plant continues to be managed within lined cells at La Collette. The cells are constructed above the Mean High Water Spring level within the site and are engineered to a high standard through a rigorous construction quality assurance process to ensure no hydraulic connectivity with the surrounding environment.

To provide further re-assurance of the integrity of this method and of historic cells, TTS has recently completed a 6 month baseline water quality monitoring survey of the site and surrounding marine waters. The results indicate that the ash cell system is doing its job. A quarterly, continuous monitoring programme is now in place to provide ongoing surveillance.

Air Pollution Control Residues (APC)

The new plant has a state-of-the-art emissions control system which collects potentially harmful substances from the exhaust gasses. These more hazardous residues form only around 20% of the ash from the plant and are collected separately in the process. APC is placed in large bags and currently placed in a high specification lined cell. The cell can provide a secure method of disposal for this material or act as a safe holding store should the ash strategy review lead to a decision being taken to export APC to off-Island treatment facilities.

In summary the Department has a reliable and tested solution in place for managing EFW residues. However with EFW now a mainstream waste technology in Western Europe alternatives for dealing with ash outputs are rapidly evolving. TTS is assessing these for technical applicability in Jersey including financial appraisals of the options.

1.5 CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE RESURFACING OF THE AIRPORT ROAD:

Question

Will the Minister confirm that the road surface at the Airport was in better condition than expected and, if so, was the decision to resurface it justified, particularly when many roads across the Island are in a very poor condition?

What was the cost of the Airport road resurfacing contract?

What action, if any, has the Minister taken to persuade the Council of Ministers to provide extra funding to make a proper difference to the roads across the Island?

Did pressure from St. Brelade politicians influence the decision to resurface the Airport Road?

Answer

The road surface along Avenue de la Reine Elizabeth II was in a poor condition and was visibly deteriorating. The funding that will be used to extend the works along Avenue de la Commune was money held in contingency against the prospect of the underlying asphalt layers being in a worse condition than expected. Fortunately after the top surface course was planed off, these underlying layers were in better condition than expected.

The original cost of the Airport Road resurfacing project was approx £738,000 and the extended works will cost £105,000 which will be met within the overall budget allocated.

The road resurfacing budget has increased in recent years due to continued efforts from TTS to highlight the condition of the Island's road network. These budget increases have allowed TTS to carry out major resurfacing works to the following roads:

La Route de la Haule – St Brelade and St Peter

St Peter's Main Road – St Peter

Mont Fallu – St Peter

Victoria Avenue – St Lawrence and St Helier

Mont Millais – St Helier

Le Mont de Ste Marie and Les Chenolles – St Mary

Commercial Buildings – St Helier

La Route d'Ebenezer - Trinity

In recent months a Business Case has been developed requesting funding for additional projects to reduce the backlog of resurfacing required which is currently being considered by Treasury. TTS is hopeful that funding will be available but this is very much dependant on Treasury support and ultimately States Assembly approval.

No pressure has been exerted on the department's officers by current or previous St Brelade politicians. Decisions on which road to resurface are dependent on the road condition surveys, utility company activity and streetworks coordination.

1.6 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE CONTRIBUTIONS SYSTEM:

Question

In the light of his predecessor's decision to increase the Social Security contributions from the self employed by 2% on earnings above the upper limit (circa £45,000), what progress, if any, has the Minister made in developing a more flexible system for contributions to replace the simplistic two contribution classes of Class 1 (employees) and Class 2 (everyone else) which has been in place since 1974?

Will the Minister bring proposals to the Assembly to modernise the Social Security contributions system to accommodate today's employment conditions and, if so, when?

Answer

In line with the agreed Fiscal Strategy Review, my Department worked extremely hard last year to develop and implement a new 2% contribution rate in respect of employers and the self-employed on earnings above the standard earnings limit.

During 2011 it was acknowledged that a number of aspects of the contribution system would need to be reviewed but that it would not be possible to address all these issues in advance of January 2012.

Given the need to concentrate on the Back To Work programme and other major projects such as the introduction of a Long-Term Care benefit and Discrimination legislation, the Department will not start work on a review of the contribution system in 2012 but this will commence during the period of the current Strategic Plan.

1.7 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE CHIEF MINISTER REGARDING RENEWABLE ENERGY:

Question

Given the commitment within the Council of Ministers' Strategic Plan to position Jersey as a low carbon jurisdiction that uses resources efficiently and wisely, can the Chief Minister assure members that, with regard to energy requirements, support will not be given by the Council of Ministers to controversial schemes such as wind-farms and instead all relevant Ministers will be encouraged to give assistance where possible to schemes that harness tidal power?

Answer

The Minister for Planning and Environment holds the lead responsibility for Energy Policy and will shortly be bringing forward for consultation a Draft Energy White Paper which will cover the question of renewable energy in the context of an energy policy. In addition since 2008, a parallel work stream has been underway and led by the Renewable Energy Commission who have been providing advice to the Minister.

The Renewable Energy Commission is chaired by Constable Murphy and was mandated under MD-PE-2011-0043¹. They recognise that the deployment of renewable energy can bring many benefits to Jersey in the long term including a sustainable source of low-carbon energy, opportunities for economic diversification and an increase in security of supply.

However, the challenge in currently deploying all forms of offshore renewables is that the power they generate will be significantly more expensive than traditional electricity or hydrocarbon fuels. This would be particularly true of tidal power since this is a technology at its very earliest stages of development and commercial arrays are still at least a decade away. But, over time the cost of renewable energy generation is likely to drop and as well, it is expected that hydrocarbon energy prices will rise significantly. Thus the feasibility of a future project of whatever renewable technology (e.g. wind, tidal stream, wave energy) can be assessed at the point at which a project is more economically feasible.

The Commission have recommended to the Minister for Planning and Environment that currently all work about renewable energy concentrates on the 'technology blind' steps. These include the following areas of work:

1

http://www.gov.je/GOVERNMENT/PLANNINGPERFORMANCE/Pages/MinisterialDecisions.aspx?docid=24e7d04558af9ef02505eb5606a2d303_MDs

- Drafting of renewable energy legislation to ensure any future project takes full account of the environmental, health and safety and navigational risks of an installation;
- Working with the UK and EU to assess Jersey's eligibility to subsidies to generate renewable energy;
- Working with other Channel Islands to promote joint working wherever possible and to present 'one voice' in external negotiations (for example our work within two British Irish Council workstreams that cover renewable energy);
- Resolving issues regarding the ownership of the seabed which currently lies with the Crown in the Right of the Duchy of Normandy;
- The development of a Marine Spatial Plan to categorise the surrounding waters into areas that may or may not be suitable for renewable energy installations because of their environmental, economic and navigational sensitivity.
- Consideration of the funding models and commercial arrangements that would need to underpin any future project.

Thus I would like to reassure the Deputy that all our current work on renewable energy does not favour any one technology over another, the Renewable Energy Commission and the Minister for Planning and Environment advise that it is not yet time for us to 'pick winners'. In the longer term the economic feasibility of a particular project will be considered in the context of the economic, environmental and social consequences. This future point will be the time for the Island to decide the most suitable type of installation for Jersey in the context of environmental, health and safety and navigation constraints. In the meantime, work concentrates on the enabling steps for deploying renewable energy when the conditions are right for Jersey.

1.8 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE FUNDING OF TOURISM DEVELOPMENT

Question

With regard to the Tourism Investment Fund, what assurances, if any, can the Minister give that future payments will be restricted to investment in tourism related activities that are likely to see a measurable benefit to the economy, rather than appearing to act as a fund of last resort for diverse projects, some of which have very tenuous connections with tourism?

Answer

I will assume that the Deputy refers to the Tourism Development Fund (TDF) in the answer to this question, which replaced the Tourism Investment Fund following a States decision in 2001 (P170/2001).

Over the last few years, we have strengthened the application and assessment procedures and moved away from consideration of applications as and when they arose to a pro-active and structured biannual application process. There are a number of ways in which these procedures ensure that awards are granted to tourism related activities that are likely to result in a measurable benefit to the economy:

- The process is led by an independent panel that is tasked with evaluating which projects will bring the most benefit to the Tourism industry. The Panel comprises of members of the private sector, some with experience within the Tourism sector; and others with broader business experience;
- The Panel scrutinise each application to evaluate the anticipated immediate and future impact on visitor numbers or visitor experience, how sustainable the impact is likely to be and whether the project leverages others sources of funding;
- The Panel scrutinise the application material submitted by the applicant in great detail; regularly request additional information to be provided and in addition, the Panel or a Panel Member often meet with applicants for further evaluation;
- Applications for over £5,000 have to be supported by business plans; and
- When a decision is made to award a grant, contracts are issued and 5% of grants are retained until a report is delivered which illustrates how the project met its stated aims.

The Fund seeks to support projects that without a grant would be unlikely to go ahead or would be significantly less successful without the additional funds. If this is what the Deputy means by a 'fund of last resort', then it should be viewed in this way. If organisations have other methods of funding projects, it is not a good use of taxpayers' money to step in. That is why some very worthwhile initiatives have applied to the Fund in the past and been refused – because they have been able to run an equally successful event without the additional funding they applied for.

In the last round of applications, twenty six applications were received and only five were awarded funding – precisely because of the level of scrutiny applied. In future, we expect this level of scrutiny to continue and if the proposition to allow private sector organisations to apply to the Fund is passed by the States, additional procedures will be put in place - as referenced in the 'Safeguards' section of P26/2012.

1.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE USE OF 'ZERO HOURS' STAFF BY STATES DEPARTMENTS:

Question

As the response of the Chief Minister to question 6833 of 1st May 2012 revealed that the vast majority (1,127 of 1,157) of zero-hours contracts issued by States departments were in the Education and Health departments, will he seek a breakdown of the use of these contracts from the Ministers responsible to confirm that zero-hours are only used to meet genuine needs for flexibility and are not a used in cases where a fixed-term contract with defined hours and other terms and conditions would be far more appropriate, and, if so, will he undertake to report his findings to members?

Answer

States current systems do not allow for the easy analysis of individual zero hour contracts. However, zero hour contracts are used to provide flexible resources to cover various operational needs such as the absence of permanent employees due to sickness, special leave, or training.

An employee may have been deployed within numerous roles during any one month and may have provided ad-hoc cover for permanent staff absent due to sickness or special leave or training courses, or to cover a specific short term need or vacant post.

The Education, Sports and Culture Department employs individuals on zero hours contracts in four main groups: Highlands College Lecturers, Adult Education Tutors, Teaching and Non-Teaching supply. The flexibility afforded by these types of contracts is essential as it enables the Department to maintain a bank of appropriately qualified and skilled staff to meet the demands of fluctuating pupil and student numbers.

Within Health and Social Services it is essential to have flexible capacity in the workforce to provide essential services with unpredictable peaks and demands. The use of a blend of full time, part time, fixed term and zero hours contracts in Health and Social Services is considered to be appropriate and minimises the risk to patients.

The table below shows the deployment of zero hour contract staff within Education Sport and Culture and Health and Social Services during March 2012.

Department	Division	Total
Education, Sport & Culture	Education General	352
	Highlands College	218
	Education Sports Division	12
Health & Social Services	Health and Social Services	545
Total		1,127

Employees who work for the States of Jersey on a zero hour contract provide a valuable source of flexible labour. The States of Jersey is confident that each department regularly reviews the use of zero hour contracts to ensure that they are utilised appropriately.

1.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING TAX REVENUES FROM ZERO RATED COMPANIES:

Question

Will the Minister assure members that he will keep his promise to bring forward in his fiscal policy for 2013, and beyond in the Medium Term Financial Plan, measures that will deal with the absence of a contribution to Jersey's tax revenues from zero-rated companies?

What lessons, if any, has he learned from the experience of Gibraltar in attempting to raise revenue from such companies without breaching European Union regulations?

Answer

The Minister remains committed to bringing forward measures to deal with the issue of non-finance, non-locally owned businesses. However, the Deputy's question is fundamentally flawed

when it states that there is an “absence of a contribution to Jersey’s tax revenues from zero-rated companies”. As has been stated many times, those companies which are subject to tax at 0% contribute significantly to tax revenues either through taxes and Social Security paid by individuals they employ, GST or contributing to the taxable profits of the finance industry.

In accordance with P157/2010 the Minister has committed to bring forward measures ‘provided that to do so would not jeopardise the integrity of Jersey’s business tax regime or its international competitive position’. There is a further and very important issue to consider. The economic climate has deteriorated since that proposition was approved. Jersey is facing rising unemployment and the non-financial services industry in particular is feeling the effects. As well as ensuring Jersey’s international position is protected, it is just as important that measures are not taken to worsen the employment position.

A significant amount of work has been done on this and the fact that it has taken so long to deal with illustrates that this is not a simple issue and there is no perfect solution.

Members will be fully briefed on this issue before the Budget debate. A report will be issued in the summer and proposals will be brought forward in the Budget Statement.

The Deputy rightly mentions the recent Gibraltar case. This highlights two issues. Firstly that the international world is constantly changing and Jersey needs to act accordingly. Secondly, assuming the Code of Conduct Group takes a similar position as that taken by the European Court of Justice, it will not be possible to tax the majority of companies in Jersey and maintain a compliant regime.

Jersey chose to implement zero/ten as that was in its best interests to protect its economy. It more recently chose to maintain zero/ten for the same reason. No action will be taken to jeopardise that position. Similarly no action will be taken which jeopardises employment when the economy is so fragile.

1.11 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE CHIEF MINISTER REGARDING THE MODERNISATION OF THE PUBLIC SECTOR:

Question

Given the Council of Ministers’ aim to create a better structured and more efficient public sector, would the Chief Minister describe the mechanisms by which he hopes to achieve this and give an indication of the timescale involved?

Answer

The challenge of Public sector reform is one of the most significant issues faced by the government of Jersey in the coming decade. It will provide an opportunity for a fundamental reappraisal of how public services are provided to our citizens in a manner which is both cost effective and focussed on service outcomes and delivery.

It is in the early stages but the approach is to concentrate on Service redesign, Cultural change and Workforce modernisation.

If this programme, which involves large numbers of people and significant changes, is to be successful, it must be supported by strong leadership, adequate resources (in terms of people and funding) and appropriate scheduling.

Such a significant programme of reform will take time to ensure it is both enduring and sustainable. Hence, it is anticipated that the changes will occur during the next six years in such a way that allows the change to be embedded without disruption to the services the public expect.

2. Oral Questions

2.1 Connétable M.P.S. Le Troquer of St. Martin of the Chief Minister regarding the reasons for differences in the salary ranges advertised for public sector positions:

Will the Chief Minister detail the reasons for the considerable differences in salary ranges being advertised for public sector positions, with some recent examples indicating a £30,000 difference between the minimum and maximum salary available, another with a £20,000 range and another at over £10,000 difference?

Senator I.J. Gorst (The Chief Minister):

There are sometimes considerable differences in the advertised salary ranges for public sector positions because the employer does not wish to limit the number or type of people who might apply for the posts on offer. A difference between the minimum and maximum salary available will take into consideration the need to attract either a candidate who can grow into the position and develop the necessary experience, knowledge and skills working in the role while also not putting off a candidate who already has the requisite skills to undertake the role successfully.

2.1.1 The Connétable of St. Martin:

Can the Chief Minister advise the Assembly who decides the grade or indeed the commencement salary to be offered to the successful candidate following the interview?

[9:45]

Senator I.J. Gorst:

That will be, as I tried to indicate, decided in line with the experience and skills that the person who is offered the job has and therefore they will be slotted into what is, some might say, a rather structured salary banding range.

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

Would the Chief Minister acknowledge that some of the salary ranges are attempts to emulate business sector practice without the disciplines of the business sector?

Senator I.J. Gorst:

Not in this instance, no I would not. Sometimes that does happen and it is something that we must guard against. But, for example, the first difference which the Connétable raised was to do with a consultant and it quite clearly, while £30,000 seems a large differential, could be a newly-qualified specialist which is appropriate to appoint to the job or it could be a specialist which has been in post for 10 years, fully qualified and experienced and therefore the banding has to allow for either of those 2 eventualities.

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

Does the Chief Minister think that there should be a relationship between the highest and lowest salaries and that salaries of senior civil servants should not exceed over a certain figure because of the disproportionate higher salaries?

Senator I.J. Gorst:

While it is an interesting question, I am not sure it arises out of this question, which is a salary band for a sole job. Having said that, of course, there has been much publicity around the salary ranges for senior staff members and the States Employment Board is undertaking a piece of work to ensure that the salaries at the highest levels are appropriate, but also that there is a proper performance management process in place to ensure that where salaries which might be considered to be large are offered, they are appropriately monitored, reviewed and to ensure that the taxpayer is getting good value for money.

2.1.4 Deputy R.G. Le Hérissier:

Given the public concern and given the recent U.K. (United Kingdom) move to reduce the numbers of exceptionally high salary earners in local government, because of the feeling that the results were never obtained that were promised. Would the Chief Minister outline how many of the salaries have indeed been revised as a result of this intensive monitoring to which he has just referred?

Senator I.J. Gorst:

I did not refer to intensive monitoring; I referred to a piece of work the States Employment Board has instructed to be undertaken. Once that has been undertaken then I will be in a position to answer his question more fully.

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

Is the Chief Minister aware of research carried out by everyone's favourite economist, Ha-Joon Chang, that demonstrates that inflated salaries do not lead to better performance and is that considered when we have these quite wide differences on salary bands?

Senator I.J. Gorst:

As I said in answer to an earlier question, performance monitoring is absolutely critical. There is no point appointing someone to a job and offering a large salary if there is no way of monitoring to ensure that the performance that is expected for that salary is being delivered.

2.2 Deputy M.R. Higgins of the Minister for Planning and Environment regarding a Human Rights Audit of the Department's Laws, Regulations, Orders, Guidance Notes and Procedures before the introduction of the Human Rights (Jersey) Law 2000:

Will the Minister explain whether or not the Planning Department conducted a human rights audit of the Laws, Regulations, Orders, Guidance notes and Procedures before the introduction of the Human Rights (Jersey) Law 2000; detail on what dates these documents and procedures have been reviewed since then and advise whether he will publish the policy in force as of 26th November 2010, and, if not, why not?

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

To the best of my knowledge, I am told that some audits were carried out in preparation for the Human Rights (Jersey) Law in 2000. As the Deputy knows, Article 16 of this law places a mandatory statutory requirement on all Ministers to make a statement of compatibility when legislation is lodged au Greffe. All projets of law, therefore, since the introduction of the Human Rights Law are vetted for human rights compliance by the Law officers prior to lodging and it is only after considering that specific advice that Ministers are able to sign a compatibility statement. I will publish the policies in force as at 26th November and will do that in due course. If there are any convention rights that the Deputy believes are challenged by my department, I will be grateful

if he would draw them to my attention and seek either his own advice from the Law officers or bang on my door.

The Deputy Bailiff:

I do not wish to encourage you, Minister or Deputy Higgins, but that last part is going to arise out of question 15. This question is only about the audit that was or was not conducted some time ago, whether the procedures have been renewed and whether the policy will be published and you said it would. Deputy Higgins?

2.2.1 Deputy M.R. Higgins:

Yes, I will come to the question of whether they are following procedures later. The point I am trying to make here and I have been asking repeated written questions and I have been told that the matter has been referred to the Law officers, what I have been trying to find out is whether an audit was carried out. Now, we have been told, to the best of the Minister's knowledge that some audits have been carried out. Will he please advise the House what audits were carried out and what was not carried out and what does he also mean by "due course"?

Deputy R.C. Duhamel:

I mean that the advice will be published as soon as I am able to do it. In reply to a written question and an oral question at a previous occasion, I did say that I was waiting for some further advice from other departments and until that advice was forthcoming, I was not in a position to publish. When that advice is available to me, I will publish it as soon as is possible.

2.3 Connétable P.J. Rondel of St. John of the Chief Minister regarding the retirement package for the Consultant of Obstetrics and Gynaecology who retired in March 2012:

Would the Minister detail the retirement package which the consultant for Obstetrics and Gynaecology received when he retired in March 2012?

Senator I.J. Gorst (The Chief Minister):

The consultant retired in line with normal hospital practice. Prior to retirement, the States Employment Board resolved an outstanding legal claim from the consultant. A settlement, totalling £448,000 was reached in relation to the net losses suffered by him, including in relation to loss of private income. It also included a contribution to his re-training and legal costs. So it is hoped that we can now place these sad events behind us.

2.3.1 The Connétable of St. John:

I have deep concerns as to how the hospital managed to keep out of work one of the most gifted and eminent surgeons for over 5 years at great cost to us all on the basis of fact or process. What is the cost to the taxpayer and the Island, excluding the package that we have just been told about?

Senator I.J. Gorst:

Let me be clear, it was not a package, as the Connétable is referring to; it was the settlement or the resolving of an outstanding legal claim from the consultant. However, the Connétable is absolutely right, that is only part of the picture. It is my understanding that the cost of the period of time from 2006 until retirement is in the area of £2.5 million. That does not include the settling of this claim.

2.3.2 The Connétable of St. John:

The Minister has said that the investigation against the consultant [*name omitted in accordance with Standing Order 160(3A)*] was found in his favour, including the huge personal damage to the consultant's reputation and his family as well as the huge cost to the Jersey taxpayer. Has the

Minister got an explanation? Was the problem caused by envy from fellow members within the department or senior management of the hospital, and has any discipline or dismissal of senior staff within the hospital taken place? Will there be a further report following the previous one?

Senator I.J. Gorst:

There were a number of questions there, I shall endeavour to pick them up and answer them where I can. The Connétable will be aware that this extremely sad and distressing incident happened a number of years ago and the management at the hospital is no longer the same. The Minister in charge of the department is no longer the same. There have been a number of reviews around hospital practice and performance. I think the review that dealt with this particular suspension case was the GoodwinHannah review. The Connétable will know that the hospital has implemented many changes in light of the recommendations of that review. There are still some which are required to be undertaken. I think that Members will acknowledge, as the Council of Ministers acknowledge, that this is one of the reasons why reforming the Health Service and the Social Services is a top priority of this Government and this Assembly over the next 3 years. We propose to invest in the hospital. We propose to improve the delivery of health care to all members of our community.

2.3.3 Senator S.C. Ferguson:

Is it correct that the consultant's personnel file now contains a note absolving the consultant of blame in the particular case?

Senator I.J. Gorst:

I am sure that Members would not expect me to have sight of individual staff members' personnel files and therefore I cannot answer that question.

2.3.4 Deputy R.G. Le Hérisier:

When the Chief Minister mentioned that there is new management, can he outline some of the steps that have been taken to avoid repetition of the situation?

Senator I.J. Gorst:

Question time is never a good place to go into detail, but as I tried to indicate, if the Deputy were to look at the conclusions and recommendations of the GoodwinHannah report, he would be able to see that those issues have been done or are being addressed and, of course, one of the critical improvements is the memorandum of understanding which takes places across agencies to ensure that these incidents, we hope, will not occur again.

2.3.5 Deputy T.M. Pitman:

You might rule this as too wide of the mark, but because Verita was quite a long time ago, can the Chief Minister just clarify for me, with all this debate, is it correct that the consultant was not in the hospital at the time when his patient did sadly pass away?

Senator I.J. Gorst:

These, as I have said, extremely sad incidents occurred in 2006. I was not involved at that time and cannot easily bring back to memory exactly the details of all the cases, but if memory serves, I understand that the consultant was not present at the hospital at the time of the incident but that is from my own memory. I cannot be more definite than that.

2.3.6 The Connétable of St. John:

Over many months and years in researching this case, I spoke to the consultant on a number of occasions. Is the Minister now telling the House that the case is now closed?

Senator I.J. Gorst:

As the Connétable knows, the consultant has now retired. The States Employment Board, I believe, absolutely appropriately resolved the outstanding legal claim. The hospital is moving forward, as I have said, there is new management and there is a new Minister. We are coming forward with prioritising improvements and transforming the healthcare delivery to all members of our community and we will be proposing to put considerable investment into the Health and Social Services over the course of the next number of years. It was an extremely difficult and sad incident and I hope that we can now start to move on.

[10:00]

2.4 Deputy S. Pitman of St. Helier of the Chief Minister regarding the source of the compensation to be paid to the victims of historical child abuse:

Could the Chief Minister confirm whether any compensation paid to the victims of historical child abuse will come directly from an insurance fund rather than from the public purse?

Senator I.J. Gorst (The Chief Minister):

The funds to be paid to victims of historic child abuse will initially come from reserves held by the States. The process of addressing the historic child abuse claims is at an early stage and I cannot give details at the present time over the exact financing of those claims, but intend to do so at their conclusion.

2.4.1 Deputy S. Pitman:

Could the Minister confirm that the compensation will not be just for those abused at Haut de la Garenne and that it will include care leavers from other parts of the institution?

Senator I.J. Gorst:

Yes, I can. If any Member wishes to have their mind refreshed about the terms of the scheme, then either they can contact me and I will forward the detail on to them or they are available online as well.

2.4.2 Deputy M. Tadier of St. Brelade:

The Chief Minister said they would come initially from reserves of the States, will he state which reserves they will come from initially and the word “initially” obviously implies that somehow they will be replenished. So, after that, what is the course of action that is intended to be taken to reimburse that money?

Senator I.J. Gorst:

My understanding, and I look to the Minister for Treasury and Resources to nod or not accordingly, is that initially they will be coming from contingencies. Of course, the question asked of me in regard to insurance, as one would expect the States does have insurance policies, but equally, as one would expect, insurance companies require confidentiality because they do not want to give rise to claims elsewhere in other jurisdictions that they might also insure.

2.4.3 Deputy M.R. Higgins:

I have asked this question before and I would like to know what the follow-up is now. Will the Minister advise whether those abuse victims who are experiencing financial hardship are being allowed to have some money in advance of the payment or is there some mechanism to assist them? Some of them are in desperate economic circumstances.

Senator I.J. Gorst:

The redress scheme is now open and operational. I think, as I answered the Deputy last time, that we were indeed, at that point, very close to announcing the redress scheme. It is now operational. Obviously I do not have the details at this stage, as you would not expect me to because it is out of the political arena but if the Deputy knows of anyone who is suffering, then they should make a claim to the scheme right now.

2.4.4 Deputy T.M. Pitman:

Could the Chief Minister advise, and I know he gets asked this regularly, but perhaps if we had some news ... when will this Committee of Inquiry finally take place because it does seem that even an Electoral Commission can be rushed ahead but this is something very important and it just seems to drag on and on and on.

The Deputy Bailiff:

Sorry, I disallow that question. It does not arise out of the question which has been given. Any further supplementary questions? Deputy Tadier?

2.4.5 Deputy M. Tadier:

Would the Chief Minister advise or remind Members what the overall budget roughly is for compensation and how it compares to the budget for the Committee of Inquiry?

Senator I.J. Gorst:

That is a very difficult question to answer. When we launched the scheme, I suggested that there were around 100 people who had asked for subject access requests, which might indicate that there was that number of people who would be making claims. Of course, those claims will then have to be allocated a band and payments made in line with that. So, to some extent, the total amount would be determined by the number of people claiming and the band at which they are entitled to receive a payment.

2.4.6 Deputy S. Pitman:

What consultation took place with care leavers informing this compensation scheme and what were the views held by them?

Senator I.J. Gorst:

There was indeed consultation with the care leavers, undertaken by the Health and Social Services Department. I believe that they did an excellent job and they should be congratulated for this piece of work. There was also consultation undertaken with the legal representatives of many who I expect will be making a claim under this scheme, not only in Jersey but in the United Kingdom as well.

Deputy S. Pitman:

The Chief Minister has not answered the second part of my question which was does he know what the views were of the care leavers on this scheme?

Senator I.J. Gorst:

As far as I am aware, they are indeed supportive of it, unless the Deputy is going to tell me something different, that is my understanding.

2.5 Deputy G.P. Southern of St. Helier of the Minister for Health and Social Services regarding a comparison of figures for elective surgery between the first quarter of 2012 and the first quarter of 2008:

Will the Minister inform Members how the figures for elective surgery compare for the first quarter of 2012 and the first quarter 2008 in respect of the number of operations performed, the number on the waiting list and waiting times and explain any marked differences these reveal?

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

In order to answer this question, I must refer to some information which I sent to States Members earlier this morning. The information circulated shows that 179 more elective procedures were undertaken in the first quarter of 2012 than in 2008, yet there are 396 more people on the waiting list than in 2008. It also shows that 15 per cent of those on the waiting list in 2012 have waited more than 3 months, compared to 7 per cent in 2008. In other words, we are undertaking more procedures but our waiting lists are growing. This is in line with a trend of increased demand across Health and Social Services and as we know, we are an ageing society and this trend, I am sure, will continue.

2.5.1 Deputy G.P. Southern:

Does the Minister believe that these figures reveal that she is maintaining frontline services for, in this case, elective surgery?

The Deputy of Trinity:

Yes, it does. But I think it does show increasing demand and, as I said, we are an ageing society and there are challenges ahead and we need to look at the way we are doing this and see if we can be more effective. That is part of the White Paper, which will come out later this month.

2.5.2 Senator S.C. Ferguson:

Has the hospital looked at the reasons for the demand and analysed them? Is it the result of an increased population or what?

The Deputy of Trinity:

Over the last few months, Health and Social Services have raised different issues; it is not just one thing. It is several things. We are an ageing society, we are living longer, therefore we need more hip replacements, knee replacements, and also we offer a very hospitalised service. If we can put more care in the community, people might be discharged that little bit earlier or in fact not even need to come into the hospital, which in turn will release more beds.

2.5.3 Senator S.C. Ferguson:

Does this mean that a proper analytical review has not been done of the reasons for the increase in demand?

The Deputy of Trinity:

If I mention to the Senator, KPMG did an awful lot of work and there is a 700-page evaluation of all Health and Social Services and it is in there.

2.5.4 Senator S.C. Ferguson:

Yes, but the actual demographic analysis has not been done in that report. Have the Health Department done that?

The Deputy of Trinity:

If she is asking for a specific piece of work it would be good if she could tell me what piece of work she is asking for and I will see if we have got it.

The Deputy Bailiff:

I think the question is whether or not a demographic analysis has been done of those who have been taking elective surgery in 2012 compared with 2008?

The Deputy of Trinity:

I am not too sure of that. I will look into that and come back to her.

2.5.5 Deputy R.G. Le Hérissier:

Notwithstanding the excellence of some of the KPMG work, would the Minister indicate whether or not her department has looked at the Guernsey scheme where a lot of the work is contracted out to a surgical group in order to deal, much better it seems than we do, with the peaks and troughs of operations so that we do not have these massive waiting lists and we do not build up, with all the associated costs, a massive cadre of surgeons on the Island.

The Deputy of Trinity:

Yes, we did look at Guernsey and we continue to look at how we can work with Guernsey. Guernsey has a totally different health system to us. That is just how it has evolved. Regarding waiting lists, as I said, it is always a challenge and that is part of what is in the White Paper, going forward. But we are an ageing society and where, if I just take hip and knee replacements, we are living longer, so those replacements will need to be replaced and we are looking at more consultants doing contractor services, to bring them over to do some pieces of work once or twice a month or whatever.

2.5.6 Connétable J. Gallichan of St. Mary:

Is the Minister aware whether the public waiting lists are being affected by the loss of tax relief on private health insurance?

The Deputy of Trinity:

Not that I am aware of.

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

The Minister has made various claims about the ageing population as the reason behind the increase in elective surgery. Could the Minister provide this Assembly with evidence that indeed that is the case?

The Deputy of Trinity:

Proper evidence has already been supplied with the KPMG executive summary but also all of the analysis behind it.

2.5.8 The Deputy of St. Ouen:

I did ask specifically for a particular analysis to support the evidence that we are facing the issue of an ageing population and it directly resulting in the increases as described by the Minister. I do not and have not required the whole KPMG report or any other analysis that they have undertaken.

The Deputy of Trinity:

That is a similar to question to what the Senator asked and I will ensure that is given to you too.

2.5.9 Deputy G.P. Southern:

It is a 2-part question. Will the Minister explain to Members to what extent the increase in both the waiting list and waiting list times is due to staffing problems in the department and in particular, what measures does she have under consideration to bring these increased waiting times and numbers down?

The Deputy of Trinity:

As you see, the numbers have increased but if you look at the figures in 2010, there was a huge increase in the waiting times. I would also like to stress that, if it were an emergency operation, there would be no waiting times. Regarding the staff challenges, they continue to be a challenge and will always be a challenge, but we try hard with the consultants to bring down those waiting list times and if it means extra clinics, we will do that from time to time. Extra appointments in outpatients, obviously, have a knock-on effect to people needing more theatre time too.

2.6 Deputy G.C.L. Baudains of St. Clement of the Chief Minister regarding the re-introduction of the States Loan Scheme:

Could the Chief Minister advise whether the Council of Ministers intends to re-introduce the States loan scheme as a matter of urgency in order to assist homebuyers if banks are less inclined to loan?

Senator I.J. Gorst (The Chief Minister):

The Council of Ministers have outlined in the Strategic Plan and the *Achieving Decent Homes* White Paper that achieving decent and affordable housing is an urgent priority. The Council intends to produce a housing strategy to support these objectives. Tools such as shared ownership schemes and deposit schemes are being considered.

[10:15]

The Minister for Housing and the Minister for Treasury and Resources intend to jointly announce a possible deposit scheme in the medium-term financial plan.

2.6.1 Deputy G.C.L. Baudains:

It does sound to me that the Council Ministers have the best intentions but it could be some time before anything really happens. Is it not the case that the States Loan Scheme could be introduced almost immediately? After all, it did expire, if that is the right term, simply because it had got out of kilter with the bank's interest rates at that time and became less popular. Now it is the other way around. The case is today even millionaires with collateral cannot seem to get a £10,000 bridging loan.

Senator I.J. Gorst:

I could not possibly comment on millionaires with collateral and their ability to secure bridging loans. Perhaps he needs to advise his parishioner, whoever it may be, to change financial institutions. The Deputy raised a very pertinent point about speed, which is why I indicated that I believe it is the intention of the Minister for Housing and the Minister for Treasury and Resources to come forward with a scheme in the medium-term financial plan. It would of course therefore need to be, in effect, approved and this Assembly give it support and that is not acting slowly. It is acting extremely quickly. If we understand what is happening in the housing market, it does appear that financial institutions are prepared to lend. The problem is the loan to value ratio and therefore, a deposit scheme should alleviate that problem.

2.6.2 Deputy T.M. Pitman:

What I would like to know and I think the Chief Minister has probably indicated his feelings on this, does he agree with me that the States Loan Scheme should never have been abandoned

because it was a great incentive and assistance to many local people and with the benefit of hindsight it would have been better if we were not where we are today?

Senator I.J. Gorst:

I try not to indulge in the benefit of hindsight. We, as a previous occupant of this post, used to say: "We are where we are." We need to understand the problem in the marketplace and bring forward measures to deal with that and I believe that such a scheme as I have outlined will do that.

2.6.3 Deputy T.M. Pitman:

Would those initiatives include controlling the actual value of land because that is the key to everything really? Would the Minister not agree?

Senator I.J. Gorst:

Price control is a very difficult area and has many unintended consequences and it is not something that I would wish to encourage.

2.6.4 Deputy J.H. Young of St. Brelade:

Would the Minister confirm that the proposals under consideration are going to be focused on assisting first-time buyers to return back to the market?

Senator I.J. Gorst:

It will be a scheme that is brought forward by the Minister for Housing and the Minister for Treasury and Resources but I believe that is their intention.

2.6.5 Deputy G.C.L. Baudains:

I made the comment about wealthy people unable to obtain even small loans as part of their collateral simply because it seems to indicate that was an actual case. It tends to indicate that the banks are unwilling to loan. Will the Chief Minister agree with me that in fact the banks are increasingly reluctant to loan and therefore, this scheme to assist homebuyers is in fact a priority?

Senator I.J. Gorst:

The scheme is a priority. Perhaps, in the strange economic world in which we now live I might say a word in defence of bankers. Banks are being asked to strengthen their balance sheet and capital requirements and yet at the same time, politicians the world over are expecting them to loan and ease the credit market. It is difficult to say that in Jersey banks are not prepared to lend. The problem appears to be, as I said right at the start, the loan to value issue and if we can bring forward a scheme that deals with that concern then I believe that we can alleviate the credit market in that respect.

2.7 Deputy T.M. Pitman of the H.M Attorney General regarding potential conflicts of interest within the judicial system:

Given the small size of Jersey's community, what checks and balances, if any, are in place within our justice system to ensure that no conflict of interest arises or that a fair hearing is compromised due to those sitting in judgment having close past links through the practice or friendship.

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

The principal check on possible judicial bias or lack of independence in Jersey or elsewhere is the high standards of integrity of the judges and other persons acting in a judicial capacity, but in addition to that, a party to any judicial proceedings has a right to challenge the judge or the presiding person if a lack of independence, real or apparent, is suspected. All courts and tribunals

in Jersey, whether criminal or civil, are public authorities and are obliged to conform to Article 6 of the E.C.H.R. (European Convention on Human Rights) which guarantees the right to a fair trial. Furthermore, every member of the judiciary subscribes to a code of conduct which at paragraph 15 states that: “They shall not sit in a case where they have a financial or other interest or where the circumstances are such that a fair-minded and informed observer, having considered the given facts, would conclude that there was a real possibility that the member was biased.” In all other cases, they are bound not to abstain from their duty to sit. If a judge and I include Jurats, has a financial or other interest in the outcome of a case, he will disqualify himself and decline to sit to determine that outcome. Similarly, if in his view, a fair-minded and informed observer would conclude that there was a real possibility that the judge was biased, he will also disqualify himself. As I mentioned, any party has the right to apply to a judge to disqualify himself and the judge will consider that application by applying the correct legal tests. If the judge declines to disqualify himself, then that decision can be challenged in the case of a judge at the Royal Court by an appeal to the Court of Appeal.

2.7.1 Deputy T.M. Pitman:

Obviously, I am not aiming this at anyone in particular, but I have to ask the Attorney General. Am I right in thinking that a scenario could not happen, or would not happen, where perhaps a commissioner or a judge is overseeing a case with a background in one company? Perhaps the Attorney General, but certainly not the present one, would have a background in that former company and then perhaps even a Jurat or perhaps their spouse could be from that company. What I am trying to explain is that I am sure the Attorney General would agree justice has to be seen to be done as well as be done. Would that sort of scenario be avoided?

The Attorney General:

Relationships, either past or present, professional relationships or friendships between judges themselves or between judges and counsel, in cases they are presiding over or considering on appeal, has never been viewed as affecting the independence or impartiality of the court. They do not amount to a conflict or any suggestion of bias. Judges and counsel are expected to fulfil their oaths of office and exercise their functions of Ministers of Justice impartially and professionally. Relationships such as the one that the Deputy has suggested would not amount to a personal interest in the outcome of the case. In fact, that matter was considered by the Royal Court and the Court of Appeal in the case of *The Attorney General v Barra* in the Royal Court. The Court said: “There is no doubt that in every jurisdiction judges are closely acquainted with counsel and indeed, with appellate judges who sit in judgment upon their decisions at first instance. None of these relationships affect in the generality the independence or impartiality of the Court.” The Court of Appeal upheld the judge’s decision not to recuse himself in those circumstances.

2.7.2 Deputy M. Tadier:

How often are fair-minded and informed observers called upon in order to decide on whether there is a conflict?

The Attorney General:

The use of the formula, a fair-minded observer, is a reference to the test that a judge applies when he, himself, considers whether or not he should disqualify himself from presiding over a case. If he is wrong and if a party feels that they have suffered an injustice as a result, it is open to the party, if they have applied to the judge to recuse himself and he refuses, to appeal to the Court of Appeal. The Court of Appeal will, itself, apply the fair-minded and reasonable person test.

2.7.3 Deputy M. Tadier:

In other words, the Attorney General is saying that the judge uses this as a mental exercise. He creates in his mind a fair-minded and informed observer for himself and then applies the test in his own way although that can be challenged subsequently.

The Attorney General:

As I mentioned, the reference to a fair-minded person is the reference to the standard that the judge measures any perception of conflict against. That standard has been defined within case law and it has a more refined definition and I have used the simple formulated expression of it. For example, the individual that one would refer theoretically against would be reasonable. He would not be unduly suspicious. He would not be unduly naïve. He would be fully aware of all the material facts including the oath that the judge takes and the training that judges get and also, the legal obligations on the judge under Article 6 of the E.C.H.R. There are a number of different factors that go up to make the composite of the fair-minded in a reasonable individual and it would not be possible in the context of an answer to an oral question to give a full explanation.

2.7.4 Deputy J.H. Young:

The Attorney General referred to both courts and tribunals and the training for achieving fair hearings. Is the Attorney General able to confirm that all those people sitting in judgment receive training and follow the Codes of Practice that apply in the United Kingdom published by the Judicial Studies Board particularly for tribunals?

The Attorney General:

It is my understanding that all judges of the Royal Court undertake proper training. I cannot talk to the training, if any, that is undertaken by members of tribunals in general.

2.7.5 Deputy M.R. Higgins:

I would like to thank the Attorney General for his explanations which are very interesting. It has also brought to mind something that has been referred to me. Because of my interest in the legal profession, I have had many people come to me with different matters. One was the fact that a judge in a divorce case denied knowledge of this woman's husband but then it turned out that he knew him rather more closely than he had indicated. What is the remedy for this particular person in those circumstances because it appears that he denied initially having any major contact with him but papers came to light later which appeared to show that he did have a much closer relationship?

The Attorney General:

As I mentioned, if the judge should have recused himself and failed to do so, then that decision can be reviewed by an application to the Court of Appeal. If there is no appeal as such because the judge has not made a decision, an application may be made, I think, to the Royal Court or to the Court of Appeal again to review the matter on the grounds that the judge should have disqualified himself.

2.7.6 Deputy M.R. Higgins:

Obviously, the person concerned does have no means to bring an action before the Court of Appeal. How can a person challenge the situation if they do not have the funds to be able to do so?

The Attorney General:

In Jersey there is a legal aid system, a *tour de rôle* and in the event that there is a proper legal basis for a claim and the person cannot afford to bring that claim, then that claim should be brought on their behalf by a legal representative appointed under the *tour de rôle*.

2.7.7 Deputy J.H. Young:

If I may follow up the Attorney General's answer. Is it not correct that for a person to succeed in bringing an appeal under legal aid they would need to have a greater than 50 per cent chance of success in their case?

The Attorney General:

I am unable to answer that question. I am not sure if there is a *de facto* percentage applied when legal aid is allocated. I would have to make inquiries to find out the answer to that.

2.7.8 Deputy T.M. Pitman

Deputy Higgins really asked my question. I thank the Attorney General for his answers but I think we have to remember that people in the legal profession are human too. Perhaps he agrees that I am sure Sir Alex Ferguson would say he could quite conveniently put his feelings aside and referee the Manchester derby but I think most people would not agree. My other question goes to the Jurat side and with the jury system; obviously the recruiting and vetting process is quite long and intricate. How is that replicated in Jersey with the Jurat system? Is it the same process?

The Attorney General:

My understanding of the situation is that the Jurats, by dint of their training and over time by dint also of their experience, have a thorough understanding of the requirements on them. They have taken oaths of office and they understand the necessity to consider the questions of whether they can properly sit on a case on every occasion. In a sense, that is a system which I have certainly seen working in practice where Jurats have disqualified themselves for sitting in appropriate circumstances. There is, however, no external scrutiny, as far as I am aware, in the way of a jury selection process. There is not such a process.

[10:30]

2.8 Senator S.C. Ferguson of the Minister for Social Security regarding social security contributions paid by the employers of pensioners:

Why is it that if a pensioner is employed, then there is no necessity to pay the employee social security, but the employer's social security contribution still has to be paid? How does the employer benefit from this arrangement?

Senator F. du H. Le Gresley (The Minister for Social Security):

The Jersey Social Security Pension is an old age pension rather than a retirement pension. An employee can choose to carry on working after they reach pension age and claim their pension at the same time. They are no longer liable to pay social security contributions. However, it is correct that the employer does continue to have a liability to pay contributions in respect of the employee's wages. The employer does not benefit directly from paying social security contributions, but all the contributions made into the social security fund are pooled to provide a range of benefits that support workers both during their working lives and in their old age. I can confirm that this specific issue, among others, was included in the report P.58 on the pension age increase which the States debated and approved last year. The current arrangements will be reviewed as part of a wider piece of work in respect of the employment of older workers.

2.8.1 Senator S.C. Ferguson:

The employee is taking a pension so he does not benefit. The employer is merely contributing to the social security fund when it is not necessary. Is this not really a stealth tax?

Senator F. du H. Le Gresley:

I think it is an accepted provision in Jersey and in other countries that employers contribute to a social security fund, to provide benefits for the community not just for their own workers. I would

also point out to the Senator that employees also pay contributions in respect of married women who have the red cards and married women receive no benefits.

2.8.2 Deputy G.P. Southern:

Does the Minister consider this is linked to the fact that we have a fairly inflexible system for contributions? There are only 2 classes, class 1 for those employed, class 2 for everybody else and that with the changing nature of society, including the demographics, we need to develop as a matter of urgency a more flexible system with more classes.

Senator F. du H. Le Gresley:

The Deputy has asked a written question on this very point and I am sure he has read my answer and hopefully on that one he is satisfied with the answer. I would agree with him entirely that we do need to review the fact that we only have 2 classes of contributions, and that is something my department will be doing during the life of the Strategic Plan.

2.8.3 Deputy G.P. Southern:

Does he then share my disappointment that rather than commencing in January 2012, a system to review our classes of contributions has been put off until sometime later?

Senator F. du H. Le Gresley:

I am always disappointed when we have to put things off. Often it is because we are very busy working on questions for the States and other propositions that take up much of our time. Yes, I am disappointed that this has been delayed but bringing in the F.S.R. (Fiscal Strategy Review) changes was a large piece of work for the department and the review of the other contributions could not be done at that time.

2.8.4 Deputy G.P. Southern:

Surely, it would be better, rather than do this work piecemeal, which does occupy a lot of time fitting into the system, it would be best to review the whole overall system in order to get everything right in one foul swoop.

Senator F. du H. Le Gresley:

I have already intimated that is exactly what my department will be doing but the timescale is greater than the Deputy would probably wish.

2.8.5 Deputy G.P. Southern:

Is it not time that the Minister engaged more policy officers to develop policy in an area that obviously is crying out to be developed?

Senator F. du H. Le Gresley:

I am grateful the Deputy will be supporting my bid for extra staff in the medium-term financial plan.

2.8.6 Deputy J.H. Young:

Will his review of the inflexibility of the present social security contribution system include looking at the possibility of people making additional contributory payments into the funds as part of their retirement planning and/or indeed arrangements for deferral of pension, in order to suit their circumstances and create a more flexible pension arrangement?

Senator F. du H. Le Gresley:

The Deputy makes a very good point and I believe that the Strategic Plan has raised the issue of pensions and whether the people who are paying into the social security pension scheme could make additional payments. That is a very valid point. We may have a completely separate pension that people can contribute to in their lifetime as well. All of that is up for review and I certainly will pursue it during my time in office.

2.8.7 Senator S.C. Ferguson:

Obviously, the Minister will be taking some time to organise the review as outlined by Deputy Southern, but in the meantime, would the Minister kindly look at the cost of paying this stamp for employers and come back to the Assembly and tell us exactly how much of a problem it is, how big a piece of red tape we are hanging around the neck of business in the Island?

Senator F. du Le Gresley:

I think the Senator is probably exaggerating, unfortunately, the extent of this issue because we are talking about people who have reached retirement and who remain in the workplace. I would imagine, although I do not know the exact figure, that it is only a relatively small number. Therefore, the problem is not as great as perhaps she believes. It would be quite possible that we could come up with the figure that she is seeking. I would have to check with officers if this is something that we can do.

2.9 Deputy M. Tadier of the Chief Minister regarding Jersey's participation in the Queen Elizabeth II Fields Challenge:

Will the Chief Minister inform Members whether Jersey will be participating in the Queen Elizabeth II Fields Challenge which aims to protect outdoor recreational spaces in communities all across the United Kingdom as a permanent living legacy to mark Her Majesty's Diamond Jubilee? If so, when will the public be able to nominate and vote on playing fields in line with the Fields Challenge criteria?

Senator I.J. Gorst (The Chief Minister):

The Diamond Jubilee Committee is working hard to identify a potential site to recommend for Queen Elizabeth II Fields status. It is the State's responsibility to nominate a site, given the need to meet the Fields in Trust's criteria, but the public will be asked to share its support by an internet vote once nominated. The cricket pitch and rugby field at Grainville School is one proposal put forward by the Minister for Education Sport and Culture. There are, however, legal issues that need to be addressed before any firm decision is made and it would therefore be too early for me to comment about this site's suitability.

2.9.1 Deputy M. Tadier:

Will the Chief Minister comment on the fact that this initiative until very recently certainly for myself, and I would say the majority of the public, has remained very secretive. Could he confirm that as this initiative is a very valuable one to mark the auspicious occasion of Her Majesty's Diamond Jubilee, that it should be for the public to vote initially and to propose which fields they want to be protected, rather than having a committee, which I am sure the Chief Minister will also inform us of its composition? This will present a pre-selected and no doubt very narrow selection of choice for the public then to rubber stamp.

Senator I.J. Gorst:

You are asking so many questions at once and the difficulty is that the person required to answer forgets where to start and which question to answer. I shall endeavour to pick up the answers.

Firstly, this scheme is not secretive and has not been secretive in any way, shape or form and yes, I do support it and will support Jersey having either a field which meets the criteria of this status or perhaps, because of some of the legal issues with regard to a United Kingdom Trust, we may even go one step further and have a local Queen Elizabeth II field status area. As I understand the criteria, which are required to be met, it must be, if I speak in U.K. parlance, the local authority, which therefore means either the Government of Jersey or the committee. I believe that is absolutely right and proper but there will be the ability for members of the public to show their support if we are able to come forward with a site that meets those criteria. I believe that the membership of the Diamond Jubilee Committee is already in the public domain.

2.9.2 Deputy M. Tadier:

I thank the Minister. The reason there were so many questions is that there is so little information out there for other States Members and the public. If I am permitted to do so, I would like to quote from the Duke of Cambridge who is promoting this particular initiative. In the spirit of the initiative he says that: "1,000 playing fields have been lost to development and many more are under threat." That is why they intend to try and save 2012 playing fields across Great Britain. Does the Chief Minister accept that to have a group composed of States Members who are probably various Ministers who have earmarked different areas for development for housing, for new schools perhaps at Les Quennevais and St. Martin are completely conflicted when it comes to deciding which fields they should be protecting. In fact, it should be the public who have a say on protecting fields, rather than Ministers who may not want to select fields which are already being earmarked for development. That is a complete contradiction against the spirit of this initiative. If the Chief Minister will imagine an impartial and informed observer looking at this, would he not agree that is completely unacceptable and the public should be able to choose which fields initially should be selected for this challenge?

Senator I.J. Gorst:

I could not disagree more. I do not believe that there is a conflict of interest as the Member might be aware. The Bailiff and His Excellency also sit on the Diamond Jubilee Committee and I do not believe they can even be considered to be conflicted in the way the Member suggests. If he, or any other Member or members of the public or constituents have approached Members with suggestions for areas that they wish to be considered and reviewed against the criteria for this status, then I would ask either the Member to contact me directly or the individual Member of our community to contact me and I will put those before the committee for consideration along the criteria that these fields will be required to meet.

2.9.3 Deputy M. Tadier:

I do not know where the suggestion comes from that the Bailiff or any of those cased should be impartial. There was no inference of that. Simply, as far as politicians are concerned, they are the ones who definitely have a direct and perceived conflict among the public. Will the Chief Minister perhaps consider making a press release asking the public for their nomination for fields that should be saved? Also, so that the public can make an informed decision, will he inform the public if there are any plans at any level to develop fields for schools like at Les Quennevais, St. Martin and any others so that the public can say that they do not want these fields developed? They want them to be protected one way or the other so that there cannot be any accusations of machinations going on behind the scenes.

[10:45]

Senator I.J. Gorst:

The Deputy makes many good points in his final supplementary question. It was probably also remiss of me not to specifically invite the Connétables to bring forward suggestions that they might have of potential fields in their Parishes that they may wish to be considered alongside the criteria. I will take all the points that the Deputy has just raised. There is due to be a meeting of the committee, as I understand it, later this week. I will make them to the committee but I see no problem with such a press release and with the opening, which the Deputy suggests has not been the case in the past. There is no intention in any way, shape or form for this scheme to be shrouded in mystery and I am a little surprised to think the Deputy thinks that, but we need to correct it if that is the case.

2.10 Deputy G.P. Southern of the Minister for Social Security regarding the use of zero-hours contracts by employers in attempts to either avoid legal obligations to employees or to evade headcount quotas:

Does the Minister accept that there is widespread use of zero-hours contracts by employers in attempts to either avoid their legal obligations to employees regarding sickness or holiday pay and notice periods, or to evade head office or regulation of undertakings head count quotas? If so, what action does he propose to improve employee protection and if not, will he investigate the practice and report his findings to the States?

Senator F. du H. Le Gresley (The Minister for Social Security):

The Deputy has recently asked a number of questions on this topic and I will not repeat the detailed information that I have already provided. It is, however, important to repeat that zero-hours contract, when used correctly, form a useful part of modern business practice and provide flexibility to both the business requiring the support and the individual supplying the labour. The Employment Tribunal has indicated that the presence of a zero-hours contract does not diminish an employee's rights under the Employment Law if an employer/employee relationship has been established. It is therefore not possible for employers to avoid their legal obligations in the manner suggested by the question. I believe that the current framework of employment legislation in Jersey provides a reasonable balance between the protection of the employee and the legitimate interests of the employer. The States fund the Jersey Advisory and Conciliation Service (J.A.C.S.), which provides independent advice and support to employees and employers. The Director of J.A.C.S. has recently drawn attention both in the local media and as part of his 2011 Annual Report to the inappropriate uses of zero-hours and that such use does not enable employers to avoid their legal obligations. There is information about the use of zero-hours contracts and a draft terms of employment statement on the J.A.C.S. website. I will keep this topic under review but at present I do not propose to undertake any further specific actions.

2.10.1 Deputy G.P. Southern:

Something else that the Minister is not going to act on. The statement on the website by J.A.C.S. says: "We are concerned that some employers are using zero or variable hour contracts in circumstances that may not be appropriate." What discussions has the Minister had with the Chief Executive Officer of J.A.C.S. and if none, when will he discuss this issue with him?

Senator F. du H. Le Gresley:

I have had 2 meetings with the head of the Jersey Advisory Conciliation Service and at both those meetings the matter of zero-hours contracts was discussed.

2.10.2 Deputy G.P. Southern:

Does the Minister not accept that the problem with his complacent attitude is that by the time this issue comes to a tribunal, the person involved is already unemployed?

Senator F. du H. Le Gresley:

I am not very happy that the Deputy considers my attitude complacent. However, that apart, it is a fact that when a case comes to our tribunal, and there was a recent case on 12th March relevant to zero-hours contracts, the decision of the Tribunal is as a guidance not only to the staff at J.A.C.S. as to how to advise employers and employees but to all employers. Therefore, the warning is there and if the Deputy is not aware of the recent tribunal case, I will happily provide him with the information.

2.10.3 Deputy R.G. Le Hérissier:

Could the Minister explain why the employer/employee relationship trumps the zero-hours contract in important ways?

Senator F. du H. Le Gresley:

The expression is mutuality of obligation, which I will attempt to explain very briefly. In a zero-hours contract, there should be no obligation on the part of the employer to offer work and no obligation on the worker to accept. In a situation where there is mutuality of obligation, the employment rights depend on whether an employer or employee's relationship is created, which is likely in a situation where the employees would be entitled to the same employment rights as permanent contract employees.

2.10.4 Deputy R.G. Le Hérissier:

Does that mean that when somebody accepts a zero-hours contract, from the moment they accept it the mutuality provision comes into being or how is discretion exercised?

Senator F. du H. Le Gresley:

I think it is important for the Deputy to understand that the majority of zero-hours contracts are for agencies that provide temporary staff to other employers and also for bank staff, nurses teachers et cetera. Primarily, we are seeing zero-hours contracts offered by people who take on temporary workers who then supply them to the main employer. I may have missed the point of the Deputy's question.

2.10.5 Deputy R.G. Le Hérissier:

The Minister has said about temporary workers. Are these temporary workers benefiting from what he calls mutuality?

Senator F. du H. Le Gresley:

No, the point with zero-hours contracts is that it suits some people depending on their time available to work random hours. Certainly, insofar as income support is concerned, we encourage all those who are actively seeking work to take up any form of employment whether zero-hours contracts, part-time contracts or fulltime contracts. The important thing is for people to have a job.

2.10.6 Deputy T.M. Pitman:

With mutuality, with the best will in the world, does the Minister not agree that developments in business only take place when it is for the benefit of a business? This mushrooming, as we have seen in zero-hours contracts, is that not in itself a concern that should be looked at as Deputy Southern has said, and would it not be wise to have some sort of investigation so we can see why this mushrooming has happened?

Senator F. du H. Le Gresley:

The increase in the use of zero-hours contracts is not a phenomenon limited to Jersey. The same issue has arisen in Guernsey and also in the Isle of Man. I think it is primarily due to the economic climate whereby small employers in particular, but also some larger employers, are reluctant to take on permanent staff because the future is uncertain for many businesses. This is a way of using agency staff to cope with ebbs and flows of work and in the current situation in Jersey my job is to get people back to work and if zero-hours contracts achieve that, then I will support them.

2.10.7 Deputy T.M. Pitman:

I understand where the Minister is coming from. However, is it not half the problem, what he touched on earlier, that people should take any job? Of course, we want people to work but some people are taking these jobs because they are desperate and they are then left with little or no work at all.

Senator F. du H. Le Gresley:

It is a fact that you can have a number of zero-hours contracts because obviously you are on call for when the employer has a need for extra work hours. It is not a fact that a person would just have one zero-hours contract; they could have a number of zero-hours contracts. This happens particularly in the cleaning industry where people will be available to cover holidays, sickness, et cetera.

2.10.8 Deputy M.R. Higgins:

Does the Minister accept that the proliferation of zero-hours contracts is causing other problems? For example, people who are on these contracts have no guarantee of any income, any particular work and therefore cannot obtain bank loans, credit of various sorts and it creates problems elsewhere in our society. Therefore, it is far bigger than just the question of employers and zero-hours contracts. Does he not think that we need to look at this as a whole and make sure that they are not being abused as I believe they are?

Senator F. du H. Le Gresley:

I share some of the Deputy's concerns and obviously, if a person or a family are reliant on just one person on a zero-hours contract, the income coming into the household would and can fluctuate dramatically. If they are on income support, we would expect them to contact us or each time we do a review we would look at the hours that they are doing as an average. I would stress that we must get people into work and if zero-hours contracts achieve more people in work, then I will support it.

2.10.9 Deputy G.C.L. Baudains:

I refer the Minister to part of Deputy Southern's question that I do not recall being answered. That is, does a possibility exist that an employer can in fact evade the regulations or undertakings by the use of zero-hours contracts?

Senator F. du H. Le Gresley:

No.

2.10.10 Senator P.F. Routier:

I would like to ask the Minister if he feels that the use of zero-hours contracts is a very useful mechanism for getting people into work.

Senator F. du H. Le Gresley:

I think the Senator is reaffirming what I have already said. It is a way of finding employment for people and for the benefit of the Members who have spoken in this brief question time, I would

remind them of the Chief Minister's response on 1st May to a question from Deputy Southern. He said: "The States of Jersey supports the responsible use of zero-hours contracts in both the public and private sectors as they offer flexible working opportunities that employees appreciate."

2.10.11 Deputy M.R. Higgins:

Can the Minister give absolute assurances that they are not being abused? For example, I notice in the written answer to question 9 it mentions lecturers at Highlands College, that 2 out of the 40-odd, are on zero-hours contracts. Can he confirm that there are no substantive positions at Highlands College that are on a zero-hours contract rather than just people coming in to do an evening class?

Senator F. du H. Le Gresley:

I am not responsible for the employment of staff at Highlands College and the Deputy is referring to a Chief Minister's response to a question, not my response.

2.10.12 Deputy G.P. Southern:

The Minister persistently and consistently avoids the question which is about the irresponsible use, the inappropriate use of zero-hours contracts. Does the Minister expect that following the highlighting of this practice by the head of J.A.C.S., that these employees who have been hitherto using them irresponsibly and improperly will now fade away of its own accord?

Senator F. du H. Le Gresley:

The Deputy is trying to make great play of a recent annual report, I believe, from the Jersey Advisory Conciliation Service. I would remind him that the same information that he is quoting was on the J.A.C.S. website on 19th December where J.A.C.S.' advice is: "We are concerned that some employees are using zero or variable hours contracts in circumstances that may not be appropriate." This is nothing new and the warnings are out there for employers.

2.11 Deputy T.M. Pitman of the Minister for Education, Sport and Culture regarding staff resignations highlighted within the Sharp Report:

Will the Minister clarify why, given the criticism contained within the Sharp Report from the principal, vice-principal and a third teacher at Victoria College regarding their failure to act appropriately in relation to allegations of child abuse at the school, all 3 were allowed to resign rather than being sacked?

Deputy P.J.D. Ryan of St. John (The Minister for Education, Sport and Culture):

I do not feel able to comment on decisions that were made in 1996 and I have also already made quite clear in previous answers to previous questions my difficulty in making any kind of reference to a confidential and sensitive report. However, and if it helps, I can assure the Deputy that policies and procedures in relation to child protection are comprehensive and thorough today. Staff who work with young people are required to attend training in this area and all staff in education are required to act appropriately in relation to child protection issues at school and in accordance with those policies and procedures.

[11:00]

2.11.1 Deputy T.M. Pitman:

Thank you and I do appreciate this happened a long time before the Minister took office. However, my concern is, and the Minister is probably halfway there, can he confirm that given that people were allowed to resign rather than be sacked, that no such individuals would be employed within

the Jersey education system again because it is very different to have retired or resigned on your C.V. (curriculum vitae) than being sacked. I am sure the Minister appreciates that.

The Deputy of St. John:

In the hypothetical case that criticism was handed out and reported in a case involving child protection in today's education system and if that criticism included a failure to act appropriately in relation to allegations of child abuse at a school, then I can confirm that those people would have their employment terminated.

2.11.2 Deputy M. Tadier:

Will the Minister confirm that he is supportive of the Committee of Inquiry into child abuse and does he agree that this inquiry would be an appropriate way to look at whether there was an inappropriate response in the past from schools such as those mentioned by the Deputy? Will he be asking the Chief Minister to make sure that this area is thoroughly investigated as part of any forthcoming Committee of Inquiry?

The Deputy Bailiff:

It is very much at the periphery but it fits in.

The Deputy of St. John:

I have already said I am not prepared to comment about past problems with child abuse.

2.11.3 Deputy T.M. Pitman:

Unlike the Minister, I obviously had the benefit of being employed at Education at that very time. My question really arises out of this. This caused huge debate at the time and it was made quite clear that ordinary people like us would have been sacked if such an occurrence happened. Now I was employed by the States. Is there a difference in policy between that and a school which is not a State school like Victoria College? The final point on that question, does it mean that those people who were abused, because we would have to agree it was very badly handled, I think, would those people be open to try and get compensation in the present climate?

The Deputy of St. John:

I can only really answer as regards my responsibilities for schools and I can confirm that all schools would fall into the same category because I have a statutory requirement to educate all children that live in Jersey.

2.11.4 Deputy T.M. Pitman:

Is the Minister then saying that this scenario could not happen again? It would be a dismissible offence? I think that is what he said.

The Deputy of St. John:

I cannot possibly say that it cannot happen again. That would be going beyond because, of course, things do happen but what I can say is that people would be dismissed.

2.12 Deputy G.C.L. Baudains of the Chief Minister regarding the possible economic consequences of implementation carbon trading and similar exercises:

Will the Chief Minister advise what research, if any, has been undertaken into the possible economic consequences of implementing carbon trading and similar exercises, and will he assure Members that he will resist pressures from the European Union (E.U.) and the United Kingdom (U.K.) for Jersey to become involved in such schemes?

Senator I.J. Gorst (The Chief Minister):

As far as I am aware, there has been no research undertaken in Jersey into the possible economic consequences of implementing carbon trading or similar exercises. Any further development of these measures in the European Union, the United Kingdom or worldwide will require careful consideration as to their applicability to Jersey, how the Island should respond and the economic implications of any action.

2.12.1 Deputy M. Tadier:

Does the Chief Minister accept the underlying, perhaps the implication of this question or otherwise, that Jersey, as a responsible jurisdiction, should be considering its carbon emissions? I will leave it at that for the first question.

Senator I.J. Gorst:

Yes, and it does.

2.12.2 Senator S.C. Ferguson:

Given the Chief Minister's somewhat ambivalent reply and given the fact that Jersey, I understood, wants to keep its independence, why, then, in his written question to Deputy Baudains, number 7, if it is any help to the Minister, does he say that we have an area of work working with the E.U. and the U.K., to assess Jersey's eligibility to subsidies to generate renewable energy? Does he not know what the cost implications of those are to the average man in the street? Is he really serious about this?

Senator I.J. Gorst:

Am I serious about renewable energy? Yes. If I can get some money to develop it that does not affect the Jersey taxpayer or mean that the Jersey taxpayer has to put money into research and the cost of such production, then I will endeavour to do so.

2.12.3 Senator S.C. Ferguson:

Does the Chief Minister not realise that Government is not the place to be doing research? That is the private sector and private industry and has he not followed what has happened in the U.K. with the subsidies for renewable energy and the cost to the taxpayer which cost, I think, is costing the average household in the U.K. £300 a year? Does the Chief Minister really want that sort of thing over here?

Senator I.J. Gorst:

Absolutely not, hence the terms of the answer that I gave in answer to the written question about looking for money elsewhere.

2.12.4 Deputy M. Tadier:

The Chief Minister, being a positive politician like myself will see opportunity where others see adversity. Does he acknowledge that we need to seize the opportunity for the green revolution and use things like carbon trading low emissions to promote Jersey in one instance as renewable energy and as a tourist destination for short haul holidays which will not cause a legacy of high emissions for tourists? Will he give an undertaking to promote this kind of initiative, even more with the Tourism Department and with the Minister for Economic Development to send out a good message that Jersey is open for green business?

Senator I.J. Gorst:

I have never been classed as a revolutionist and I do not think I ever will, other than the quiet one. The Deputy makes a very good point. There must be and we must certainly explore the green

energy possibilities that our environment provides for us and, to my mind, the primary one there is tidal. There is no doubt that there are huge costs associated with such development and Senator Ferguson is right to say that that mostly should be undertaken by the private sector but inevitably with new technologies changing the way that we work, ensuring that our energy consumption and the use of the energy available to us is changed as we move forward, will require partnership between government and the private sector.

2.12.5 Deputy G.P. Southern:

Does the Chief Minister accept that many technological advancements, from radar to the internet, have been funded and started by government are then taken over by private sector when it became a little safer and they saw how it could be developed? Is he not looking forward to government and private sector participation sharing the funding of developments in green energy?

Senator I.J. Gorst:

It is nice to be able to acknowledge that my constant message of partnership working and working together is now being reiterated by the Deputy as well and I agree with him.

2.13 Deputy M. Tadier of the Minister for Economic Development regarding instances of Personal Protection Insurance being mis-sold in Jersey in the past 5 years:

Will the Minister advise whether his department has any information regarding how many recorded instances there have been of personal protection insurance being mis-sold in Jersey in the past 5 years? How many complaints, if any, have been received by his department, the Jersey Financial Services Commission and Trading Standards and whether any prosecutions or penalties have arisen as a result of the mis-selling of P.P.I.s (Personal Protection Insurance)?

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

In the last 5 years, there have been 20 complaints from consumers to Trading Standards alleging that Personal Protection Insurance policies were mis-sold to them. The Jersey Financial Services Commission has also received an unknown number of complaints in respect of alleged mis-selling of P.P.I., although they claim the numbers are relatively low. There have been no prosecutions or penalties arising from the mis-selling of P.P.I., which is not surprising on the basis that no mechanism or law exists to prosecute or apply such penalties.

2.13.1 Deputy J.H. Young:

Can the Minister confirm whether the regulatory regime for financial services in Jersey, particularly from mainland-based organisations providing services to Jersey, are subject to the same detailed regulatory regime and equivalent arrangements as apply under the U.K. F.S.A. (Financial Services Authority)?

Senator A.J.H. Maclean:

The Deputy will be aware that Jersey has its own regulatory authority which is of the highest standard so I have no doubt that the regulatory standards in Jersey meet international standards. What I would say to the Deputy, however, is that the key to this particular issue is indeed the progression of a financial services ombudsman, something that this Assembly approved and is being progressed at the moment with my department and, indeed, I am hopeful that an ombudsman will be in place to deal with such matters during the course of 2014.

2.13.2 Deputy M.R. Higgins:

Just following on from that answer, does the Minister not accept that if the ombudsman has no legal framework to work within, he will not be able to adjudicate on those matters? Therefore there are

no regulations or whatever, dealing with this type of abuse and that Jersey has been relying on the U.K. to take action against financial institutions who also operate here and the department is hoping that the same penalties or sort of instructions that the U.K. has given to those banks, that they will apply them in Jersey because he has no regulations. Will he bring in regulations to deal with these matters and give a financial ombudsman teeth?

Senator A.J.H. Maclean:

The draft law is in the final stages of the financial services ombudsman. The detail of that ombudsman, in conjunction, I might add, with Guernsey who we have been waiting to progress the matter with on the basis that we believe a Channel Island ombudsman is probably the most cost effective and efficient way to proceed, will provide the appropriate course for those that have complaints in this area of alleged mis-selling.

2.13.3 Deputy M.R. Higgins:

I have seen what was in the draft of the Financial Services Ombudsman Law and it does not go into detail in terms of some of the areas that the ombudsman will be able to go into. There are no regulations governing mis-selling of products in this Island that I am aware of and does he not feel that it is about time that we did have? Will he investigate and come back to the House and tell us what he proposes to do in this area?

Senator A.J.H. Maclean:

The Deputy and Members will have full details as we progress the Ombudsman Law. Indeed, the law itself will come as a report and proposition to the States for debate in due course. Prior to that, there is plenty of opportunity for input by Members who wish to make comments known about their concerns in regard to this. It is an important issue. It has to be correctly addressed and we can see that in the U.K. there have been quite a number of claims with regard to P.P.I. Indeed, we have seen something like 800 claims management companies spring up, creating a significant industry and there is no doubt that there are some justified claims in the Island. Although I would add something along the lines of 25 per cent of claims in the U.K. are not progressed. They do not have the merit that the claimant alleges.

2.13.4 Deputy M.R. Higgins:

Does the Minister accept that he is relying on U.K. legislation and U.K. action rather than Jersey action to deal with this matter?

Senator A.J.H. Maclean:

No, I do not accept that.

2.13.5 Senator A. Breckon:

Is the Minister aware that people in Jersey who do believe that they have been mis-sold private protection insurance have got access to the U.K. Ombudsman Scheme who could become involved and there is a questionnaire available and they can do that within 8 weeks?

Senator A.J.H. Maclean:

Yes and that is a very helpful comment. I would also add that complainants that have gone to the Jersey Financial Services Commission, although the Commission, as I have pointed out, have no direct powers, have referred complaints back to the providers and, in a number of cases, those complaints have been satisfied by the providers in Jersey. So indeed it is not a case that absolutely nothing is happening. I have to say the J.F.S.C. (Jersey Financial Services Commission) have had a number of complaints that have not merited referral, which mirrors exactly the position in the U.K. where, as I have said, 25 per cent or so of claims have not merited any form of compensation.

[11:15]

2.13.6 Deputy J.H. Young:

Would the Minister confirm that in bringing forward his proposals, that that will include a complaints procedure to ensure that local residents who are receiving financial services that are both locally based and/or from U.K. subsidiaries are subject to exactly the same equivalence in such areas of insurance mis-selling and, for example, matters like mortgage endowment where there has been no effective regime locally? Would he make sure those gaps, where they exist are put right?

Senator A.J.H. Maclean:

Where gaps exist above and beyond the scope of the ombudsman service, we will certainly continue to review and look at improving protection for consumers. There have been positive strides in terms of consumer protection in areas such as this and it is only right that we continue to progress such matters.

2.13.7 Deputy M. Tadier:

First of all, I would like to thank the Minister for his answers. It may not be the last time that he answers questions on P.P.I.s. Could he provide some clarification as to his statement that “The Jersey Financial Services Commission received an unknown amount of complaints but we know that they were low”? That seems to be slightly contradictory. Can he provide a reassurance as to how the J.F.S.C. log complaints of any nature so that they can relay it to the Minister and the Assembly if required?

Senator A.J.H. Maclean:

Yes, we made an inquiry when the question came in to the J.F.S.C. with regard to this. As I have said, they claim the number of complaints was low. On interrogation, that was deemed to be no more than one or 2 a week but I am prepared to seek clarification if we can to see if any further detail can be arrived at.

2.14 The Connétable of St. John of the Minister for Treasury and Resources regarding tenders for States building contracts:

Are expressions of interest to tender for building contracts such as the establishment of the high-rise flats at La Collette, advertised in the *Jersey Evening Post*/media or only through government portals? If the latter, how is it determined who can tender for these from within the local building industry and who makes this decision?

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

The Assistant Minister has responsibility for procurement and I ask him to answer the question.

The Connétable of St. John:

Excuse me, Sir, but the question was put to the Minister and I did not expect him to be farming it out. The Ministers all know that when I put a question, it is to the Minister, not an Assistant Minister if the Minister is in the Chamber.

The Deputy Bailiff:

You did not express notice that you required it to be answered by the Minister.

The Connétable of St. John:

Historically, I think it is on record that I have said that I will only take replies to questions from the Minister.

The Deputy Bailiff:

Well, Greffier, was notice given that it had to be answered by the Minister? Very well. Minister, are you prepared to answer the question?

Senator P.F.C. Ozouf:

If I can have 2 seconds for my Assistant Minister's notes to just be passed across. **[Laughter]** I do normally hope that the Assistant Minister and I are a seamless team but he does have responsibility for particular areas and I am not the expert on it but I will do my best. The States e-portal is the main method used to obtain expressions of interest for building works where a formal tender is required. The department may also choose to place adverts in the *Jersey Evening Post* or a relevant trade publication. La Collette project was advertised by the Housing Department in the *J.E.P. (Jersey Evening Post)* on 17th February 2012. Responses are shortlisted by the project team of officers and professional advisers who use criteria relevant to the project to determine an appropriate number of contractors. Usually no less than 3 and no more than 6 firms are invited to tender. The criteria may include experience, resource availability, amount of work already being undertaken for the States and other relevant factors.

2.14.1 The Connétable of St. John:

Given that we are in difficult trading times, within any tendering process is there an element within the contract for any trading company where it stipulates that local labour must be used, likewise local subcontractors? Further to this, do the tendering companies have to give details of the number of locally qualified people the company employ and of these how many are home-grown through an apprenticeship scheme and if not, why not?

The Deputy Bailiff:

Connétable, I wonder if you could put your questions again but now limit it to only 2 questions.

The Connétable of St. John:

Yes, Sir. Given that within the element of any contractor tendering for a process, is the workforce, be it subcontractors and the labour within the workforce, are they of local origin? Is it specified they should be locally grown people from within apprenticeships?

Senator P.F.C. Ozouf:

Obviously, I would need to research the particular instances in relation to this project as it is clear that I have not done so but my Assistant Minister was briefed. I would answer the question by saying that these issues are, of course, controlled by the Regulations of Undertakings Law. The Regulations of Undertakings Law does govern the effective number of people of local versus non-local qualifications and that is the main issue. Secondly, I can say, and would remind the Connétable, that many of the fiscal stimulus projects that were carried out mainly in the area of infrastructure, which I know he has a particular concern about, we improved even further the requirements of local labour and, as he knows, the Assistant Minister and I were known to turn up on projects just to see whether or not they were local labour. I agree with him that public money spent in the capital programme should be directed towards local labour. That is different from local ownership but also we must ensure that we are getting good value for money from contractors. The Property Holdings Department is doing a great deal to get better value for money in the past. Building contractors are coming in at lower levels and we are making good work in terms of housing and other areas.

2.14.2 Deputy R.J. Rondel of St. Helier:

Is the Minister able to assure the Assembly that all contracts are published on the States e-portal?

Senator P.F.C. Ozouf:

According to the criteria which I set out, to the best of my knowledge, that is correct.

2.14.3 The Connétable of St. John:

In the Minister's reply, he said "good value" for the contracts but is good value not allowing more than a limited amount of contractors to tender for a project, given there are a number of contractors within the Island willing to tender but they are not being invited to do so although their name is on the list?

Senator P.F.C. Ozouf:

That is just not right. Quite frankly, I have been extremely impressed to see the way that Procurement and Property Holdings have been running States contracts. The way that e-portal operates, the fact that they are much more public, is a huge improvement to the past. Economic Development is working with local contractors to bring forward consortia of small businesses so that they may jointly be able to seek tenders for States work. If he has constituents which need further help, I am sure that the Assistant Minister will be able to put the resources of his department to enable that to happen and also Economic Development too are raising the standards of local contractors so that they can compete for valuable States contracts in these difficult times.

2.14.4 Deputy G.P. Southern:

Can the Minister confirm that the tender process automatically includes a statement of how many locally qualified employees are to be used on any contract?

Senator P.F.C. Ozouf:

I would need to check that and I will do so later in the day.

2.14.5 Deputy G.P. Southern:

If I may, and whether such a criterion is allowed under R.U.D.L. (Regulation of Undertakings and Developments) Regulations?

Senator P.F.C. Ozouf:

Certainly, it is the criteria that have been used for fiscal stimulus money and indeed we would propose to put the same criteria on the additional £28 million, which I am asking for Assembly approval for housing projects. I recognise the fact that there is limited work in contractors because of the credit squeeze. It is not only house purchases that are finding it difficult to get cash, it is all sorts of businesses in these difficult times. States work is appropriate, not in terms of only getting value for money but in boosting supply and boosting the amount of work available and we are going to do everything we can to ensure that that is directed with the Minister for Social Security to local labour, and I certainly will be looking at those fiscal stimulus rules on all the projects that are going to be over and above the existing capital programme.

2.14.6 The Connétable of St. John:

On any tender submitted since the formation of Property Holdings, has a close working relationship been established with any particular building companies whereby this could exclude other Jersey companies from being invited to tender? If so, is the Minister aware of any of this?

Senator P.F.C. Ozouf:

No, but the underlying question that seems to be being put forward by the Constable is that there is somehow some problem with Property Holdings and their procurement. If he has an aggrieved contractor, if he has an aggrieved constituent or somebody who has approached him, let us know about those issues. There may well be issues where some companies have frankly not been able to perform in terms of what their obligations are to securing the completion of projects. The Connétable will be aware that there have been some failures in terms of local building contractors, badly run building contractors as opposed to good ones. There sometimes are good reasons why one chooses one contractor over the other but if he has aggrieved people, then let them meet with the Assistant Minister who will be delighted to raise the capacity. The more people that are in a position to compete for contracts, the better. It is not about exclusion; it is about including them and raising their capacity.

The Connétable of St. John:

Supplementary, Sir?

The Deputy Bailiff:

You have had the final supplementary, Connétable.

The Connétable if St. John:

Sir, you are cutting me off at the knees.

Senator F. du H. Le Gresley:

Could I beg leave to request, if you would allow me, to make the official statement I am making later after the luncheon recess because I would like to attend this funeral if possible, if the Assembly is in agreement.

The Deputy Bailiff:

I am sure the Assembly would be very happy for you to make the statement then.

Senator S.C. Ferguson:

May I also crave the forbearance of the Assembly and do the same?

The Deputy Bailiff:

Members seem to be agreeing that.

2.15 Deputy M.R. Higgins of the Minister for Planning and Environment regarding conformity with the European Convention on Human Rights:

How confident is the Minister that he and his department are acting in conformity with the European Convention on Human Rights in their dealings with the public in all areas of his department's responsibility?

Deputy R.C. Duhamel (The Minister for Planning and Environment):

The Deputy knows that there is a general and a legal expectation that the Minister and his department act in conformity with the European Convention of Human Rights through the Human Rights (Jersey) Law 2000. In that respect, I have every confidence that the Minister is acting along with those expectations and, indeed, am very confident that the department is doing so as well.

2.15.1 Deputy M.R. Higgins:

How can the Minister be confident when he has already advised the Assembly this morning that only some of the human rights audits were carried out, not all, but there have been no audits since then or monitoring of the implementation by his staff of its laws, regulations, orders and guidance?

Deputy R.C. Duhamel:

Quite easily. The Human Rights Law specifically is of relevance in 3 particular areas. That is the First Schedule Article 6, the right to a fair trial, Article 8, the right to respect for private and family life and, indeed, Article 1 of the First Protocol, protection of property. Those are the 3 main issues of relevance to the Planning Law and those are the things that we take into account along with anything else that has lesser or no relevance.

2.15.2 Deputy M.R. Higgins:

If I could just follow up on that because he has not answered the question. How, with the absence of audits and monitoring of his staff and what they are doing, can he confirm that they are complying with the Convention?

Deputy R.C. Duhamel:

As I mentioned in the earlier question, it is the laws that are audited. The guidance notes and procedures and other orders are lower down the list. It is of fundamental importance that the laws are compliant because that is the way it is set out. If the laws are done, then I have every confidence that the protocols, the policies and procedures and everything else will be in line with the law.

2.15.3 Deputy M. Tadier:

The Minister will know that he and other departments are required to make a statement of compatibility before bringing forward legislation as he has mentioned. Can he confirm that while it is the law officers who give this legal advice, there is no requirement for the Minister to take this advice or to agree with it and that it is for the Minister to decide whether he thinks that the legislation he is bringing forward is human rights compatible, irrespective of whether that agrees with the legal advice he has received?

[11:30]

Deputy R.C. Duhamel:

I think that may be a technical assumption on behalf of the Deputy but, indeed, most Ministers operate according to what the States as a whole would wish and underneath the law as agreed by this Assembly. The Ministers do not usually, as far as possible, act outside of the law. If they did so, they would not be in office very long.

2.15.4 Deputy M. Tadier:

A supplementary and this may be peripheral, Sir, so I leave that to your judgment. Would the Minister, in light of what has just been said, not support a move because it can be seen that a Minister making decisions on human rights may take into account political arguments rather than purely legal ones. Would it not be better for the Attorney General to be required to make the statement of compatibility, taking it away from the Minister so that the objectivity of that statement could be relied upon by the States Assembly and the public?

Deputy R.C. Duhamel:

I am not sure that under the constitutional arrangements that we have in place for ministerial government that would be able to be done and I would need proper technical legal advice to settle that issue.

2.15.5 Deputy J.H. Young:

The Minister referred to the right to a fair trial and confirmed that his departmental response procedures tried to ensure that that was provided. Could he advise whether that extends to those who are subject to enforcement proceedings and whether or not they have access to the details of the complaints about them?

Deputy R.C. Duhamel:

Could the Deputy repeat the question, thanks? He seems to be asking whether or not a complainant has open access to any advice that is held within the department and I would have thought that the rules and regulations under which departmental advice or information is held within a department is undertaken under the Data Protection Act.

2.15.6 Deputy J.H. Young:

Yes, I am happy to clarify. My question followed up from his commitment to the procedures being human rights compliant and my particular point was about enforcement proceedings. Does a complainant have a right of access to the complaints that are made about them, not the advice that the department has, but do they have access to the complaints that are made about them that they have to reply to?

Deputy R.C. Duhamel:

I think under the existing rules and regulations, I am not sure that they do but I am certainly looking at a system whereby any complaints or any objections under our new website afford a member of the public an opportunity to make a comment in relation to a particular application and for all those comments to be openly available for inspection across the internet or through the department.

2.15.7 Deputy M.R. Higgins:

Could the Minister advise the Assembly if he is currently asking the Law Officers' Department to carry out the audit of its laws, et cetera, and if this is the reason why he has not been providing me with direct and timely answers to my questions starting from January?

Deputy R.C. Duhamel:

There may be an element of truth in that statement.

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

The Deputy Bailiff:

Very well. That brings the listed Oral Questions to an end. We now come to Questions to Ministers Without Notice. The second question period has been deferred until 2.15 p.m. so the first question period is for the Minister for Home Affairs. Deputy Trevor Pitman.

3.1 Deputy T.M. Pitman:

My question depends on whether I have understood advice from the Minister, so I hope he will not mind me asking him. I asked him about petrol bombs and he was trying to explain to me, I believe, that a person could not be charged or prosecuted if those petrol bombs were on his own property. Is that correct could I first ask?

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

It is correct that a petrol bomb on your own property is not an offensive weapon because the law in relation to offensive weapons requires them to be in a public place but if a person had a petrol

bomb with the intent of using it, that would be a different offence; in fact, a more serious offence, even if it was in their own home.

3.1.1 Deputy T.M. Pitman:

Thank you. Could I follow up, then, with my proper question? Doing a bit of digging as I tend to do, a case in December 2000 with a member of a biker fraternity who was charged with having a petrol bomb, I think he had 16 that were on personal property as well. How does one differentiate between 2 cases because obviously my constituent was attacked in his home by a person found to possess petrol bombs?

Senator B.I. Le Marquand:

I am aware of the case some years ago because, in fact, I dealt with it at the Magistrates Court level and passed it up. In that particular case, the prosecutors had decided to charge the more serious offence under the ... I cannot think of the name of the word, it is in French to do with explosions. In the case that the Deputy is referring to, the prosecutors decided not to charge that more serious charge. I, of course, have absolutely no reason to understand why that was so because I am not sufficiently aware of the facts. It is, of course, a prosecution decision, as I have said before in answer to other questions. The role of the police is to investigate and to produce a report. It is then a matter for prosecutors to decide which charges to charge.

3.2 Deputy G.P. Southern:

Will the Minister inform Members whether he has yet fully identified areas for C.S.R. (Comprehensive Spending Review) savings between now and 2013 and to what extent does he intend to make his savings in the terms and conditions of his employees?

Senator B.I. Le Marquand:

The answer is no, I have not fully identified where savings will take place. That is partly because some of the savings which we were hoping to make we cannot make in those areas and so we have had to look at other areas. The process is still ongoing. I will very shortly be receiving detailed reports from my people, which will enable me to know what I am going to put forward as part of this. I am afraid that because I did not write down the second half of the question, I have now forgotten it.

Deputy G.P. Southern:

To what extent are savings going to be made from terms and conditions of his employees?

Senator B.I. Le Marquand:

We did have proposals, which were part of terms and conditions in relation to unusual allowances for particular organisations, but what we are currently being told is that in a situation in which the current negotiations are not offering anything in terms of increase, it is difficult to ask people to be reducing those while not getting the others in place. So that is one of the areas where we are in difficulty in terms of making our savings.

3.2.1 Deputy G.P. Southern:

Can the Minister confirm or otherwise that he will be making savings which may affect frontline services?

Senator B.I. Le Marquand:

With Home Affairs, if I am going to meet the target which I have set myself and which the previous Council of Ministers set me, ultimately if I cannot find savings in other directions, I come back to the number of police officers. Police officers are frontline services and so the answer is yes, it will

involve frontline services in the numbers of police officers if I cannot find savings in any other way.

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

It was reported yesterday that Guernsey are having trouble with lack of capacity at their prison and were considering sending their prisoners to the United Kingdom. Has any consideration been made between La Moye Prison or have any communications been made between La Moye Prison and Guernsey whereby we may be able to offer them some places for their prisoners, prisoners that are suitable to be housed at La Moye, which obviously would help us from a revenue point of view and would help Guernsey out of a problem as well?

Senator B.I. Le Marquand:

No, I am not aware of any such discussions. In fact, as the Deputy may recall, when she was my Assistant Minister and we were speaking to Guernsey, we thought it was wonderful how low the prison population was in Guernsey. Obviously, it is not quite so good now but I am not aware of any such discussions but thank you for the suggestion.

3.4 Deputy M.R. Higgins:

Is the Minister content with the fact that firms are evading the Rehabilitation of Offenders Law by insisting that potential employees ask for a police check to be done in their name which therefore discloses spent convictions which, if declared, may also cause them not be employed?

Senator B.I. Le Marquand:

No, I am not content with that because that is, in fact, contrary to the spirit of the Rehabilitation of Offenders Law. The position under that law is that unless an employee's job falls within one of the exempt categories (exempt means that you have got to declare everything), then they are entitled to produce a shortened list of their convictions in accordance with the law. Therefore, any employer who is requiring the full list of convictions in a case where it is not an exempt category is acting improperly.

3.4.1 Deputy M.R. Higgins:

Would the Minister then therefore ask the police to set up a system whereby if someone comes along and asks for it, if they are being asked for it for employment, to say what the nature of the employment is and if it does not fall within an exempt category, only give the shortened version of the criminal record?

Senator B.I. Le Marquand:

That would create severe difficulties for the police in terms of resourcing because we simply do not have the resources to do the work in relation to reducing the list down. Also, of course, in many cases, there is a mixture of convictions from different jurisdictions so that the same process would have to apply to the U.K. Now, at the moment, we have taken the view that we simply could not obtain the resourcing for that. If we did, we would have to make a substantial charge for that process. There is, I understand, an organisation in Scotland which provides such a service in relation to U.K. convictions and the police tend to suggest to people that they go to them to get the list, as it were, amended. Currently I have no plans to do that because of the costs and number of staff that would be required.

3.5 Deputy M. Tadier:

I appreciate the Minister may not have these figures to hand but can he give a rough idea as to what percentage of those imprisoned at La Moye are there to do with drug related offences?

Senator B.I. Le Marquand:

I have a lot of figures on hand but I do not think I have got that one. It has customarily been a high percentage. I receive a report on a monthly basis which gives me an indication of the percentage. It is normally about 50 per cent but I cannot give an exact figure.

3.5.1 Deputy M. Tadier:

Would the Minister inform the Assembly if or whether he would consider engaging in a cost benefit analysis to see whether the costs of catching, prosecuting and imprisoning these drug offenders is proportional when balanced with the threat that those individuals pose to the public?

Senator B.I. Le Marquand:

That is a very complex question because it goes across a number of different areas, not only Home Affairs, but also Health. It also cuts across the issue of independence of the judiciary in terms of sentencing policy. I think though that what the Deputy is hinting at may be decriminalisation and that, of course, is a wider issue. The view I have taken and my predecessors have taken, is that it would be quite wrong for Jersey to seek to move in that direction unless other major surrounding jurisdictions were doing the same thing. So I do not think that it would be right to start a piece of work which is going to cost a lot of money in relation to this unless we saw others also moving in the same direction.

3.6 Deputy G.P. Southern:

Is the Minister content that the Customs and Immigration Department in their Annual Report, report a large decrease in the number of drug confiscations going on in the last year and is he satisfied that we are, in fact, protecting our borders properly at this time?

Senator B.I. Le Marquand:

Again, that requires a complex answer. My organisation, such as the police and Customs and Immigration, are indicating to me that we may be seeing signs of a reduction of the amount of drugs that are around. There is some independent verification of that, I understand, in terms of the number of referrals to the Alcohol and Drug Service. I hope that that is so. I have to say that one of the statistics I am aware of, which is the number of female prisoners, is well down and that is a significant figure because most female prisoners are drugs couriers.

[11:45]

So I think we are seeing the first signs of a reduction in the quantities of drugs around and that may be the reason why there has been a reduction in terms of the amount found by Customs and Immigration. Having said that, of course, they did have a notable success recently in a major alleged case of conspiracy to import large quantities of cannabis into the Island. That may not be included in their figures because the conspirators, in the main, were off-Island.

3.7 Deputy M.R. Higgins:

Does the Minister agree with the rehabilitation of offenders and does he also believe that firms who continue to seek unnecessary police checks are causing some people to be punished time and time and time again for the same offence because of not being able to get employment?

Senator B.I. Le Marquand:

I am not quite sure how to answer the question. Clearly, the principle behind the law in relation to rehabilitation of offenders was that there would be spent convictions after a period which would not be available to employers and therefore would improve the chances of people returning to a normal life. That I wholeheartedly agree with. I have always been frustrated by the fact that it is a law which, in my opinion, does not deliver completely what it purports to deliver. That has been a

frustration I have had for a long time. It is difficult, though, without substantial resourcing to see how I can change that.

3.8 Connétable S.W. Pallett of St. Brelade:

In light of the current failure of the department to meet its C.S.R. savings, will the Minister confirm whether there is any intention to privatise any areas of the police or prison service in areas such as prisoner transport or custody services and, if so, what are those plans?

Senator B.I. Le Marquand:

The current situation is that among those working in court security and prisoner transfer are people who are not police officers but they are employees. As part of the C.S.R. process, one of the areas that has been looked at as to feasibility is, indeed, this particular area but this work is still at a very early stage of consideration. But, yes, the issue of court security and transport is a potential area for privatisation but we are a very long way away from any firm decisions on that.

3.9 Deputy T.M. Pitman:

I was tempted to go down the route asking about the twin holiday idea with Guernsey but what I would like to know is I think the Minister said that he was confident that there was going to be a reduction in the number of drugs. Now, is that correct, because my background before coming back to Jersey was in drugs work. I was not a dealer, I should point out. It does not seem a realistic view at all. Could the Minister just clarify what he was trying to say?

Senator B.I. Le Marquand:

Yes what I said, and this is in response, of course, to questions to my key heads of departments, is that what has been fed back to me by both police and Customs is that they think there is a reduction in the amount of illegal drugs around, particularly heroin. That is what they are telling me. I have to say that what triggered my interest was partly the drop in the number of female prisoners which, as I say, is linked very closely with the issue of drugs couriers but also the fact that we currently have much lower levels in the prison. We had, as of 1st May, 155 people in the prison. In my period as Minister, we have fluctuated between 160 and 200. We have had a situation where we have been down to the 160s before. That proved to be a false dawn but we are now lower than that and because at the same time we have lower numbers of female prisoners, which I say is indicative of drugs mules, we also have the lowest numbers we have ever had in relation to young offenders. I will shortly be putting out a press release in relation to the very low levels of youth crime and activity at this moment.

The Deputy Bailiff:

Minister, you have talked out your 15 minutes.

Senator B.I. Le Marquand:

I am sorry.

PUBLIC BUSINESS

The Deputy Bailiff:

We are deferring, as agreed, the second question period for the Chief Minister and deferring the statements from Senator Ferguson, the Chairman of the Corporate Services Scrutiny Panel and the Minister for Social Security and so we come to items of Public Business. The questions for the Chief Minister and the statements we will deal with at 2.15 p.m. first thing this afternoon and so the

debate on the Police Force Law, or subsequent propositions if we get to them before lunch, will be interrupted for that purpose.

4. Draft States of Jersey Police Force Law 201- (P.182/2011)

The Deputy Bailiff:

We come now to the Draft States of Jersey Police Force Law 201- P.182/2011 lodged by the Minister for Home Affairs and I will ask the Greffier to read the proposition.

The Assistant Greffier of the States:

Draft States of Jersey Police Force Law 201-. A law to provide for the administration and supervision of the States of Jersey Police Force, the establishment of a Jersey Police Authority and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

I apologise to Members that are having to hear a lot of me this morning. The new Police Force Law seeks to bring into effect proposals for the establishment of a Police Authority which was first suggested in outline in 1996 as part of the Clothier Report and approved in principle in 1998 by the States. The main thinking behind the establishment of a Police Authority is twofold: firstly, to seek to depoliticise operational police work by the insertion of the Police Authority in a middle role between the Minister and the Chief Officer of Police. I would comment in passing that in Jersey, the closeness of the public to politicians has inevitably led to a higher risk of such politicisation. Secondly, to enable there to be closer supervision by the Police Authority of the management of the States of Jersey Police in order to ensure that policing policy is delivered effectively and efficiently. I would comment again in passing that the Minister and Assistant Minister simply do not have the time to be able to delve down into managerial detail, having 5 substantial organisations to oversee, Police, Prison, Fire and Rescue, Customs and Immigration and T.A. (Territorial Army) of which the States Police are, of course, the largest, representing about 50 per cent of expenditure of Home Affairs. In addition to that, they have what are called the Home Affairs Department issues. When I became Minister in late 2008, I inherited a draft law which had been heavily criticised as providing oversight, which was too weak and too ambiguous. There was a difficult issue as to how to strike the balance between operational independence of the police on the one hand and policy setting and proper manager oversight on the other. In early 2010, I put together an advisory group, which included a broad cross-section of political opinion and of experience in this area. That made excellent early progress but the operational independence issue was not solved until the arrival of the present Police Chief. It was perhaps solved slightly before his arrival with conversations I had with him after his appointment in principle had been made. As a result, I was able to bring the core principles to the States for debate in early 2011. Most of these core principles are set out in subparagraphs 1 to 5 at the bottom of page 5 of the current report and these were, I believe, unanimously supported in the Assembly in the debate in early 2011. Work was then restarted on the drafting of the law. However, a problem arose because of the continuing situation of the Connétables as police officers in their Parish. The effect of this law is twofold. Firstly, it establishes a new law which deals solely with the States of Jersey Police. Previously, the Police Force (Jersey) Law 1974 dealt both with the States of Jersey Police and with the Honorary Police Forces. Secondly, this law amends the 1974 law and renames it so that this now applies solely to the Honorary Police and it will be called, if passed, the Honorary Police (Jersey) Law 1974. The difficulty which I encountered was that I was advised that it would not be possible to take the Honorary Police Law, as amended, to the Privy Council while Members of the Legislature, Connétables, remained as having operational policing powers and this notwithstanding the fact that

for a long time Connétables have not used their operational policing powers. Finding a solution to this problem not only delayed the lodging of this law, which took place right at the end of the previous States, but has also delayed its debate by about 4 months during which period the Connétables have been working hard and coming up with the right solution and, of course, that is set out in a separate piece of legislation, P.36, Draft Connétables (Miscellaneous Provisions) (Jersey) Law 201-. The incoming Education and Home Affairs Scrutiny Panel helpfully decided to refer the current draft law back to the lawyer who had looked at the 2008 draft and from this have arisen 2 drafting improvements. At the same time, the Law Officers' Department noticed that a provision, which was in the previous law, had been omitted from the new law and this has now been reinstated and that, fundamentally, are the reasons why I have subsequently lodged the Amendment P.182 to the original law that I had drafted, in order to deal with the points raised by the Scrutiny Panel and additional drafting points which had arisen. In addition to the Police Authority provisions, there has been a general tidying up and improvement of other provisions which related to the States Police and, in particular, Article 9. In Article 9, there is the power of the States to make regulations in relation to the method of appointment of the Chief Officer and Deputy Chief Officer and in relation to disciplinary matters concerning those. This law does not set out precisely what those arrangements will be. That is a piece of work for me to conclude subsequently and bring it back to the States for regulations to be made, although I have done a lot of work already in this area. Article 21, which redefines the relationship with the Honorary Police and sets out the need for there to be clear arrangements made between the Attorney General and the Chief Officer of Police in relation to those relationships. Articles 22 and 23, which is the ability of the Chief Officer to seek assistance from other police forces and to give assistance to other police forces. Articles 24 and 25, the power for the States by regulation to provide for charging for police services. Article 26, the power to allow designated police functions to be undertaken by States employees. Again, in both those cases, it will be a matter for the States to decide by regulations. All this law is doing is creating the ability to deal with this by regulations and certainly Article 27, which is by regulations to allow the Chief Officer to enter into a contract or contract to provide services, and the questions of the Connétable of St. Brelade were, of course, really in those areas covered by Articles 26 and 27. Finally, in terms of the general tidying up, Article 31 deals with amendments to other laws including, as I have said before, to the provisions in relation to the Honorary Police which are in Article 11 of Schedule 1. Now, in order to assist Members when I come to that part of the law which is, in fact, Schedule 1, what we have got the law draftsmen to do, was to set out within the report starting on pages 12 and 13 what the Honorary Police Law will look like once the amendments have taken place. I am afraid that if we had not done that, it would have been virtually impossible for Members to understand what the effect was of the amendments. But, of course, as I said before, in parallel with this, has been the work that has been done by the Comité des Connétables and you will find, indeed as part of that proposition, what the law will look like if it has been amended in accordance with the States of Jersey Police Force Law and the Connétables (Miscellaneous Provisions) Law.

[12:00]

So hopefully that will help Members to understand and what I will do when they come to this particular section is I will go through the Articles of what remains in order to explain the effect of that. I want, for the benefit of new Members of the Assembly and continuing Members who, like me, do not have perfect memories to explain the thinking behind the Police Authority proposals. Essentially, what will happen under this law, if approved, is that the current responsibilities and powers of the Minister will be shared with the Police Authority. The Minister will retain overall and ultimate responsibility for the function of the States Police force, will approve the annual policing plan determines policing priorities for the year ahead and will set policies in relation to key aims and objectives of the force and may set management policies in appropriate areas under

Article 3. The role of the Police Authority in Article 4 is to ensure that the States Police force is an efficient and effective force, that it delivers the key aims and objectives within resources available, including the Annual Policing Plan, and it acts in accordance with any management policies. Secondly, part of the role of the Police Authority is to seek from the Minister any additional resources needed to enable the force to deliver the key aims and objectives. The functions and status of the Chief Officer are dealt with in Article 17 and the high level understanding of that is that he is to have the command, direction and control of the force and each of its officers and in so doing he must give effect to the policies set by the Minister and to the Annual Policing Plan. In Article 18, the Chief Officer is accountable to the Minister and to the Police Authority. Article 18(6) is interesting because it contains a safeguard in relation to the need for the Minister and the Police Authority to have due regard for the need to respect the operational independence of the force. So these and other related Articles contain a complex 3-way balancing of roles, which was approved by the States in early 2011. A balance is achieved between the 3 roles: the Minister with the higher level policy direction setting; at the other end, the Police Chief with the job of running his own department and making sure that it achieves what is intended and inserted in the middle is the Police Authority with an oversight role to ensure that the Minister's objectives are attained. The new law has been approved by the old Comité des Connétables and by the Police Association and I am very grateful to all who have worked with me on this to make it as good as it is, particularly to those who worked on the Advisory Group and I agree with the law in principle.

The Deputy Bailiff:

Is it seconded? [**Seconded**] Does any Member wish to speak on the principles of the legislation?
The Connétable of St. Martin.

4.1.1 The Connétable of St. Martin:

As we have heard, although the proposition is headed "The Draft States of Jersey Police Force Law", it very much relates to and affects both the States of Jersey Police and the Honorary Police of the 12 Parishes. Today, we are discussing a major change in the history of policing on Jersey and it is very unfortunate some Members are away. My understanding of the proposal is that we are debating 2 issues. We are dividing and separating 2 areas of policing on the Island from what is currently embodied under one law; the Police Force (Jersey) Law 1974. That law will now go or, as we have heard, the 1974 law will be adapted to become Honorary Police alone. The second major issue that we are discussing today relates to the establishment of the proposed Jersey Police Authority. It so happens that because the Authority only relates to the States Police, it is an ideal time to bring forward a new law for the States Police. If this proposal before us today is adopted, then the old 1974 law, as we have heard, will be drastically cut, removing virtually everything relating to the States of Jersey Police. Those Articles and amended Articles that will remain will then be re-titled to that of the Honorary Police (Jersey) Law 1974 and covers very basic issues regarding honorary policing on Jersey. The States of Jersey Police will have their own law, the States of Jersey Police Force Law, under which they will operate and that title "States of Jersey" does not refer to us in the Assembly today. It means to what some of the older members of the community will refer to as the uniformed police, the paid police and if we go back to 1854, the *garde de nuit*. The new States of Jersey Police Force Law will bring into play different responsibilities as we have heard from the Minister for Home Affairs, new responsibilities for the Chief Officer and of course the proposed new Police Authority. I think it is unfortunate that the report accompanying this proposition today states that the long delay is partly due to discussions and work that have been necessary in seeking to resolve the issue relating to the policing powers of the Connétables. I suspect that had little to do with that issue in fact and the main delay related to the attempts to form a Police Authority. The Minister even had problems attempting to install a shadow Jersey Police Authority and it is unfortunate that we have had to wait 14 years to reach this

stage. Senator Breckon's later proposition in 2010 sought to have an independent Jersey Police Authority to oversee the work of the States of Jersey Police and this is what we had presented to us today. However, I am not sure that it goes far enough in that it could have been an ideal time to introduce something for the Honorary Police too, rather than leaving them out on a limb, even something to legislate for the Connétables in overseeing policing policies by the Honorary Police. We shall see later today in another debate that the supervisory role of the Honorary Police remains with the Connétables but then where does it go? Should Jersey Police not mean police officers on Jersey? The authority will oversee the work, ensure the vision, ensure delivery of key aims and objectives of the States Police and ensure, among other things, an efficient and effective police force but nothing so elaborate for the Honorary Police. Is it right that only the work of the States Police should be overseen? Where will it put the Honorary Police? Again, out on a limb and I feel unless proposals for the Honorary Police are brought forward in due course we are not even treading water. My concerns relate to the policing plans and objectives and the strategic visions of the Honorary Police and, more importantly, who sets them and who oversees them after the Connétables? There is nothing to cater for that in the proposed Honorary Police (Jersey) Law. Article 4(3) of the existing and the proposed amended law shows that the Honorary Police are under the general supervision of the Attorney General. Article 4(4) of the old and the proposed new law makes provision for the States to make regulations for the administration and conditions of service of the Honorary Police, in particular qualifications for office. Those regulations have been made by virtue of the Honorary Police (Jersey) Regulations 2005. They cover issues like qualifications for election, the establishment of the Honorary Police Association, issues relating to officers moving out of the Parish in which they originally lived, resignations, the appointment of Chefs de Police, the ability to establish Le Comité des Chefs de Police and for aims of that committee. However, where does it say the Connétables set policy? It does not. Connétables do not even fall under the remit of the 2005 Regulations as they are not included in the interpretation of a member of the Honorary Police. It will be left to the Connétables of each Parish to form their own policing plans on their own if they want to, albeit the Honorary Police have exactly the same responsibilities, powers and authority - and I do not like to use the word "power" because that is not what it is about - as any States of Jersey police officer. Some have even greater responsibilities like charging and bailing of defendants. There will be no authority to see whether the Connétables achieve their aims and objectives. I know there will be colleagues of mine as Connétables in this Assembly that wish to keep their Parish individuality with their officers and within their Parish. I respect those views. There is nothing wrong with that view and, indeed, I fully support it. You will not get a greater supporter of the Honorary Police system than myself. Every Parish community is different and we should be working to maintain our individuality which is the essence of parochial life. I believe that one of the strengths of the Honorary Police is that of working together in the community that we live in, seeking to achieve a common goal; that of making our Island and our Parish a safe environment in which to live, to bring up children and to retire. As is plain to the States and indeed identified in Article 8 of the Honorary Police Regulations, one of the responsibilities of the Chefs de Police is to promote consistency in the operational practice between the Honorary Police of each Parish. However, basically, that is as far as it goes and they should not be going out setting their own policies. I am not sure that even that is currently achievable with a forum of 12 Centeniers, one from each Parish, who elect their own chairman who can promote operational practices without anyone formally overseeing those decisions, albeit I accept that the Attorney General may set aside any decision of that committee. The Attorney General has many responsibilities and provides excellent support and guidance but he has many roles and I fear not a lot of free time to allocate to the very many issues facing the Honorary Police of today. The Chief Officer of the States of Jersey Police is the boss of the States Police. He is the chief. It is down to him to get it right. The Chief Officer of the States of Jersey Police has enormous responsibility. However, he - or maybe she one day - will be answerable to the Police Authority and to the

Minister and a new Police Authority will have a role clearly defined and objectives set. The Minister for Home Affairs will ultimately be answerable to this Assembly for the performance of the States of Jersey Police but who has a responsibility for the Honorary Police and honorary policing? I will in my Parish and other Connétables in theirs but as a body generally, will it be the Comité des Connétables or the Committee Chairman or is the Attorney General? I think, as it stands, it will be for the 12 of us individually for our own Parishes. I believe the role of each Connétable remains very important. We have a crucial role in our Parishes in relation to our officers and have the ultimate responsibility for them. The Comité des Connétables and, in particular, the chairman of the committee may now need to take on the extra role of the future in the draft law if approved. It may be a good opportunity of incorporating something at that same time. I think, however, there is an opportunity for change in the future by bringing amendments to the Honorary Police (Jersey) Law 1974 if it is approved today and to the 2005 Honorary Police Regulations and this is something that we, as Connétables, may need to discuss in due course. The Honorary Police must not become 12 individual groups operating individually under a body known as a Comité des Chefs. I would therefore ask the Minister how he believes this imbalance can be addressed and what consideration he gave for the Honorary Police being answerable to an authority, not necessarily this proposed authority but another with elected members working together with the Connétables and for the Honorary Police setting policy for working in a co-ordinated approach to policing on Jersey. I am a little uncomfortable at the moment that this has not been addressed and I believe the Connétables will need to work closely with the Chefs de Police to ensure that they, the Chefs, know that we, as Connétables, are accountable for them and their policies and their policing in our respective Parishes. I believe we need to build a more structured approach for the functioning of an efficient and effective Honorary Police Force Island-wide. I believe we, the Connétables, need to set policies for key aims and objectives and for the general management policies of the Honorary Police as indeed the Minister would have to do for the States Police. If I can just move on briefly to a couple of other points on the proposal. User pays: resources have to be funded and I note that Article 24 goes on some way in making provisions for the States to approve regulations to charge for policing services at certain events. The obvious concern that I have is that many organisations will be put off by such charges during these hard times and, therefore, seek assistance for cheaper options, that of the attendance at their event of the Honorary Police. Most Parishes struggle to find people prepared to offer themselves for Honorary Police work and I suspect that many of those that do come forward have no intention of offering themselves as free alternative options to a States Police officer at an event for whose presence would have been charged at commercial rates. There is no mention of “user pays” in the revised Honorary Police Force (Jersey) Law relating to the Honorary Police despite the ratepayers having to pay insurance for their officers, the radios that they use, the cars that they drive and the equipment that they have. Times are hard for the ratepayers too. It will be the ratepayers knocking on our doors complaining at the cost of the Honorary Police and any increase on their rates where maybe consideration could have been given to introduce a mirrored Article into the revamped 1974 law.

[12:15]

It may be that the Connétables have declined this in the past but I do not want to see, as a result of this proposition, the Honorary Police Officer becoming a cheaper free option to the States Police yet still facing the same problems and risks on duty at an event. On Articles 26 and 27; States Employees and Contractors Undertaking Functions of a Police Officer, this was touched on briefly in Ministers’ question time a short time ago. Having read the Article, I initially suspected that this related to a civilianisation of police posts within the police force, some of them behind desk jobs, prison van crews and the Magistrate Court officers. However, if this was the case, there is no need for them to be able to carry out the function of a police officer, in particular those civilians working

in an office at the police station. “To carry out the function of a police officer” must mean something more than a civilian member of staff. Article 26 states that the States employee would undertake the function of a police officer but not be a police officer and Article 27 says: “Contractors undertaking a function usually performed by a police officer.” Could it be that the staff would be employed on lower salaries in a police employment post but in the event of a busy period, be co-opted to take on the role of a police officer and having the same powers as a fully trained police officer, limited powers or in fact none? I take this one step further. I suppose these Articles could result in civilians being employed as a type of Community Support Officer out on the streets similar to those that we see on the streets in the U.K. I suppose this could even be broadened and the new law result in Special Constables being appointed to patrol the streets of Jersey. Will the Minister confirm to this Assembly that there is no intention to introduce Special Constables and/or Community Support Officers on our streets in the future with the loss of fully trained police officers and that this law will not be sued as a conduit for such a major policing change? Finally, I am aware that there are many different pieces of legislation relating to the Honorary Police; the election of officers, laws in relation to the various ranks, their discipline and the like but I fear that the Honorary Police (Jersey) Law 1974 that may come out today is far from complete and is merely the remnants and remains of an old law that once covered every police officer in Jersey. I suspect it has been easier to take out what was needed from that existing 1974 law to prepare the new States of Jersey Police Force Law 2012 rather than making a new all encompassing Honorary Police Law 2012 at the same time. I am assuming this divide today to be the case as these 2 pieces of legislation have to go in hand in hand. We cannot have a new States Police Force Law 2012 while maintaining, without change, the old Police Force (Jersey) Law 1974. Thank you, Sir.

The Deputy Bailiff:

Can I say to Members that I will understand that it is difficult to debate policing laws in a vacuum, as it were, of the States Police and the Honorary Police and to some extent, the speeches are bound to cross over the 2 but we do have a draft law coming up later with the Draft Connétables (Miscellaneous Provisions) (Jersey) Law and the law that is currently engaging Members here is the States of Jersey Police Force Law, although of course it does have an impact on the 1974 law which will become the Honorary Police Law if it is adopted. I just ask Members to take that into account because this law I think ought not to be the subject of a debate on the Honorary Police, save to the extent that its provisions do touch on the Honorary Police. I do not want to say any more than that. Deputy Trevor Pitman.

4.1.2 Deputy T.M. Pitman:

Thank you for pulling out half of what I was going to say, Sir. I will save it for the next one. It has to be said it has been an embarrassment that we did not have the Independent Police Authority for such a long time so I think any moves in this way has got to be applauded and I would offer my congratulations to the Minister in that way. I want to reserve some comments for the various Articles but my real concern here is if this is passed - and I hope I am not straying too far - where are we left if then the subsequent proposition is not passed because I am not clear on that? So maybe the Minister can clarify that. I have got a lot of sympathy for what the Constable was saying there but I also have to say that I think there is a danger of it being seen that Constables are resistant to any change, and I know they do not all feel that way, but I think there is a danger the public may see that and anything that makes policing in Jersey more professional and more uniform, I think has got to be good. There is no pun intended with the word “uniform”. For instance, it has got to be a good thing that Constables allow the Honorary Officers to come into St. Helier, et cetera, and help. I would also like the Minister to clarify what he meant when he was on the radio and he was saying about how he wanted to separate politics and policing and yet when I stood with him on the 2008

election platform, he was quoted as saying that he wanted to bring the police under greater political control, so I think that needs clarifying. I am sorry. The Minister is shaking his head but I heard him say it so perhaps he could tell us what he means by that. Finally, I would just say perhaps he could comment on the reality of the problem he faces that we have. Whether we like it or not, we have got the ludicrous situation of 13 police forces and a lot of that is just down to tradition and does he think that that is surmountable by what he is proposing?

4.1.3 The Connétable of St. Brelade:

The establishment of a Police Authority, it has already been said, in Jersey is long overdue and I think in many ways, it discredits this Assembly when an important matter of this nature takes so long to come to fruition. The initial Shadow Police Authority had several problems including funding and lack of legal identity but it was also necessary, as we will debate later, to remove the day-to-day policing powers of the Constable to their respective Chef de Police to separate the policing and their administrative role. This was agreed in 1999. The Constable of St. Martin said it was 13 or 14 years but it is still a long period of time. The debate for removing these powers, I agree, is for later today. The need for a Jersey Police Authority is well-established. Senator Breckon put forward a proposition to request the Minister for Home Affairs to present detailed proposals to the House for such an authority in 2010 and at long last, we are debating it today. The report and proposition included in the amendment clearly set out the role of the Minister's policy on key aims and objectives. The role of the Police Authority is to oversee the implementation of these objectives. Both the Minister and the Police Authority will be able in the future to hold to account the Police Chief in regard to any operation by seeking detailed reports, thus allowing for explanations as to actions, for example, such as recently seen in the Bond Street incident. It would allow, should this House agree to its implementation, full scrutiny over any misuse of such a device as the Taser and allow any complaint by the public to be independently investigated. The Police Authority, if established, will also have the opportunity to consult with the Minister and Chief of Police over the content of the police inquiry - at least I hope it will - and, again, hopefully giving the public some input in what the Annual Policing Plan should set as its goals prior to its agreement and presentation. I believe it is important that Islanders do have an opportunity to influence the direction of the Annual Policing Plan as it is the public at large who bear the aims and objectives of that very plan. This opportunity for consultation should also apply to parishioners in any Parish prior to a Connétable - and it has already been mentioned - setting up a policing plan for his or her Parish in consultation with the Chefs de Police which I envisage - and, again, it might be a debate for later - being the way forward for the changed role of the Constable. This new relationship between the Constable and Chef de Police must be one of trust but I am sure this matter will be debated again more fully later in the Draft Connétables (Miscellaneous Provisions) (Jersey) Law and obviously that is going to be presented later and I do not want to go into that because I think there is time for that later. Although I believe it is right that the Minister retains ultimate responsibility for the Annual Policing Plan with also the right to amend it, it is also, I believe, right that the amendment specifies that the Minister should consult both with the Chefs de Police as well as the Police Authority before setting any management policies but, as has also been mentioned, it is important that the Minister does not encroach into operational matters which are rightly the Chief Police Officer's remit. The operational freedom of the States of Jersey Police must remain. In consultation with the new Police Authority, the new law provides the opportunity for the Minister for Home Affairs to set aims and objectives to project the States of Jersey Police's reputation or the reputation of Jersey and its people hopefully preventing any repetition of some of the bad judgment calls made during the Haut de la Garenne inquiry. There should have been, and must be in future, more effective control over the handling of serious events that are important either nationally or internationally and the States of Jersey Police must be commended for the handling last year of the tragic event in St. Helier which left some 6 Islanders losing their lives. Just to touch briefly on the

Draft Honorary Police (Jersey) Law, the Honorary Police Association, Chefs de Police and Constables are all consulted on the revised law. Changes to arrangements to cross-border assistance were clarified, as were the powers of a police officer to assist in another Parish in the interests of public safety. Other minor revisions were made and I would like to thank the Attorney General and his law officers for the assistance they provided to all the parties. The relationship between the Chief of Police and the Honorary Police is clearly set out in Article 1 of the draft law. It is important to remember that the Chief of Police and the A.G. (Attorney General) must consult with both the Comité des Connétables and the Comité des Chefs before any working relationships are agreed thus retaining the independence of each of the 12 Parish police forces. Although there are 220-plus Honorary Police Officers Island-wide, it is important to remember that we do not have an Island-wide Honorary Police Force but, as I have said, 12 individual forces sharing a common goal each with a right to determine their own policing policies. The changes in the law highlight the need for a good working relationship between a Connétable and a Chef de Police but any work on guidelines or protocols is, I believe, a housekeeping issue for discussion within the Honorary Police and not for debate here. As I mentioned previously in question time, under Article 27, I do have concerns as to contractors who may undertake functions of a police officer. This, in essence, is privatisation as service officers by companies such as G4 for custodial services, transportation of prisoners and similar roles take care of that concern. I have concerns that the quality of the current excellent services provided will be eroded. These services are currently carried out by highly trained police and prison staff and I do not wish to see the public put at any risk due to attempts to cost save. This law is a much needed improvement and I fully support the Minister's proposition.

Deputy M.R. Higgins:

Sir, can I propose the adjournment? There are a large number of people who are not here at the present time. We are very close to lunch and many of those people who have gone to the funeral will be back and may wish to raise issues concerning the principles of the Bill.

The Deputy Bailiff:

Is the proposal seconded? [**Seconded**] The appel is called for and I think it is unnecessary to have a debate on it. I invite Members to return to their seats. The proposition is whether or not to adjourn at this stage and recommence at 2.15 p.m.

Connétable J.L.S. Gallichan of Trinity:

Sir, can I just ask? It seems a bit unfortunate for the Minister. When we come back at 2.15 p.m., we are going to go to other business. I think it is going to be fair really for the Minister maybe to finish his ... and I know it has already been agreed, Sir, but it just seems unfortunate when we could have something of another quarter of an hour.

The Deputy Bailiff:

I am in the hands of the Assembly as far as that is concerned.

Deputy M. Tadier:

Sir, it would be helpful, when we vote, to know how many potential speakers there are left in the Assembly because if there were more, then the Minister will have to continue anyway. If there are a few, then we may as well finish before lunch.

The Deputy Bailiff:

I have at least 5 so the proposition is to adjourn at this stage and I invite the Greffier to open the voting.

POUR: 8
Connétable of St. Peter

CONTRE: 25
Senator P.M. Bailhache

ABSTAIN: 1
Senator B.I. Le Marquand

Connétable of St. Martin
Deputy R.C. Duhamel (S)
Deputy G.P. Southern (H)
Deputy M. Tadier (B)
Deputy M.R. Higgins (H)
Deputy A.K.F. Green (H)
Deputy G.C.L. Baudains (C)

Connétable of St. Helier
Connétable of Trinity
Connétable of St. Clement
Connétable of St. Lawrence
Connétable of St. Mary
Connétable of St. John
Connétable of St. Ouen
Connétable of St. Brelade
Connétable of St. Saviour
Deputy J.A. Martin (H)
Deputy of St. Ouen
Deputy of Grouville
Deputy J.A. Hilton (H)
Deputy of Trinity
Deputy S. Pitman (H)
Deputy K.C. Lewis (S)
Deputy J.M. Maçon (S)
Deputy of St. John
Deputy J.H. Young (B)
Deputy S.J. Pinel (C)
Deputy of St. Mary
Deputy of St. Martin
Deputy R.G. Bryans (H)
Deputy R.J. Rondel (H)

Very well, I call Deputy Martin.

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

Well, I am even more confused now that I have heard 2 Constables speak than I was before. I was trying to read both the laws and now I am trying to stick to one and I will be very brief. Obviously, I come from this and the Constables would always say that I am against the Constables. That is not true. I am not against the Honorary Police. What I am against and I did think this would cover ... the only thing I agree with the Constable of St. Martin is that I thought this Independent Police Authority should and would cover the Honorary Police. Yes, the Minister is saying: “No” so, again, I read something and it, to me, is wrong. The Constable of St. Brelade was talking about the independence and everything else.

[12:30]

We, as Deputy Pitman says, have 13 police forces in an Island 12 by 5 and we in St. Helier which, I mean, I did, in the interpretation, which I have been trying to get for years, as long as they are chasing someone from the Parish like Trinity and they stray across the Parish line into St. Helier. Well, thank you. They can come and carry on investigating and hopefully the same way because on a Saturday night like a lot of our St. Helier police will be chasing out people into St. Brelade and Trinity because we have about had enough. The Independent Police Authority, great, getting the act together. I was very worried when the Constable of St. Martin said that he wants the Minister to ensure, which the Minister probably will ensure, that this will not, in any way, lead to like the Special Constables in the U.K. or equivalent because we have honorary highly-trained police officers. I absolutely dispute that the Special Constables in the U.K. are not highly trained but I will assure the House that they are all trained in exactly the same way. As the Constable of St. Brelade says, we have 12 individual forces. You do not get the same training in all the Parishes. The Centeniers do not get all the same training. They get offered the same training; some do not attend it at the same time. We knew this when I looked into the Centeniers’ role with the former

Deputy of St. Martin. I do know there is a mis-match. I do think we are even getting more... it is very political, I understand that, but a political debate should have been “should we have the States of Jersey Police and an Honorary Police Force?” They work together, they get trained together and they go all over the Island. It is only St. Helier because of the shortage of people that allow, I think - I know I will be corrected - people from outside the Parish to become an Honorary Policeman. Absolutely mad. If you move across a boundary you have to leave and you might be very well trained. Okay, I stand corrected; I am not really that great on the Honorary Police system. **[Laughter]** I just know that the parts of it that are good are good. The Constables shake their heads. I would like to see more of it in the Parishes of St. Helier, St. Saviour, St. Clement and St. Brelade, where the trouble is but we do not seem to see them. The States of Jersey Police do a good job Saturday nights when in every pub, not that I was in every pub **[Laughter]** but the ones I happened to be in and people were saying: “Well, they were up the road a couple of minutes ago, in and out, in and out, in and out.” Yes, there are people, as we have all discovered, still importing and dealing, or whatever, in drugs and this is what our main police force are doing. I think the Honoraries look just as good in their uniform; they could be policing the pubs and the drunks, why not? You need to be working together. As it said in Clothier, how many years ago? If you do not pull the Honorary Police Force into the 20th century, then I think it was - we are now in the 21st - they will die a natural death and I do not want to see that happen. I think I have said enough. I am coming from a different point. I think that we should be working together. The Constables do not need to be the head of the police and that is another debate. But nor do we need 12 Chefs who are just elected by a few Members or not elected at all in the Parishes; it is too disjointed. It will not work and it will not carry on. If everyone wants to carry on with this route it will be the death of the Honorary Police as they know it but I want it to be improved, as in 2 Special Constables and full training. I am hearing hisses from the Constables’ benches and: “How dare she? But she would say that, would she not?”

4.1.5 Deputy S.G. Luce of St. Martin:

I am not going to make a long speech, you will be pleased to know, and I am not going to refer to the Honorary Police either. I would just like to make a comment about Article 9, if I may. Article 9(3)(g) states that: “Regulations under this Article may impose functions and confer powers on the Police Complaints Authority.” I would just like the Minister’s assurance that the new Police Complaints Authority will be totally independent of the Police Authority, once it is set up.

4.1.6 Deputy G.P. Southern:

I was surprised to see that this met with the reaction that it did from the Constable of St. Martin. But I think what we need to do is go back to the principles that brought this particular piece of legislation to the House and we are back in 1999 with Clothier 1. My reading of Clothier 1 then, and it is still maintained now, was that it was about accountability, in particular, and monitoring. I am very concerned I think, along with the Constables, that we have got a 2-tier system developing and that the Minister appears to have accepted that 2-tier system where accountability and monitoring is better enforced with the uniform branch but is less well enforced, a double standard if you like, with the Honorary. In particular, Deputy Martin mentioned the one issue that I have concerns about, yes, training is supplied but I had it on good authority from several Constables over the years that it is not always taken up to the extent that it should be. We are dealing, in some cases, with people who are not fully trained and as competent as they ought to be and that is a very great concern to me. The reservations expressed, I think, are valid ones. I think the Minister is missing an opportunity to fully negotiate with the Constables an effective umbrella that should apply, and I will say it, along with Deputy Pitman, to our 13 separate police forces. I am particularly concerned about this training issue; without the monitoring and accountability the likelihood is that we are being policed by amateurs and I do not think that should be happening.

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

Much has been said, and I do not want to repeat anything, but I think first of all, as the current Chair of the Education and Home Affairs Scrutiny Panel, I would like to thank the previous Chair of the Education and Home Affairs Scrutiny Panel for the work that they did in the Scrutiny Report that they produced, which was very helpful in undertaking the work that we then were able to follow up on with how this very long piece of work had progressed. I do hope that Members found helpful the comments from the advice that we were able to provide to the Assembly in order to help with this particular law that we are looking into at the moment. Finally, something that did come from the comments from our adviser was the role... the clarity between the Police Authority, the Minister and the Chief Police Officer. It had been lost over the drafting and that was something that did come up. After producing that to the Minister and going through the discussions, the amendments have brought forward in order to clarify the roles. Very much to the point that Deputy Southern raised is about the accountability of the principle what the Authority will bring. It is very important to make sure that what goes forward that there are clear accountability roles and clear responsibilities that each of the different parties will have, and I believe that that is what the Scrutiny Panel has brought forward. As for the greater issue of the role between the States Police and the Honorary Police, I think it is more tackled and it would be more of an issue within the next proposition that we will be discussing and this I very much see as the role of the Authority, which has been a very long and drawn out process and I think we are finally here. We have managed to move on from 1996 from Clothier 1 and I am very happy to support this and I would ask other Members to do so as well.

4.1.8 Deputy M.R. Higgins:

I share some of the same concerns as the Constable of St. Martin and, in particular, the failure after all these years to bring in all the elements at exactly the same time. I would like to see the whole view. I would like to see the whole thing to see where it fits in. There are so many things here but we do not know what is going to happen if certain things do not happen, for example, if we do not pass the Draft Constables (Miscellaneous Provisions) (Jersey) Law, what impact is that going to have? If we stripped out of the 1974 law the Honorary Police side of it and we have not got sufficient sort of detail of what is going to happen later, so I am very concerned that we do not have the whole picture and things are either going to fall through the gaps or what people think might happen will not happen later. I am also particularly concerned that there is no beefed up or effective police complaints body. I certainly feel that the current police complaints body has failed. I have had a lot of complaints from constituents and others who believe that the body is ineffective and that many matters that should have been addressed by the police have not been done so properly. I would have liked to have seen something in the law to give us that reassurance, that if people do have grievances against the police they be dealt with properly. Basically, I am concerned about the lack of the whole vision or the whole structure that is going to be in place. I am also, as I say, concerned about the failure to deal effectively with police complaints as part of this law or legislation.

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

I recall when I was Deputy for St. Lawrence chairing the Scrutiny Panel that has been referred to in the report, when we questioned the then Minister for Home Affairs and the former Chief of Police regarding the Gibraltar system that they were proposing to base the new Police Force Law on, and I am grateful that the work that we did at that time has been taken into account and that the current Minister for Home Affairs has responded to the strong concerns that we had at the time. I recall though that the then Chairman of the Comité des Connétables was called to be questioned by us about the views of the then Comité regarding how implementation of the proposed new Police Force Law would impact upon the Honorary Police. It was quite clear from his response to us that,

at the time, the Comité des Connétables wanted to have the Honorary Police included in the remit of the proposed Police Authority. It was quite clear to us that there would be no separation of the States of Jersey Police and the Honorary Police when the proposed Authority was set up. I think, owing to the concerns I have heard raised this morning, it is incumbent upon the Minister to explain to us all very clearly why he is not going forward with that and why the proposal is that the Police Authority will cover only the States of Jersey Police.

LUNCHEON ADJOURNMENT PROPOSED

Deputy G.P. Southern:

May I propose the adjournment? I think we are almost there and for the sake of 2 minutes there are 30 people absent who may want to contribute to this debate.

Connétable A.S. Crowcroft of St. Helier:

Sir, could I just ask whether we could agree that this debate will continue until its close rather than being interrupted by statements? [**Approbation**]

The Deputy Bailiff:

That seems to be the view of Members. Very well, the States will now adjourn and reconvene at 2.15 p.m.

LUNCHEON ADJOURNMENT

[14:15]

The Deputy Bailiff:

Chief Minister, shortly before lunch the Assembly resolved that it would prefer to complete the current debate before coming to the Chief Minister's Questions Without Notice and the same goes for the statements. I also would like to announce to Members that we are, of course, accustomed to the Greffe being absolutely perfect but the exception proves the rule [**Laughter**] and the written answer from the Minister for Social Security to Deputy Southern's question was inexplicably missing the last couple of paragraphs and revised versions are now going to be circulated to Members.

Senator F. du H. Le Gresley:

Sir, if I could crave your indulgence, in my defence I did have the other side of the piece of paper [**Laughter**] when I responded to Deputy Southern and your request to reread the answer to the question. I profoundly apologise to the Deputy and to the Assembly for my inadvertently saying that yes, the question was answered.

Deputy G.P. Southern:

An innocent error.

The Deputy Bailiff:

Right, we now resume debate on P.182, the Draft States of Jersey Police Force Law. Does any other Member wish to speak?

4.2 Draft States of Jersey Police Force Law 201- (P.182/2011) - proposition of Deputy G.P. Southern for the matter to be referred back under Standing Order 83

4.2.1 Deputy G.P. Southern:

Sir, may I rise to my feet to propose a reference back under Article 83 of Standing Orders to seek further information on a number of points as follows: (a) an explanation as to why the Honorary Police Forces have not been included in the Police Authority for Jersey, as recommended by Clothier and for which there are no reasons given in this document, (b) the absence of a Police Complaints Authority, which was raised this morning, and how this will be developed to fit in with the proposed structure, (c) what specific measures have been taken in this law to deal with the reservation on page 5 of the document by the Education and Home Affairs Scrutiny Panel that the Authority did not have sufficient powers and that is not addressed, (d) why formalising of the Memorandum of Understanding between the Honorary and States Police is to operate through the A.G. and not to include prior agreement with the Comité des Chefs de Police, which I believe was raised this morning, for sharing information and partnership working on pages 8 to 9 and, finally, to justify or admit provisions for outsourcing for police duties that I believe, in this case, is premature and has not been justified in this particular document?

The Deputy Bailiff:

I am sorry, Deputy, you are speaking very quickly, to justify or do what?

Deputy G.P. Southern:

To justify or admit provisions or otherwise provision for outsourcing police duties that I believe, in this case, is premature and assumes an acceptance of the principle of outsourcing.

The Deputy Bailiff:

I understood it to be why the Honorary Police Force are not included within the ambit of this legislation. Standing Order 83 provides that: "A Member of the States may propose, without notice, during the debate that a proposition be referred back in order that further information relating to the proposition can be provided to the States or ambiguities or inconsistencies of information relating to the proposition which has already been provided to the States to be clarified." The proposition for reference back appears to me to be in order and I will, therefore, allow the proposition to be made. Do you wish to speak to it?

Deputy G.P. Southern:

Yes, Sir, just briefly to say that I have got increasingly worried by the detailed comments of the Comité des Connétables that they have reservations. I have my own reservations. I shared those with other Members over the lunch hour and came up with a reference back because I do not believe it is particularly safe to proceed with this particular piece of legislation. I think it has been cobbled together to get something, not necessarily the right thing, before this House.

The Deputy Bailiff:

Is the proposition for reference back seconded? **[Seconded]** Does any Member wish to speak?

Senator B.I. Le Marquand:

Could I, first of all, just seek clarification from Deputy Southern as to his point in relation to page 5 because I did not understand that?

The Deputy Bailiff:

I think it was page 5 of the Scrutiny Report, was it not?

Senator B.I. Le Marquand:

Yes.

Deputy G.P. Southern:

No, page 5 of the document presented to us previously on P.182. It says: “What specific measures have been taken in this law to deal with the reservations expressed on page 5 here of the Education and Home Affairs Scrutiny Panel that the Police Authority did not have sufficient powers?”

The Deputy Bailiff:

Which part of page 5 are you referring to?

Deputy G.P. Southern:

The quote is: “It was felt that the draft law was too weak in relation to oversight of the States of Jersey Police at the time” and there is no evidence here that it has been beefed up since.

The Deputy Bailiff:

Is it the paragraph at the top of the page, the second paragraph at the top of page 5?

Senator B.I. Le Marquand:

Yes.

The Deputy Bailiff:

Do you wish to speak?

4.2.2 Senator B.I. Le Marquand:

I do, Sir, yes, thank you, if I may. Firstly, I want to apologise to Members because having dealt with a lot of detail in my opening speech I omitted to explain in the opening speech the reasons why the Honoraries were not included as having oversight from the Police Authority. I had assumed that those Members who were present in the debate in January 2011 would have remembered that this issue was then canvassed and explained in some detail and I apologise, I should have repeated in my opening statement what said I then. The position was this, the advisory group, which I set up, which was very cross-party in terms of its political representation, was in fact keen to explore this issue and they were particularly keen to explore this issue because of the issue of co-ordination of working between the States Police and the Honorary Police. As a result of that we corresponded with the Chef de Police. It must be understood that the Chairman of the Comité des Connétables and the former Connétable of St. Ouen, Mr. Vibert, was a member of the advisory group and therefore was sitting right at the core of this process right from the start and able to express the views of the Connétables. We corresponded with the Chef de Police, we even had a meeting with the Chef de Police at St. Brelade’s Parish Hall in order to discuss this matter and to see what their views were. Eventually he came back to us with a firm view that it would create chaos because it would cut right across both the links of the Attorney General as titular head of the Honorary Police and his oversight and, indeed, would also cut across the relationship between the Connétable of the individual Parish and the Chef de Police and the Centeniers of his Parish. The advisory group, which I heard was not entirely happy with this but, nevertheless, accepted that this was so and that was certainly my view also. If I may say so, today we have already some discussion, I will go into greater detail if the debate gets further on down that road, in relation to the future relationship between the Connétables and the Chef de Police. It is apparent that there is more work to be done in relation to that area and I will come into that in a moment to explain the situation there. But alongside that create a third grouping, as it were, somewhere in the middle of it frankly would be a recipe for complete and utter chaos. This issue was explained carefully, I think probably in exactly the same terms as I have explained it now, in the debate that took place in this Assembly in January 2011. I brought to this Assembly the core principles of the arrangements in relation to the Police Authority. I can only say that those Members who were here are suffering today from some sort of corporate senior moment because they seem to have completely forgotten what we then decided. I am grateful that the Chairman of the Scrutiny Panel is nodding because

clearly he is not suffering from this affliction. **[Laughter]** I am very, very surprised. I accept this is absolutely genuine on the part of Members but I am very, very surprised that Members have forgotten this. I apologise that I have accumulated; I have added to that difficulty by not having specifically dealt with the issue again but there is the problem. What would be the role of a Police Authority in relation to that? It would create a complete and utter muddle. As I say, the real issue in the minds of my advisory group was co-ordination and that is why we included in the provisions Article 21 whereby: "The Chief Officer and the Attorney General must, by agreement, establish appropriate arrangements for the exchange of information and for the States of Jersey Force to work in partnership with the Honorary Police." You will see that the appropriate arrangements include consultation, not just with the Comité des Chefs but also with the Comité des Connétables. I am not too sure why there has been a misunderstanding that the consultation would take place with both of those, so that deals with the first point. What I am doing here is purely giving effect to what the States told me to do, albeit on my proposition, back in January 2011. I believe the reasons why it decided then, I think unanimously from memory that this was the appropriate way forward, equally apply now. With respect to Deputy Southern I do not think it is appropriate to have a reference back on an issue on which we have already decided in principle, albeit the previous States. The second issue, Police Complaints Authority; there is a specific question asked by the Deputy of St. Martin, which I will not deal with here, I will deal with that later in reply, assuming I get to my reply in relation to this debate, but the reason why there is nothing or very little in here about the Independent Complaints Authority is because that is in a different law. There is a separate law that deals with that; that is referred to in this law, it is the 1999 law and, therefore, although there are one or 2 cross-references to that law that is mainly in relation to a potential role in relation to the disciplinary matters for the Chief Officer or the Deputy Chief Officer. There is no need for a reference back on that, with respect, because we have a separate law. On that particular law I am aware that some Members have their reservations as to how that operates. In fact there is a review that has been instituted in relation to that, the results of which I am still awaiting. Once I see the results of that review then I will be able to decide what is appropriate in terms of any potential amendments. But this simply is not dealt with by this law, that is my point; it is a separate piece of work. The reservation in relation to page 5, that is dealing with a historical situation. That is not talking about this piece of work, that is talking about the much criticised 2008 law.

[14:30]

There were a number of criticisms for that, one of which was it was just too weak in its oversight but the other one was there was not sufficient definition. That is exactly the reason why the Scrutiny Panel referred the matter back to the same lawyer, to the same expert and he has come back in their report and said: "Yes, I am now satisfied there is sufficient definition in relation to that." I am looking at the Scrutiny Chairman for a nod of confirmation that that is so.

Deputy J.M. Maçon:

Sir, that is so and Members have that information with them.

Senator B.I. Le Marquand:

Thank you. I am afraid there is an innocent misunderstanding on the part of Deputy Southern who has looked back and not understood this is not referring to a comment on this law, it is referring to a comment on a previous debate and it has now been clarified. The fourth comment ... sorry, Sir, I am going to need guidance again, my notes say: "Honorary ampersand P.89" ... that is the other ...

Deputy G.P. Southern:

Pages 8 and 9.

Senator B.I. Le Marquand:

I think that was the point, that the Connétables were not going to be included in that, but under Article 21, they are. If I have misunderstood that point, I will gladly give way to Deputy Southern, so he will explain it.

Deputy G.P. Southern:

I think the point is that the consultation will occur through the Attorney General, rather than, as it says at the bottom of page 10: “It was felt impractical to add a further revision that prior agreement of the Comité des Chef de Police should be established before establishing arrangements for the exchange of information and partnership working.” So, this is people at the ground level, who it is suggested should have prior arrangement if they are going to talk about joint working and sharing of information. It seems to me that is the appropriate level.

Senator B.I. Le Marquand:

If Members would like to turn to Article 21, they will see what the proposal is, which I have read out before. The Chief Officer and the Attorney General must, by agreement, establish appropriate arrangements - I will pass over information - for the force to work in partnership with the Honorary Police. If we are establishing appropriate arrangements under paragraph 1, the Chief Officer and the Attorney General must consult the Comité des Connétables. Now, the fact is that the Attorney General remains the head, therefore, the best person able to co-ordinate with the 12 Connétables in relation to this. This was discussed with the previous Comité des Connétables in a meeting which took place at Trinity Parish Hall. I am not sure I did not amend this from the previous draft in order to give effect to what they then wanted. I cannot see what is wrong with that, in terms of establishing relationships with the Honorary Police and how a reference back is going to help on that because either Members like that or they do not like that. Nobody has lodged an amendment or suggested any other arrangements for this. Finally, in relation to the outsourcing issue, this is an enabling power. This is not committing the States to anything. This is not saying that the Police Chief is going to have the power to start outsourcing for the Minister from day one. This is quite clear that what it says is: “The States may, by regulations.” Therefore, before this could happen in relation to a particular area of work, the Minister for Home Affairs would have to bring a proposition to say what a particular area of police work in relation to which outsourcing was being contemplated in the way envisaged here. That will require regulations, a proposition to the States which should be made into a debate ... I cannot see why there should be a reference back. Deputy Southern should simply vote against that Article. There is no need for a reference back. He clearly does not agree with the principle of that, so he should vote against. So, for reasons I have explained, there is absolutely no reason, in my view, for a reference back. These are matters which this Assembly should decide today. What is a reference back going to achieve? Nothing whatsoever. I would come back with the same Articles and the same provisions. Indeed, in relation to the first issue of why the Honoraries are not involved, I have to bring this, because this is what the States directed me to do.

The Deputy Bailiff:

Does any other Member wish to speak? I call on Deputy Southern to reply.

4.2.3 Deputy G.P. Southern:

The justification is completely absent as to why a recommendation of Clothier 1, was not followed through and that a Police Authority has not been set up for the whole Island Honorary and States Police. The Minister still has not justified that, yet. In terms of the co-operation between the Honorary and the States Police, which is clearly not defined here, it is one of operations. This material on pages 10 and 11 of the document, as presented, just simply says it was felt impractical to add a further provision that the prior agreement of the Comité, which means the Comité des Chef de Police, should be obtained before establishing arrangements for the exchange of information and

partnership working. The point there is that it is people on the ground who need to be able to establish that working relationship. It is operational rather than policy. As the Minister said, on this particular issue there is more work to be done, i.e. he has come to the House with a document where the work is not completed. He said that himself in his statement just now. The reference to joint working has not been solved. Then he says, in terms of the Police Complaints Authority, he already has a review developing this. Yet, we have no indication in here as to how the Police Complaints Authority, in particular, will fit in with the new proposals. I believe that that is a serious mistake. It has to fit in with the arrangements here ...

Senator B.I. Le Marquand:

Sir, I have to interrupt there, because that is most misleading. I have clearly indicated it is in a separate law.

The Deputy Bailiff:

I think the point the Minister is making is that the arrangements for police complaints will continue in the future exactly as they are under the present law, because it is in a separate law.

Deputy G.P. Southern:

Nonetheless, while it makes reference to the fact that the Police Complaints Authority must be involved in some way, it does not make it clear how it is going to fit in with the new proposals. Then referring to the powers and the absence of powers, of course I was perfectly aware that the report was about a previous document. What I am saying is that this particular document, which is presented to us, does not appear to address that. It does not say in any way how the proposals have been toughened up. It says the definitions have been now tightened up and that the adviser agrees with them, but there is no comment there on does it have sufficient powers? Does it have sufficient control? Does it have sufficient teeth to be able to operate properly, which was the previous reservation? Finally, I accept his point that if I am against outsourcing I should vote against it now and for ever more, because I will do, and I will encourage people to vote against that particular provision, provision 27. On that particular point, and that particular point only, I concede.

Senator B.I. Le Marquand:

Unless Deputy Southern considers that 26 is also a sort of outsourcing, but it is employees.

Deputy G.P. Southern:

I ask for the appel.

The Connétable of St. Mary:

I wonder, could I ask the Deputy to just clarify, because I think he must have misread something. When he was talking about Article 21, he said that the word Comité, referred to the Comité des Chef de Police. In fact, it is Comité plural, referring to both of those.

Deputy G.P. Southern:

The important one is the Comité des Chef de Police, since we are able to take away the policing powers of Constables, I believe.

The Deputy Bailiff:

Very well. The appel has been called for. I invite Members to return to their seats. The vote is on whether to refer the proposition back to the Minister for further information on the 5 areas which the Deputy has indicated. I ask the Greffier to open the voting.

POUR: 6
Connétable of St. John

CONTRE: 42
Senator P.F. Routier

ABSTAIN: 0

Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy S. Pitman (H)
Deputy M. Tadier (B)
Deputy M.R. Higgins (H)

Senator P.F.C. Ozouf
Senator A. Breckon
Senator S.C. Ferguson
Senator A.J.H. Maclean
Senator B.I. Le Marquand
Senator F. du H. Le Gresley
Senator I.J. Gorst
Senator L.J. Farnham
Senator P.M. Bailhache
Connétable of St. Helier
Connétable of Trinity
Connétable of St. Clement
Connétable of St. Peter
Connétable of St. Lawrence
Connétable of St. Mary
Connétable of St. Ouen
Connétable of St. Brelade
Connétable of St. Martin
Connétable of St. Saviour
Deputy R.C. Duhamel (S)
Deputy R.G. Le Hérissier (S)
Deputy of St. Ouen
Deputy J.A. Hilton (H)
Deputy J.A.N. Le Fondré (L)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy K.C. Lewis (S)
Deputy E.J. Noel (L)
Deputy T.A. Vallois (S)
Deputy A.K.F. Green (H)
Deputy J.M. Maçon (S)
Deputy G.C.L. Baudains (C)
Deputy of St. John
Deputy J.P.G. Baker (H)
Deputy J.H. Young (B)
Deputy S.J. Pinel (C)
Deputy of St. Mary
Deputy of St. Martin
Deputy R.G. Bryans (H)
Deputy of St. Peter
Deputy R.J. Rondel (H)

4.3 Draft States of Jersey Police Force Law 201- (P.182/2011) - resumption

The Deputy Bailiff:

So we now return to the debate upon the principles. Does any other Member wish to speak?
Deputy Le Fondré?

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

Just very briefly, because Article 21 was occupying my attention when I was going through the law, what I would like to ask the Minister, if he could just clarify why it was impractical, in other words, why we do have this commenting report. I apologise if this is old ground. Obviously, a number of us were away from the Assembly this morning. Whether he wants to do it now or

whether he wants to get it to the point of proposing that particular Article and clarify it. It might help to give us a degree of information up front. What my concern is really, I suppose, is that we have a tendency to look at situations now and because things are operating now fine we tend to say: "That is great. There will never be any problems." But, if you go back to the past, there have been occasions where there has been a very frosty relationship between the States Police and the Honorary Police. As far as I am concerned, I very much want to see, I think, as I would hope, all of us do, the honorary system flourish and be maintained as it is the real heart of the Island issue. I am concerned that the expression must consult with the Connétable and the Chef, does not have any obligation in there. In other words, if there is no agreement things can just be forced through. I do see at least one Constable nodding with me, so I do not know if there is a reservation there or not. At this stage, I would just like clarification as to why it is considered impractical, because I would not want to be in a position where relations... I believe relations are far better between the Honorary Police and the States Police these days and I would hate to be in a position where in a number of years time they deteriorate, because we have a different type of Police Chief who has come in and is not used to the way the Island operates and that type of thing, and then suddenly we are in a circumstance where for whatever reason conditions of working in partnership ... which is something that raises all sorts of questions in terms of what is defined as partnership. I remember many, many years ago, I believe the States Police at the time were sending a policeman out to Gorey on their bike just to have a police presence there. This is going back, I think, to the 1970s or 1980s. One would not want to be in that position where you are at loggerheads. There is no way of the Honorary Police to particularly have, other than through the Attorney General, a real voice in saying: "No, you need our agreement to change situations" rather than: "You have been consulted and we have disagreed with you." Thank you, Sir.

4.3.2 Deputy M. Tadier:

I know it is used as a cliché, but I was not intending to speak on this part. When I re-read the proposition last night, I noted the fact that the Scrutiny Panel had looked at it, they have had an adviser in, they have taken in the relevant parts and the proposition had been duly amended by the Minister. So, the reason a moment ago that I voted for the reference back ... although I completely appreciate the Minister's position saying that we can vote against this if we do not like it, I would prefer to be in a situation where we could all have a proposition before us today that we can all support unanimously and that we can support in its whole form rather than many of us having reservations about different parts of it. Listening to the debate, it seems to me that there are various areas at least where our knowledge is incomplete. I will list those first of all. These are just some of the reasons, they are not necessarily comprehensive. It seems that we are operating in the dark, partly because to me and hopefully I would like some more clarification from those who have not spoken yet. It is not clear whether or not this entire proposition has the support of the Comité des Connétables. I know that in a moment we will be debating P.36, which is a separate and parallel piece of legislation, which again is lots of amendments that are going to be put through to the current mode of operating. I notice that there have not been any official comments from the Comité des Connétables on the other law. That is not a criticism, because I think that a lot of the work was done by the previous committee. So, I am also getting mixed messages, because I have spoken to one Constable and listening to the speech of the Constable of St. Brelade, he seemed to not have too many reservations, if I understood correctly, insofar as the consultation process had been done with the Chef de Police, certainly in St. Brelade and also St. Helier, I think.

[14:45]

I spoke to one of the St. Helier Honorary briefly at lunchtime. That said, I take on board completely the reservations of the Constable of St. Martin and others who have spoken. We have had the comment from the Minister that to have a Police Authority covering both the Honorary

Police and the States Police would result in a muddle. It seems to me it would only result in a muddle if it was not done properly, if we had some kind of half-hearted system, which did not work. It should not be beyond our wit, if the desire is there politically, to have a system which covers both the Honorary Police and the States Police to make that work. I think it is entirely possible. I am not saying it would not necessarily be complicated but, if there was proper consultation done between the Parishes and between the States Police and the Minister, then I am sure that something could come up that would work. Again, I noted the comments of the Constable of St. Martin in that respect that it may lead to some kind of disparity or some kind of helpful them and us situation being created by having 2 different areas of responsibility. The last point I will finish on is that it seems to me that again we are here today, because of a report that was written in 1999 called Clothier 1. The recommendations are only just being followed up now, 13 years later. I am also aware that we have recently had the Carswell Report, which looked into the separation of powers, both of the roles of the law officers and the judiciary, et cetera. I do not need to explain to Members what they were. In that, although perhaps the findings were not as conclusive as we would have liked, one of the recommendations was that all the possible steps should be taken to avoid any perception or actual conflict between the role of the Attorney General in his law making as an adviser in his legal capacity and as his responsibility for the Honorary Police. It seems to me that we are missing a golden opportunity to look at this system holistically; to have a Police Authority is just one of those aspects that work for both systems. It is important to say this is not about anyone being not supportive of the Parish or the honorary system. I think it would be ... if somebody suggested that anybody in this Assembly was not supportive of the honorary system, I think they would not be telling the truth. We all appreciate people who give up their time to do work for the Parish and also for policing matters. We may have different opinions about how far those powers should go. We may have different opinions about the role of the Constable being policymakers in the States and being Executive; that is all a healthy and fine political debate to have. So, really, I think those who have reservations should be listened to. If this does not go through today, and I think maybe it is a great opportunity to take this law away and for the Minister to really have some more consultation to come up with one system which will not have to be reviewed in perhaps one, 3 or 5 or 10 years' time.

4.3.3 Deputy G.C.L. Baudains:

I am intrigued by the Minister's motives in bringing this proposition. I wonder if it is anything to do with the fact that I have had to discuss police matters with him quite a lot recently and he is trying to get me off his back. I am not sure. I am not sure yet quite how I am going to vote on this. Yes, I do believe a Police Authority could be an advantage. I note that since the move from committee to ministerial government there have been quite a few, in similar instances, the Planning Committee ending up leading a Planning Applications Panel, the Harbours and Airport Committee needs a board. So, the Minister believes that another board in the shape of a Police Authority would be useful here. It may well be. As I said, I am not sure whether I will be supporting this or not at the moment, because my concern is how much accountability does it deliver? Secondly, probably most importantly, how much political control remains? Because I do not want to find myself in the position of a parishioner contacting me having difficulty with the police. My first question of him would be: "Have you been to the Police Authority?" Then, if they say: "Yes." I am happy to turn around to them and say: "Well, I am sorry, we have no political control. There is nothing I can do for you." In this area, we certainly do not need ... it is all very well putting things at arm's length, but it would be a disaster if this turned out to be another Waterfront Enterprise Board type. So, what I am looking for from the Minister when he sums up is perhaps to cover an example. Two things spring to mind, the reintroduction of motorcycles and the possible issue of Tasers. Now, would that come before Police Authority or would that come before the Minister? Thank you.

The Deputy Bailiff:

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

4.3.4 Senator B.I. Le Marquand:

I will try to work through in a logical order. Firstly, the Connétable of St. Martin, I apologise to the Comité des Connétables if I have implied in any way that the delay since 1996 was down to them. What I was trying to do was simply explain why there has been a delay between the decision in January 2011 and my lodging the law and bringing it today. That is all I was trying to deal with. He raised the issue of the role of the Connétables against the Chef de Police, and this is a theme which has come out in a number of different ways here. I recognised, about 2 years ago, maybe 18 months ago, that confusion had been caused in relation to the role of Connétables, in relation to policing matters in their Parish, as a result of Clothier, because many Connétables felt that they had been told that they should not be police officers. Therefore, they were not quite sure what the role was. Recognising that existing confusion in the minds of some, I produced a very brief working paper - it was only one sheet of paper - in which I sought to describe an outline for the relationship then and in the future. Yes, the Connétable of St. Peter is holding it up, if you wish to see it. I attended a meeting at the Trinity Parish Hall, which was a joint meeting between the Comité des Connétables and the Comité des Chef and I unveiled this document to them. My impression was that the Connétables were, generally speaking, very pleased with it. I will make no comment on the responses of the Chefs, which I think it is probably fair to say, were mixed. I had then anticipated that there would be a further piece of work done subsequent to that, in order to find this. But I did not feel it was my piece of work to do, because although I am the Minister for Home Affairs, this was very much about the relationship between the Connétables and the Chef de Police. I felt it was a matter for joint working between the Comité des Connétables and the Comité des Chef. Now, obviously, there are many things going on. That piece of work has not happened. It needed to happen, in my view, then and it needs to happen now. I do not think that any of the amendments either in this law or in the law being proposed by the Comité des Connétables changes anything at all, because the current Article is already operating as if they did not have operational policing powers. So, I do not think anything has changed. I do not think anything has changed by this. My opinion was that piece of work needed to be done. It needs to be done now. The issue of the oversight of the Honoraries by the Police Authority, I just dealt with in some detail. Indeed the problem which was raised by the Chef de Police in response to the inquiry was the complication of trying to insert yet another body in what is already a complicated arrangement. The Attorney General, essentially the titular head, Connétables having oversight, which incidentally ... although I should not be talking about the other law, is expressly preserved in the other law, in Article 2 or Article 3. Then you would add in a Police Authority. So, who is going to be deciding what? It has taken since 1996 to work out what the relationship would be between the Minister, the Police Authority and the Chief Officer of the Police, so I suspect it might take until 2096 to work out the other one. I have dealt with that at some length. If this Assembly or there are individual Members who want to go back on the decision which they have voted for in January 2011, so be it. But that is what the States then decided and that is what I was charged to bring forward. The next point that was raised by the Connétable of St. Martin was in relation to the issue to the danger of having 12 Parishes each with their own approach. Frankly, that is a matter for the Comité des Connétables. What I would anticipate will happen in future, it is for them to decide not for me, in practice is that there will be Island-wide policies for Honorary Police Forces, which will be agreed at that level. In addition to that, individual Parishes may have their own individual areas of concern or interest. Whether Connétables in this role as defined anew are going to arrive at a point where they will have annual policing plans, I know not. But that is a matter for them. But, potentially, to satisfy the Connétable of St. Martin, I think that the Island-wide co-ordinating can happen through the Comité des Connétables and that does not stop individual Connétables having particular issues. In

relation to Article 24, this is the charging Article, concern was expressed by the Connétable of St. Martin as to whether this would lead to the Honoraries being used as a cheaper option. Clearly, the States of Jersey Police want to utilise their forces in the most effective manner possible. One of the areas that they have been looking at, they make no secret about this, it has made a reduction in the amount of overtime in terms of policing of events. How that would be dealt with otherwise time will tell. It may be that this will pass to stewarding, in relation to that. But it is clearly an area that we want to look at. When we are looking at Article 24 in relation to charging, that remains entirely within the control of this Assembly, because it is necessary under Article 24 to come back with regulations. In relation to Article 26, the Connétable of St. Martin talked about Special Constables or issues like this. No, this is not what we have in mind. But, in any eventuality again, this is a matter for regulations. Nothing can happen without States approval. In the future all that I have set up in relation to these Articles is an enabling provision, so the States can make the decision by regulation without having to go to the Privy Council with all the delays involved in that. But, no, the Special Constables are not being thought of ... if I can give examples, I was going to leave these examples to the actual debate on Articles, but with your leave I will give them now. If I give you examples of the sort of situation we are thinking of. In relation to employees, we already have employees performing security roles in the courts and in transportation. It is quite clearly desirable that they should have specific powers of arrest within the ambit of the particular court where they operate. That is the sort of issue we are talking about in relation to that. It is a specific issue. There are many States employees who do not have power of arrest. There are many who work in the Financial Crimes Unit who do not have the power of arrest. The general approach taken by the Police Chief, which I support, is that we utilise police officers for matters where a warrant card and a power of arrest and so on is required. If those are not required then they probably do not need to have police officers and we can have civilian workers in relation to that. There was a comment made by the Connétable of St. Martin in relation to the Honorary Police Law being a sort of remnant.

[15:00]

Well, in a sense the law is a sort of remnant, because what has happened here is we have simply taken out of the parts referred to the States of Jersey Police and to the other group that used to operate on the harbour, whose name I have forgotten. Once a decision was made in principle by this Assembly in January 2011 not to have a situation in which the Police Authority would have some sort of oversight over the Honorary Police there was very little left in order to change. The changes which have taken place, which I will highlight if we get to that part, you will see our action to bring in line those provisions in relation to things like criminal offences, to make them very similar in their wording to the equivalent provisions in relation to the States of Jersey. My remit was not beyond that. Therefore, I have not gone beyond that at this stage. Deputy Trevor Pitman asked a very interesting question in relation to what would happen if this law was passed and then the subsequent law, which would be proposed by the Comité des Connétables, was not passed. Well, of course, that would produce a situation in which the law would be going up to the Privy Council for approval, but in circumstances in which we would expect the Privy Council to say: "Well, hang on, we cannot approve them at this stage" if they follow the direction of the advice which I had received. That would happen. So, at some point this law would have to be stopped. Even if the Privy Council passed it, it could not, in my view, be put into effect. It could not be an Appointed Day Act without the other amendment or something of that similar nature. So, effectively no damage would be done, is what I am saying. We would agree to these amendments to this new law and to the amendment to the Honorary Police Law, but it is just it would not come to force until other matters had been dealt with. Deputy Pitman raised the issue of my having allegedly got ... referred to the need for political control. Now, he may be right. I may have had a moment of madness in one of the 14 costings. But that has never been the word that I have

intended to use. The issue was the need for stronger political oversight. That has clearly now been defined. In fact, of course, if he is concerned that somehow the Minister has desires to take over the control of the police in an unacceptable way, that would be contrary to the way I have behaved for the last 3 and a half years for starters. Of course, I have built into this new law a requirement for both the Minister and the Authority to respect the principle of operational independence. That is a very important issue, which has been built in as a constitutional safeguard. The Connétable of St. Brelade, he is not suffering from senior moment here, because he was not here in 2011 and therefore had temporarily forgotten that principles were debated then. He raised an issue in relation to the balance of oversight and accountability with operational independence. This is what we have sought to do here. It is quite a complex structure. It is probably best if I deal with it in more detail when I come to the specific Articles. What we have attempted to do is to create exactly that balance. It is a well-known constitutional position of operational independence and yet it has not been expressed very clearly in any legislation elsewhere. It is quite difficult to define that down to the finest degree. Operational independence in a strict sense is that which is required in order to preserve the integrity of a police investigation. So, it has integrity without political interference. That is the principle. That is the key issue. But that does not preclude - and indeed the Articles make this clear - the Minister or the Authority looking into the particular manner in which something is taking place. I hope I have answered that. Deputy Martin also raised the issue of the Honorary Police. I have covered that, because of the 2011 point. The Deputy of St. Martin raised an interesting point after 9(3)(g), which with your leave I will deal with now. Article 9(3)(g) is in the section of the law which relates to the disciplinary processes for the Police Chief or the Deputy Police Chief. Now, these have been left over to be decided later, by regulation. The control of that remains, therefore, with the States. All 9(3)(g) is saying is that in relation to this section on disciplinary matters, the States may decide to give a role to the Independent Police Authority. That is all 9(3)(g) is saying. As I say, the role of the Independent Police Authority, in relation to all other police officers, is reserved and remains in the 1999 law. All this is saying is if we so wish in the future we can increase the ambit of their role, which currently does not govern either the Police Chief or the Deputy Police Chief, in order to cover them. Deputy Southern raised also the issue of oversight of Honoraries. Deputy Maçon, I thank him for his comments and the Scrutiny Panel for their support. Deputy Higgins also raised an issue in relation to what happened if the Miscellaneous Provisions Law was not passed. I said effectively it is going to slow up the passage of this law until such time as something is passed which does away with the operational policing role of the police. As I said before, in my view, the passing of that law today makes no difference. We still need to do the other piece of work, whether or not that is passed. I can see the Chairman of the Comité des Connétables is nodding in agreement with that and I am grateful for his support on that. Also Deputy Higgins raised an issue about the Police Complaints Authority. I have answered that also, it is a separate law. That is not changing. There is a review going on in relation to that and if it seems appropriate I will come back to the Assembly with amendments to that law. The Connétable of St. Lawrence also raised an issue I have already dealt with before. Deputy Le Fondré raised an issue in relation to Article 21. Well, the situation here is that in a complex situation in which you have both the Comité des Connétables and the Comité des Chef de Police and in which you are seeking to have a document agreed ... in fact, the law, Article 1, says that the Attorney General and the Police Chief must set these things, it is compulsory, that they must do it. In this complex situation in which there might be varying different opinions on different bodies it is, to me, quite clear that the correct person to agree ultimate is the Attorney General, to act as broker, as the person who ultimately speaks on behalf of the Honorary Police and has ultimate authority in that. I hope that has dealt with that point. Deputy Tadier raised the issue as to whether this came forward with the support of the Comité des Connétables. Well, most certainly there was a meeting back in September/October last year with the previous Comité des Connétables, in which we discussed in detail and went through in detail all the provisions. Certain suggestions were

made, which we acted on. Other suggestions were made where advice was received from the Attorney General and we could not act on. Nobody from the new Comité des Connétables has come to me and said: "Oh, we need to change something in this law." So, I have assumed that I still have the support of the Comité des Connétables on that. Deputy Tadier also raised the issue again of the Police Authority having authority over the Honoraries. One of the things I have not mentioned on that so far, which what he said triggered, was that when the advisory group and I were looking at this, we were aware that even if that were possible we would have to have 2 completely different sets of rules for each, because the rules and conditions which would apply to each would have to be entirely different. You could not impose the same set of rules. In any eventuality, for the reasons I have said, it was decided that that was not appropriate. The Assembly supported that in January. Deputy Baudains, I can assure him that the issues he has raised with me recently have been quite properly raised. The particular issue that he has raised with me, I am sorry that the police have been a bit slow in acting on that that perhaps both of us would have liked, but we think we are getting there. It was a quite properly raised issue that should quite properly be raised. But, under the new arrangements - this may lose me a vote, of course - I would anticipate that such issues would go initially to the Police Authority. It would only be if there was a failure of the part of the Police Authority to fulfil their role properly in relation to that that it would come to the Minister. I would think there would be occasions in which perhaps politicians would approach me, but particular issues I would say go and see the Police Authority and if they got no satisfaction they would copy me in and I would then give a nudge. That is how I would anticipate it would work in relation to that. A specific question was asked in relation to accountability and 2 particular cases, motorcycles and Tasers. Can I say in relation to motorcycles, this was one of the 2 cases that the advisory group was considering when we drafted the Articles as they are in relation to management policies, which is ... perhaps I will leave that for now and deal with it under the individual Article when I come to it. This was a specific issue with motorcycles. Indeed, in relation to Tasers, before the Scrutiny Panel meeting recently I expressed a view that Tasers fell within this ambit because issues of image and reputation, both of the Island and the force, are legitimate managerial oversight issues. So, in relation to both cases, yes, the policy itself is set by the Minister. I think that concludes my comments on the various things. I ask for the appel.

Deputy J.A.N. Le Fondré:

Sir, may I just seek a point of clarification, sorry? Again, back to Article 21, the only question still in my mind, which I want to get my head round, is what happens in ... I mean the scenario one is envisaging is where there is a significant dispute arising. So, for example, on the one side we have the Chef de Police and the Connétables, who fundamentally disagree with whatever is being proposed, but for whatever reason the Attorney General and the Chief of Police are in agreement that such measures should go through. What is the situation? Is it the Attorney General as titular head his view stands, that is it? Or can, ultimately, for example, something be brought back to the Assembly to make a ruling and to give direction or anything along those lines.

Senator B.I. Le Marquand:

I probably should be suggesting the Attorney General advise us on this point, but sparing him that for the moment. I think the position is the rules say that arrangements must be agreed between the two. If the Attorney General was so unwise as to be agreeing and assisting on agreeing on things which were contrary to the view of the other 2 groups, be that on his head, as they say. But, I do not know if the Attorney General wants to express a legal opinion.

The Deputy Bailiff:

It does not seem to me to be appropriate for a legal opinion. [Laughter]

Deputy M.R. Higgins:

Can I just seek clarification as well also on Article 21? Obviously, 21(1)(b) says the force to work in partnership with the Honorary Police. There is no definition anywhere of partnership and what that means. So the actual relationship that will be there between the Honorary Police and the States Police is totally left unclear. We have no agreement between the various parties and there is nothing in this document. It just seems it is going to be left in abeyance until someone comes up with something.

The Deputy Bailiff:

Deputy, does this really go to the principles of the legislation? It seems to me to be something that will come up when we go to Article by Article, I think.

Senator B.I. Le Marquand:

Sir, if I can answer that? It is, of course, within 21(2), where before such appropriate arrangements there is the consultation process. Yes, I agree, partnership is not defined in here. But then how would you define partnership in its ultimate detail? It seems to me it is quite clear the sort of area it ... it is areas where joint working is appropriate.

The Deputy Bailiff:

The principles have been moved and the appel has been called for. I invite Members to return to their seats and I ask the Greffier to open the voting.

POUR: 42

Senator P.F. Routier
Senator P.F.C. Ozouf
Senator A. Breckon
Senator S.C. Ferguson
Senator A.J.H. Maclean
Senator B.I. Le Marquand
Senator F. du H. Le Gresley
Senator I.J. Gorst
Senator L.J. Farnham
Senator P.M. Bailhache
Connétable of St. Helier
Connétable of Trinity
Connétable of St. Clement
Connétable of St. Peter
Connétable of St. Lawrence
Connétable of St. Mary
Connétable of St. Ouen
Connétable of St. Brelade
Connétable of St. Martin
Connétable of St. Saviour
Deputy R.C. Duhamel (S)
Deputy R.G. Le Hérisier (S)
Deputy of St. Ouen
Deputy of Grouville
Deputy J.A. Hilton (H)
Deputy J.A.N. Le Fondré (L)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy K.C. Lewis (S)
Deputy E.J. Noel (L)
Deputy T.A. Vallois (S)
Deputy A.K.F. Green (H)

CONTRE: 7

Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy S. Pitman (H)
Deputy M. Tadier (B)
Deputy T.M. Pitman (H)
Deputy M.R. Higgins (H)
Deputy J.H. Young (B)

ABSTAIN: 0

Deputy J.M. Maçon (S)
Deputy G.C.L. Baudains (C)
Deputy of St. John
Deputy J.P.G. Baker (H)
Deputy S.J. Pinel (C)
Deputy of St. Mary
Deputy of St. Martin
Deputy R.G. Bryans (H)
Deputy of St. Peter
Deputy R.J. Rondel (H)

The Deputy Bailiff:

Minister, I understood from your speech earlier that you wished to propose the law as amended. Is that correct?

Senator B.I. Le Marquand:

That is correct.

The Deputy Bailiff:

Are Members content the Minister should do that? Very well, then I will ask the Greffier to read the whole of the amendment and then I call on you to propose the Articles as you wish, Minister.

The Greffier of the States:

1. Page 28, Article 3, (a) in paragraph 3 after the words “Police Authority” insert the words “and the Chief Officer”; (b) after paragraph 4 insert the following paragraph “(5) Articles 18(6), 19(3), 20(3) and 26(5) set out the other duties of the Minister in this Law.” 2. Page 29, Article 4, after paragraph 2 insert the following paragraph “(3) Articles 18(6), 19(1) and 20(1) set out the other duties of the Jersey Police Authority in this Law.” 3. Page 31, Article 8, after paragraph 3 insert the following paragraph “(4) References in this Law to the ‘Chief Officer’ or to the ‘Deputy Chief Officer’ shall be to the person who is, for the time being, carrying out the functions of Chief Officer or the Deputy Chief Officer, as the case may be, under this Article.” 4. Page 38, Article 25, (a) in paragraph 1 for the word “torts” substitute the words “civil wrongs”; (b) after paragraph 2 add the following paragraphs “(3) There shall be paid out of funds provided by the Minister; (a) any damages or costs awarded against the Chief Officer in any proceedings brought against the Chief Officer by virtue of this Article; (b) any costs incurred and not recovered by the Chief Officer in any such proceedings; and (c) any sum required in connection with the settlement of any claim made against the Chief Officer by virtue of this Article, if the settlement is approved by the Minister. (4) Out of funds provided by the Minister, the Minister may, in such cases and to such extent as he or she thinks fit (a) pay any damages or costs awarded against a member of the Force in proceedings for a civil wrong committed by the member of the Force; (b) pay any costs incurred and not recovered by the member of the Force in any such proceedings; and (c) pay any sum required in connection with the settlement of any claim that has or might have given rise to such proceedings.”

The Deputy Bailiff:

Deputy Maçon, I should just have clarified with you, but your panel has already scrutinised this legislation, you do not need...

Deputy J.M. Maçon:

That is correct, Sir.

The Deputy Bailiff:

Minister, how do you wish to proceed?

4.4 Senator B.I. Le Marquand:

I intend to take the Articles in the following tranches: Articles 1 to 7, 8 to 15, 16 to 28 and 29 to 34.

Deputy J.A.N. Le Fondré:

Sir, may I request Article 21 is taken separately?

Deputy G.P. Southern:

Similarly, may I request Article 27 separately, Sir?

The Deputy Bailiff:

We can take the vote on Articles 21 and 27 separately, but there is no reason why the Minister cannot propose them together.

Senator B.I. Le Marquand:

I am perfectly happy, Sir, for individual votes to be taken on any individual Articles.

Deputy J.H. Young:

Sir, I want to raise a point under Article 5, in that I may want to ask for it to be voted separately. Thank you.

The Deputy Bailiff:

When we come to take the votes you can make that decision. Very well, Minister?

Senator B.I. Le Marquand:

Some Articles I will go through very quickly and others where perhaps there is more debate and interest I will go through in more detail. Article 1, I do not think requires me to go into detail, it simply contains definitions. Article 2 simply says the Jersey Police Force continues. Article 3 deals with the functions of the Minister. Article 3(1) says clearly that the Minister has overall and ultimate responsibility for the functioning of the States Police Force. Article 3(2), the Minister should be responsible for ensuring the Police Authority carries out its functions, the lists in Article 4, effectively. Article 3(3) the Minister after consulting the Police Authority must set policies in relation to the key aims and objectives of the States Police Force of a new piece of work and may set management policies of the States Police Force in areas which may impact on the forces reputational image or the reputation of Jersey and its people. That is the Article I was looking for in response to Deputy Baudains, the issue of reputational image as being the key political issue in terms of setting management policies. Can I, in passing, express thanks to the current Police Chief, because it was he who came up essentially with that wording and assisted in solving a problem which had been most elusive. Article 3(4), the Minister must, after consulting with the Chief Officer, determine the ranks in the States Police Force and the number of police officers that may be appointed for each rank. That is an existing power, simply carried forwards. Article 4 deals with the key responsibilities of the Jersey Police Authority. Firstly, there was established a body, the Jersey Police Authority, it has a duty of ensuring that the States Police Force (a) is an efficient and effective police force; (b) delivers the key aims and objectives set out in Article 3(3)(a); (c) acts in accordance with any management policies referred to in Article 3(3)(b). Then in paragraph (2) the Police Authority has a particular responsibility if it thinks the police are under-resourced for seeking from the Minister any additional resources needed to enable the States Police Force to deliver the key aims and objectives. Article 5 deals with the membership of the Police Authority. Now, in 2001 what was decided was that it should have 7 members, of whom 2

would be elected States Members, a Chairman would be appointed by the Minister after a proper appointment process, and 4 members who would be appointed jointly by the Minister and the Chairman after a proper process. That is effectively it says although it uses the term “up to 4 members” and “up to 2 members” to cater for the possibility of vacancies in office. You will see that appointments of either the Chairman or the 4 lay members, non-States Members, must not be made unless the Appointments Commission has been consulted. They will clearly be on the Appointments Board. Then Article 5(3) deals with length of appointments. Article 5(4) deals with the expiry of the term of office of the politicians which effectively will be at the end of the current States Assembly, so that the next Assembly will have to reappoint upon the change of Assembly. It is also clear that people appointed are eligible for re-appointment at the end of their term. But Article 5(6) defines those people who cannot be appointed as members of the Police Authority. They are a police officer, that means in this law a States Police Officer, a person who is a member of the Honorary Police, an office holder of a Crown appointment, the Minister or the Assistant Minister, a Connétable, a States employee, a person who is bankrupt, a person who has been a police officer anytime during the previous 5 years or an Honorary Police Officer within the previous 5 years. I do not know if I need to go through much more detail. The rest of it is, frankly, detail which flows from that. Article 6 is in relation to meetings of the Police Authority, quorum and so on. I do not think I need to go into great detail there. Article 7 is the power for the Minister to direct the Police Authority to require... the Minister can either require the Police Authority to inquire into and provide a report for the Minister on any matter or can direct the Police Authority to submit the States Police Force to an internal inspection by a suitably qualified person. Article 7(2), if a report or inspection identifies an area for improvement, a training need or any inadequacy in the States of Jersey Police Force, the Minister may direct the Police Authority to ensure that the States of Jersey Police Force takes appropriate action. I think I have come to the end of my first group. There was an issue on Article 5 being raised. I do not know which subparagraph, if I have not gone through it properly.

The Deputy Bailiff:

Are Articles 1 to 7 seconded? **[Seconded]** Does any Member wish to speak? Deputy Martin?

4.4.1 Deputy J.A. Martin:

Just a couple of questions. Firstly, my naivety again on reading this, obviously all the way through when we are talking Chief Officer, we are not talking Chief of Police. So, that is in every Article. Then, the functions of the Minister, Article 3(3): “The Minister, after consulting the Police Authority must set policies in relation to key aims and objectives of the States Police Force and may set management policies of the States Police Force in areas which may impact on the reputation of image.” I am not quite sure of “may”. Again, I just have to jump back. Article 7, the powers of the Minister “may” require the Police Authority to look into reports about the States of Jersey Police, direct the Police Authority in Article 7(1)(b). Article 7(2), which really concerns me on the wording: “If a report or inspection mentioned in paragraph (1) identifies an area for improvement, training need or any inadequacies in the States Police Force, the Minister may direct the Police Authority to ensure that the States Police Force takes appropriate action.” Too many “mays” for me. Again, in a lot of this there is too much ministerial control as well. So, I will flip back to Article 5, membership of the Police Authority. Article 5(1), who can be in it and Article 5(1)(a): “A Chairman, not being an elected Member of the States, appointed by the Minister, (b) up to 4 members not being elected Members of the States appointed by the Minister and the Chairman.” Then you may have 2 others appointed by the States in a secret ballot, which I agree with. What really concerns me on that is the Article 5(3): “A member of the Police Authority appointed under Article (1)(a) or (b) may be appointed for a maximum of 4 years.” So, it is just an

appointment by one person. It is a new authority and it is up to 4 years. That is all the questions I have for up to Article 7. Thank you, Sir.

4.4.2 Deputy J.H. Young:

I would like to ask the Minister to explain the thinking behind the appointments of 5 members of the new Police Authority by the Minister, particularly in the question of where does accountability lie. The reason why I voted against is not because I do not think the idea of having an authority is a good one, but I find the arrangement very confusing. So, I would like to know where is accountability, please, if we have an arrangement whereby the 5 members are appointed by the Minister? The Minister has the budget, yet the Chief Officer is the accounting officer, the sole accounting officer, under 17. So, we have the Minister, we have the Police Authority and we have the Chief Officer. So, I would like to have some clarity about that, please. So, what was the thinking given that structure? Why the Minister would appoint 5 of the 7 members and not the States?

4.4.3 Deputy R.G. Le Hérisier:

It is a related theme under Article 5(2). I wonder if the Minister could indicate when he talks of the Appointments Commission being consulted, he has already referred to the word consultation. Can he outline for us - this will come up, I think, in another debate in this session - whether the Appointments Commissions' decision will be supreme or whether he will set the criteria and their role is simply to see that the criteria is followed?

[15:30]

They may be totally perverse criteria, for example, or totally restrictive criteria. The one independent body that appears here is still able to be influenced considerable or overridden by the Minister.

4.4.4 Deputy M.R. Higgins:

Also on the question of membership of the Police Authority, a number of issues. How often is the body likely to meet? Also, as the States seem to have a penchant for having paid members or members with honorariums, with various bodies that have been created in recent times, can he confirm that it is to be an unpaid body? I would like to know how often they meet, as well, please. Thank you.

4.4.5 Deputy T.M. Pitman:

Just a quick point. Having chaired the BDO review into the finances around the historic abuse. Listening to what Members have said around me, I would just like the Minister to clarify so everyone is quite clear what he is talking about with Chief Officer. Are we talking Chief Officer of Police again, or the heavily criticised Chief Officer of Home Affairs, because that was heavily criticised and I think some people are not quite clear, including me now.

The Deputy Bailiff:

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

4.4.6 Senator B.I. Le Marquand:

Again, the principles in relation to the numbers of people appointed and I believe - although my memory may be incorrect - the actual methodology was set out in the in principle proposition in 2011 and this is merely following that. We have been through various stages in this Assembly during my relatively short period here when the Assembly has not wanted to make as many appointments and where the Assembly has said: "Why on earth are we making all these appointments? We are not the right people to do that, it should be dealt with elsewhere." Clearly

when the Assembly debated the principles of these issues in 2011 it was minded that these should not be decisions made by the States. I have left over, to be dealt with subsequently in regulations, the issue in relation to the appointment of the Police Chief or the Deputy but my sense is that the last Assembly was moving very strongly away from masses and masses of appointments to a situation of having a Minister or the Council of Ministers or the Chief Minister make the appointment but having followed through a proper independent appointments process. That is the thinking behind this. If there are individual Members who now think that somehow the Minister will have too much say in relation to this then that is going back on what we decided last time, and again I was charged to bring this forward in this particular form. The issue raised by Deputy Martin in relation to Article 5(3), a member of the Police Authority, and that could include the Chairman, may be appointed for a maximum period of 4 years, upon expiry appointments are eligible for reappointment. Well, it is a maximum period of 4 years, it is not clear to me at this stage what period I might deem to be appropriate if the States entrusts this power to me. But you are going to want to have some degree of continuity here. It is going to take a person - as I said, the Chairman is the key person, the key role if this is going to work - it is going to take time for them to gain experience, to get up to speed, et cetera, et cetera, and it seems to me that a maximum period of 4 years is perfectly reasonable, although I am not saying that is the period that I would favour. Deputy Young made the same reference about the 5 Members and I think I have dealt with that. The accountability question, the Chief Officer, accounting officer; where it says Chief Officer in this law it is a defined term, it means the Chief Officer of Police and indeed Deputy Pitman is quite right that one of the major issues which arose in relation to the financial management of the Haut de la Garenne matter was the difficulties that arose when the Chief Officer of Home Affairs was the accounting officer and yet had no actual control over expenditure. That principle has now been accepted, indeed as from 1st January this year the Chief Officer of Police has been the accounting officer for the States of Jersey Police part of the budget. The arrangement here is different to the U.K., and deliberately so, in relation to financial management because in the U.K. at the moment - although they are about to change the system - the Police Authority holds the budget. Now, that was not thought to be appropriate in Jersey because of the way in which the States of Jersey finances worked generally. It was thought appropriate that the budget remain within the Home Affairs Department, although obviously decisions on expenditure within the limits of the total amount available will remain with the Chief. There is a definite advantage to this because if the police budget is short one year but the rest of the Home Affairs budget has spare, the Minister can make a transfer between the two, which is a much better arrangement. So that is the system. The expenditure will be authorised by the Chief of Police. The role of the Policy Authority will include a role of ensuring that money is being spent wisely and appropriately and the Minister, through his department, holds the overall control of the budget but with 2 financing officers. There was a point raised by Deputy Le Hérissier in relation to 5.2 and my response to that was this is not a political appointment. It is vitally important that the role of chairman is not a political appointment. It is not a political appointee; it will be a person who ultimately should be chosen for their ability to exercise this role in a non-political way. That is very, very key, which probably precludes this Minister from ever being the chairman of the Authority after my retirement of politics. That is an important principle. Deputy Higgins asked the question of how often they will meet and that was the Article I jumped over which was the Article 6, meetings of the Police Authority. The majority of the members appointed to the Police Authority at that time is a quorum, so that would normally be a quorum of 4 although obviously if there was a vacancy it could be a quorum of 3. There is no indication in the law as to how often the Police Authority must meet, that is a matter which is left to the Police Authority to determine. Payment, that was the other issue raised by Deputy Higgins; there is an Article in here which deals specifically with that which I jumped over. It is left open. There is a specific Article, I think in Article 5, which says that they may be paid. Here we are, it is Article 5.7: "A member of the Police Authority shall hold office in accordance with such terms of

his or her appointment as the Minister may determine, including any terms relating to remuneration and payment of out of pocket expenses.” At the moment the position is unclear and I in fact have not made any decisions on this as yet, awaiting the law being passed. Really, as I say, the key issue is going to be the chairman and the issue is going to arise as to whether or not one can obtain a chairman of appropriate standing who will have the time and energy to put into it without them being paid something. As yet I have made no decision on that, it is left open and a matter for the Minister but obviously if Members have views on that I will be grateful to hear from them in due course. Sir, I move Articles 1 to 7.

Deputy G.P. Southern:

Has the Minister addressed the issues raised by Deputy Martin? I do not believe I have heard him say anything about the permissive nature of all these ‘mays’.

Deputy J.A. Martin:

It is mainly in Article 7 and it is mainly the second “may”: “Where a report may have been found that something is totally inadequate and the Minister may...” Does the Minister think it should be “shall” or “will”?

Senator B.I. Le Marquand:

I think that depends upon the degree of inadequacy in fact. It is worded as it is, clearly the Minister will have to make a judgment, if there was a report produced which shows inadequacy, as to how he reacts in relation to it. But even if it said “shall” there will still have to be a decision made as to the appropriate response of the particular issue.

The Deputy Bailiff:

We will first of all take Articles 1 to 4, Article 3 being as amended. If all Members ...

Senator B.I. Le Marquand:

Can I just apologise to Members because I forgot - both in my original speech and the amendment - to bring their attention to the amendments, for which I apologise.

The Deputy Bailiff:

The amendment is the obligation to consult with the Chief Officer as well as the Police Authority?

Senator B.I. Le Marquand:

Yes, that is right, first of all, and then there is (1)(b) and (2) are basically cross-references across to other Articles, for the sake of completeness.

The Deputy Bailiff:

The first vote then is whether to adopt Articles 1, 2, 3 as amended and 4. All Members in favour of adopting those Articles kindly show. Those against. The Articles are adopted. We now come to Article 5, those Members in favour of adopting Article 5 ... the appel has been called for, I invite Members to return to their seats. The vote is on whether to adopt Article 5. I will ask the Greffier to open the voting.

POUR: 37

Senator P.F.C. Ozouf
Senator S.C. Ferguson
Senator A.J.H. Maclean
Senator B.I. Le Marquand
Senator F. du H. Le Gresley
Senator I.J. Gorst

CONTRE: 9

Deputy R.G. Le Hérisssier (S)
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy S. Pitman (H)
Deputy M. Tadier (B)
Deputy T.M. Pitman (H)

ABSTAIN: 0

Senator L.J. Farnham
 Senator P.M. Bailhache
 Connétable of Trinity
 Connétable of St. Clement
 Connétable of St. Peter
 Connétable of St. Lawrence
 Connétable of St. Mary
 Connétable of St. John
 Connétable of St. Ouen
 Connétable of St. Brelade
 Connétable of St. Martin
 Connétable of St. Saviour
 Deputy R.C. Duhamel (S)
 Deputy of St. Ouen
 Deputy of Grouville
 Deputy J.A. Hilton (H)
 Deputy J.A.N. Le Fondré (L)
 Deputy S.S.P.A. Power (B)
 Deputy K.C. Lewis (S)
 Deputy E.J. Noel (L)
 Deputy T.A. Vallois (S)
 Deputy A.K.F. Green (H)
 Deputy J.M. Maçon (S)
 Deputy G.C.L. Baudains (C)
 Deputy of St. John
 Deputy J.P.G. Baker (H)
 Deputy S.J. Pinel (C)
 Deputy of St. Mary
 Deputy of St. Martin
 Deputy R.G. Bryans (H)
 Deputy of St. Peter

Deputy M.R. Higgins (H)
 Deputy J.H. Young (B)
 Deputy R.J. Rondel (H)

The Deputy Bailiff:

All those in favour of adopting Article 6 kindly show. Those against. The Article is adopted. Article 7 ... the appel is called for, I will ask the Greffier to open the voting.

POUR: 38

Senator P.F.C. Ozouf
 Senator S.C. Ferguson
 Senator A.J.H. Maclean
 Senator B.I. Le Marquand
 Senator F. du H. Le Gresley
 Senator I.J. Gorst
 Senator L.J. Farnham
 Senator P.M. Bailhache
 Connétable of Trinity
 Connétable of St. Clement
 Connétable of St. Peter
 Connétable of St. Lawrence
 Connétable of St. Mary
 Connétable of St. John
 Connétable of St. Ouen
 Connétable of St. Brelade

CONTRE: 9

Deputy R.G. Le Hérisssier (S)
 Deputy J.A. Martin (H)
 Deputy G.P. Southern (H)
 Deputy of Grouville
 Deputy S. Pitman (H)
 Deputy M. Tadier (B)
 Deputy T.M. Pitman (H)
 Deputy M.R. Higgins (H)
 Deputy R.J. Rondel (H)

ABSTAIN: 0

Connétable of St. Martin
Connétable of St. Saviour
Deputy R.C. Duhamel (S)
Deputy of St. Ouen
Deputy J.A. Hilton (H)
Deputy J.A.N. Le Fondré (L)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy K.C. Lewis (S)
Deputy E.J. Noel (L)
Deputy T.A. Vallois (S)
Deputy A.K.F. Green (H)
Deputy J.M. Maçon (S)
Deputy G.C.L. Baudains (C)
Deputy of St. John
Deputy J.P.G. Baker (H)
Deputy J.H. Young (B)
Deputy S.J. Pinel (C)
Deputy of St. Mary
Deputy of St. Martin
Deputy R.G. Bryans (H)
Deputy of St. Peter

The Deputy Bailiff:

Minister, you want to propose Articles 8 to 15 and Article 8 as amended?

4.5 Senator B.I. Le Marquand:

Yes, I have to remember the amendment in Article 8, perhaps if I deal with that paradoxically first, before I forget it. This was a drafting improvement made by the law draughtsman after the original thing, simply to make it clear that references to Chief Officer or Deputy Chief Officer included any person currently carrying out the functions of those officers. So if I move back to Article 8. Article 8 deals with the Chief Officer and Deputy Chief Officer, Article 8(1) is simply saying that they shall continue to exist. Article 8(2) deals with what happens if the Chief Officer office is vacant or the Chief Officer is unable to do his job in which the case the Deputy steps in for him. Article 8(3) deals with a situation where the Deputy Chief Officer is unable to fulfil his role, either because it is vacant or is unable to perform it and there the Minister, after consultation with the Chief Officer where possible, appoints somebody to fulfil that role. We currently have 2 superintendents so the next rank down there are 2 people and the Minister would effectively I think have to decide whether one of those would be appointed or indeed - as happened in the past - whether someone would need to be brought in to cover short term to strengthen the general structure. Article 9(1) deals with the appointment of Chief Officer and Deputy Chief Officer and 9(1) leaves over issues there to be dealt with by regulations. The transitional provisions indicate that until such time as such regulations are made the existing arrangements continue.

[15:45]

Article 9(2) says that the regulations can deal with a variety of different matters including who makes the appointments, periods, terms and conditions, et cetera, et cetera, but also deals with disciplinary matters. Again, that is dealt with clearly and left over to be dealt with by regulations so that in these relatively highly important issues, politically, the Assembly will make the final decision. Article 9(3) merely says that regulations under this Article may impose functions and

confer powers on various different organisations. That was the point made in relation to the Police Authority made by the Deputy of St. Martin. Article 9(4)(a) regulations may include provision of the application of any provision under the Police Complaints and Discipline (Jersey) Law. That is the same point as I have made before. The regulations may, in relation to disciplinary matters, for the Chief or the Deputy include a role for the independent Police Complaints Authority, if the States so decide, and also provide for the services of any other police force investigation. Article 9(5), regulations under (3)(c) may make provision for the States Assembly to sit in camera. Again, that does not say they will sit in camera, it just says that they can sit in camera if they so wish in relation to regulations under (3)(c). Article 10 is appointment of other police officers and I do not think this changes the existing position. This is all officers other than the Chief Officer and the Deputy and the Minister may order, after consulting the States Employment Board and the Police Authority, provide for the appointment of persons for promotion and so on. Article 11 is terms and conditions of appointment of other police officers. Again, this is all officers other than the Chief and the Deputy and this does not, I believe, change the position, it is the States Employment Board who must determine the terms and conditions of appointment of officers. Under (3) the States may, by regulations, designate such body as the States think fit to carry out the function described in (4) and may make regulations in relation to that. The functions described in (4) are negotiation with the States Employment Board. Now this is where there is an existing body in existence under the existing law for the purposes of negotiating terms and conditions on behalf of the police. This is not the Police Association, the Police Association has a separate role and effectively this will give the States the power to change the current system by regulations if the States so consider. But in the meanwhile under the transitional provisions the current arrangements in relation to negotiations and the body set up for that purpose will continue. Article 12 deals with the association of police officers and the position here is similar, for the moment the existing Police Association will continue under the transitional arrangements but this says under 1: "Police officers may establish an association to represent them in matters effecting their welfare and efficiency." This again, as far as I am aware, is purely carrying forward the existing arrangements, I do not think there is any material change here on matters in relation to the setting up of the association. Can I say also that, if I did not say that before, the Police Association have looked at the proposals in some detail, I have met with their representatives and they are content with the proposals as they are drafted. I indeed made some alterations to previous drafts to accommodate particular valid concerns that they had. Article 13 is a general order making power which means the Minister can make orders in relation to a variety of different matters. Article 14 is the existing restriction on police officers undertaking other activities, conducting other occupations, professions or employments, except in accordance with the approval of the Chief Officer of Police or in the case of the Chief Officer, the Minister. Article 15 deals with the form of oath to be taken, or indeed if it is contrary to people's religious belief or they have no religious belief, the form of affirmation. I think that brings me to the end of the next section. I move Articles 8 to 15.

The Deputy Bailiff:

Articles 8 to 15, 8 as amended. Is that seconded? [**Seconded**]

4.5.1 Deputy J.A. Martin:

It is just a question relating to 12 about: "The police officers may establish an association to represent them in matters affecting their welfare and efficiency." From what I understood the Minister to say, this could be a new association; yes, he is nodding. It says on 12(3): "Nothing in paragraph (2) prevents a police officer as a member of an association established under paragraph (1) from being a member or appointed to a body designated under Article 11(3)." Now, 11(3) talks about regulations set by the body of the States. Is there anywhere in this which I think would be helpful if there is a new association set up that it is permissive that it could include the Honorary

Police? I mean, it does not seem to be to me that they cannot, a new association, and when I read 11(1), 11(2) and 11(3), back to 11(3), I do think it is permissive, except for the fact 11(4) talks about the functions referred to are to negotiate with the States Employment Board and make non-binding recommendations on the States Employment Board on the terms and conditions of appointment of police officers. So I am just hoping that there is some glimmer in these, if there is a new association set up by police officers and in the effective wording “affecting their welfare and efficiency” is there anywhere in here, it is quite simple, to let the Honorary Police be members?

4.5.2 Deputy G.P. Southern:

Just a few questions, the first being that under 9(3) we are talking about regulations that may impose functions and confer powers on the States Employment Board, the Appointments Commission, and the Police Authority and yet elsewhere - and I am always suspicious of orders - we have got in 10(2) the Minister may by order under this Article may confer functions on the States Employment Board and the Appointments Commission and the Police Authority. It seems to me that is a choice there between regulation and order, orders - I remind Members - do not come before this Chamber, only regulations do, so why that difference? Then the other question I would like some more explanation on is item 11 and I do not understand the function of this body. The Minister may say that it already exists but a body formed by the States may, by regulations, designate such a body as the States think fit to carry out the functions described in paragraph (4) and may make regulations prescribed in the constitution of such a body and the way in which it must carry out its functions. Its functions are to negotiate with the States Employment Board and to make non-binding recommendations to the State Employment Board and yet it is separate from the Police Association. I do not understand that and I would like to before I vote on it. Then also again we are back to orders, general orders in 13: “Such an order may in particular provide for the conduct of police officers, the duties of police officers and the standard of performance required of police officers.” Again I am wary of things that happen by order and order providing for the duties or making new duties on police officers seems to me one that may be interpreted as political and should be coming before the States rather than by order.

4.5.3 Deputy J.H. Young:

On the same issue of Article 12, if I have understood subparagraph (3), and referring to the item schedule 2 at the back which deals with the police negotiating board. This Article I think effectively takes away the rights of individual police officers to negotiate terms and conditions except through the statutory arrangements. Article 11 now if adopted, subparagraph (3) if I am right, gives the States the power to change those arrangements. Those arrangements are enshrined in schedule 2 to the Police Force (Jersey) Law 1974. My question is that does sound to be sort of straying strongly on to paying conditions, negotiating territory, I would like to hear that the Minister has explained those complications of what here is being proposed and that he does feel confident that he has got the agreement of the relevant employee group and that there are no potential complications as a result of the new power in this law for the States to change by regulation the existing negotiating arrangements.

4.5.4 Deputy J.A. Hilton:

I have just got a quick question under Article 9(2)(f) to do with disciplinary code. When I was at Home Affairs we were looking at the disciplinary code for the Chief Officer. I am interested to know whether the new disciplinary code has now been worked up to address some of the weaknesses of the previous one.

The Deputy Bailiff:

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

4.5.5 Senator B.I. Le Marquand:

First of all, Deputy Martin's comments in relation to Article 12. This is a law dealing with the States of Jersey Police and the body referred to in Article 11 is the negotiating board which I will come to in more detail on in a moment. It is the negotiating board which has the job of negotiating with the States Employment Board. Article 12 is the States Police Association, it would be completely inappropriate for members of the Honorary Police to be members of a States Police Association, indeed the Honorary Police have their own Police Officers Association which is quite separate. Deputy Southern has asked a good question as to why the provisions in 9(3) by regulation are different to those in 10(2) and that is because I have differentiated in the law between matters relating to the Police Chief and the Deputy Police Chief because I took the view those would be viewed as being politically sensitive and controversial. There is clear definition between those on the one hand and matters relating to other officers on the other hand. It is my understanding that in relation to most of these areas under the existing law that I already have order making powers and that definition has changed. So what is happening here is giving more power to the States in relation to those areas and differentiating in that way. Article 11, the negotiating board, the current structure is that under Article 11 of the 1974 law as it is, schedule 2 sets out the constitution of the existing Police Negotiating Board. That is the current position, that position is preserved by virtue of the transitional provisions which Deputy Young has correctly noted. All this is having the effect of saying whereas at the moment the States of Jersey is quite free to change the terms of schedule 2 of the existing law, by law, all this is doing is saying in future we can change this by regulation. The only difference frankly is that one does not then require Royal Assent in relation to it, it is a faster process. That is the difference. It is not giving a power to change something that does not already exist; it is not changing the existing setup at this moment in time. There was also a question in relation to whether there was agreement of the Association. Yes, there is, I went through this in some detail with their people. In fact I made a change in relation to the transitional arrangements to make it absolutely clear that they would operate entirely in the same way as present until such time as this was changed. Deputy Hilton, in relation to 9(2)(f) and the disciplinary code, asks a very good question with her inside knowledge on such matters. The position there is that in principle agreement was reached with the assistance of drafting of the law officers as to the terms of a new disciplinary code for the existing Chief Officer and Deputy Chief Officer. That would need to be enshrined in regulations if that was going to take effect.

[16:00]

But what then happened and overtook it was the issue of the review of disciplinary matters more generally, and so rather than putting that into place what they agreed with the Chief and the Deputy Chief was that we would leave over finalising the details of that - although we are in agreement in principle as to what that would look like - until the person who was conducting that review would also express a view on that. So that is where we are at in relation to that. I think I have answered all the questions. I move Articles 8 to 15.

Deputy G.P. Southern:

May I ask for a point of further clarification on Article 10? An order made under this Article may confer functions on the States Employment Board, the Employments Commission, and the Police Authority. What sort of functions is this bit of the law designed to confer because I do not understand how you might be conferring powers on these bodies when it is just a matter of appointing police officers and I would have thought the Chief of Police does that.

Senator B.I. Le Marquand:

I can answer that quickly in relation to the Appointments Commission and the Police Authority. It might be decided that it was appropriate that some of the other senior officers such as the third level

superintendents, that there be involvement of either the Appointments Commission or the Police Authority. In relation to the States Employment Board nothing immediately comes to mind, I am afraid, but all this says is one may if it is appropriate. I cannot immediately think of a circumstance.

The Deputy Bailiff:

Very well, Articles 8 to 15 have been proposed by the Minister. All those Members in favour of adopting 8 to 15, kindly show? Those against? The Articles are adopted. Do you wish to propose now, Minister, Articles 16 to 28 and then there is an amendment to Article 25.

4.6 Senator B.I. Le Marquand:

Article 16 deals with the duties and powers of police officers and paragraph (1), I think, merely carries forward the existing duties: "To cause the peace to be kept and preserved and to prevent offences, detect such lawful measures are appropriate to entrench justice with due speed." Article 16(2) is the power of arrest which is the same as under the previous legislation. Article 16(3) makes it clear that: "A police officer [that is a States Police Officer] has the powers and privileges relating to policing which a Centenier has under custody law or any enactment, except for matters which are specifically reserved to a Centenier." Article 17 deals with the functions and status of the Chief Officer. I have already highlighted (1) as being part of the complex triangle of balance: "The Chief Officer has the command, direction and control of the States Police Force and each of its police officers." Clearly he is the Chief Officer; he must be able to manage his own staff and his own people. But under (2) in so doing he has to give effect to the policies as set out in Article 3(3), those are policies made by the Minister and the Annual Policing Plan. Article 17(3) states that: "The Chief Officer should be a corporation sole." Now, I need to explain that because the moment I used the term "corporation sole" it sent out alarm bells with some Members. All that "corporation sole" means is that you have a corporate body which has a continuing existence, but that does not mean that that corporate body is completely free to do what ever it likes because the Chief Officer in his actions is subject to the principles of this law in all its variety. I can give examples of a number of corporation soles, at least one office of which I have held myself previously named the Judicial Greffier who is the Chief Officer of Judicial Greffier, but who also holds property in his own name and enters into contracts. All it is saying is the Chief Officer will be able to enter into contracts in his own name as Chief Officer and we will see later on that liabilities for being sued for civil matters are against the Chief Officer and not against the Minister. (4): "The Chief Officer may in the name of his or her office enter into agreements, acquire, hold and dispose of property, sue and be sued, be charged an offence and defend criminal proceedings." (5): "The Chief Officer or any person carrying out the functions under Article 8 shall be the sole accounting officer." That is the point I dealt with before; the change which is now enshrined by statutes in relation to the separation of roles of 2 accounting officers. 18, the accountability of the Chief Officer: "The Chief Officer is accountable to the Minister for carrying out his or her functions under 17(2) [and that is carrying out the policies and the Annual Policing Plan.] The Chief Officer is accountable to the Police Authority for the general administration, governance and business of the States Police Force, the discipline and organisation of its officers and the training of its officers to ensure that succession planning for officers is both appropriate and effectively implemented." To highlight the succession planning issue, that was an issue that the advisory group felt strongly about and we are putting that into the statute as part of the duties of the Chief Officer, the training of its officers to ensure that succession planning is both appropriate and effectively implemented. (3): "The Police Authority and the Minister may require the Chief Officer to advise or provide a report on any policing matter." (4): "In particular, such reports can deal with an event arising out of a matter specified under the policing plan and arising out of the direction of governance or control or any deployment of police officers." (5): "In addition, the Chief Officer

may be required to provide a factual assessment on any policing matter.” However, we then have Article 18(6) which is the counterbalance in relation to those, the enshrinement and statute of principle of operational independence: “In carrying out their functions under this law [and that is not just under Article 18] the Minister and the Police Authority must have due regard to the need to respect the operational independence of the States Police Force.” Article 19 deals with the Annual Policing Plan and basically the structure here is that the Police Authority after consultation with the Chief Officer produces before 1st December each year for the next year and they present to the Minister. The Minister, after consultation, can amend it, so it ultimately remains the Minister’s document, although he will have been receiving it as we have pre-drafted for him. Nevertheless, it remains his document and when he has approved it he has to lay it before the States. Then there is the Annual Policing Report. Whereas the Annual Policing Plan looks ahead to the next year, the Annual Policing Report looks back to the previous year and here: “Within 3 months the Police Authority must prepare and submit to the Minister an Annual Policing Report” and then (2) says what it must include and the Minister cannot amend that. He simply lays it before the States Assembly at the first reasonable opportunity. 21, I think we have chewed pretty well to death and previously the relationship with the Honorary Police. I said this was an important part of it. 22 deals with the ability of the Chief Officer to seek assistance from outside the Island if something happens whereby the resources of the Force and the Honorary Police, together, are insufficient to meet the demand. Now, this could be something in terms of numbers, but it also is more likely to be in terms of quality with specific officers with specific skills being required for a particular investigation and this is indicating that the Chief Officer can bring them in, but he has to get the approval of the Minister. This bringing in of other officers is just for the Police Force, but it could involve another law enforcement agency which is a defined term in paragraph (4) of Article 22, but in all these cases this will be from elsewhere in the British Islands because our system of law operates within the British Islands context. 22(3) is important because an officer who is brought in under this while he is functioning will be treated as if he was a Jersey Police Officer for these purposes. 23 is a flipside of that and I not think I need to go into great detail, but that is basically the ability of the Chief Officer to assist another British Islands organisation and if one thinks about it, Guernsey is the most obvious in terms of if they may have a particular need for more police in a particular case and a reciprocal arrangement to meet pressures obviously could be very useful.

Deputy R.G. Le Hérissier:

Can I interrupt? Is there any chance the Minister could take the uncontroversial ones as read because I wish to conserve his energy for the more controversial ones? **[Laughter]**

Senator B.I. Le Marquand:

The Minister does not know which ones are uncontroversial. He thought much of this was uncontroversial.

The Deputy Bailiff:

The Minister will propose the legislation as he thinks fit.

Senator B.I. Le Marquand:

I am happy to propose all of them *en bloc*, but there are more controversial things than I had anticipated. 24, we have dealt with before and that requires regulations. 25 is establishing the principle which already exists that if someone is going to sue the police he sues the Chief Officer, not the Minister. 26, I think we have pretty well chewed to death in terms of State employees undertaking functions. 27, particularly, I am certainly hoping that Deputy Southern is going to vote against this one because he is a man of principle; that was not a sarcastic statement. 28, property and possession of police officers, this is basically lost property which has been found and is not

claimed for a period and it says the Minister by order can decide how it is going to be disposed of and so on and that, I think, has brought me to the end of the next section.

The Deputy Bailiff:

Are Articles 16 to 28 seconded? **[Seconded]** Does any Member wish to speak on these Articles?

4.6.1 Deputy J.A.N. Le Fondré:

Just briefly, Sir, probably looking for guidance either from yourself or from the Attorney General just in the rounds and I will get to the question in a second. Firstly, fully expressing confidence in the present Minister obviously and also in the abilities of both yourself and the Attorney General as the Minister has previously alluded to. The scenario that I was working on the last time when I raised the question on Article 21 previously, which is obviously the focus of my questions, is ultimately what are the final dispute arrangements if there is an issue that arises with the Chef and the Comité des Connétables or the Comité des Chefs de Police cannot agree on and just in the round when there was a previous John Le Fondré in this Assembly, Sir, you may recall there was a major constitutional issue with one of your predecessors and the Bailiff and I cannot remember how it all worked ultimately because it was certainly well before my time and I had not taken as great an interest in politics as I was at the time and it might be also age as I have got older and my memory has definitely got more distant. The point I am getting to is if at the time one is looking at a scenario where at the moment everything is fine, 90 per cent of the time any disagreements are going to be resolved by compromise or whatever. The scenario I am looking at is the 10 per cent of the time or the 5 per cent of the time when there is a real problem and the real problem can go one or 2 ways. It is either a major issue with the Chief of Police and we can envisage in the past and possibly in the future where we have had different Chiefs of Police with different views as to the workings of the Honorary Assistant or perhaps even say in the very unlikely event, but the possibility, of a particular Attorney General who has very, very strong views who happened to be in agreement with the Chief of Police and not in agreement with what I will call the core roots of the Honorary Assistant. What is the safeguard at the moment and given the operational independence of the States Police and the functions the Minister has defined? I would imagine it is very difficult for this Assembly if they felt whatever the matter was, was of sufficient concern. I do not know, would it be a proposition to request the Minister for Home Affairs to give direction to the Chief of Police to do the will of the Assembly, whatever that was, or is there a mechanism in place to give some form of indication to the Attorney General? We have never been in that position so I do not know the position. So ultimately what I am looking at is what is the final dispute mechanism? Is there some mechanism that brings us back to the Assembly that we have the ability to say: "Look, we know there is a problem within the Honorary Service, within the Chefs de Police and Le Comité des Connétables. They do not agree with what is being proposed." But for whatever reason if 2 individuals - obviously the Chief Officer of the States Police and the Attorney General - are dead set on going down a particular route, the mood of this Assembly is that they do not want to see it go, is there a mechanism there for this Assembly - it can always express its view - but to go further and give direction because the reason I ask that is obviously at the moment it is purely consultation. It does not seek the agreement of what I call the 2 core elements of the honorary system.

[16:15]

I will just add and I do know elsewhere in the third sector that it on occasion gets mutterings that the mood at the present there is a concern that the sort of tentacles of the State, as it were, are getting ever longer and that does interfere sometimes with the honorary system. We must remember all the time that at the very root of this there are people who give their time for free and it is a system, it is a very ancient system, and it is very highly recognised. That is a slightly nebulous question that ultimately comes down to what is that final check if there is a problem?

4.6.2 Deputy G.P. Southern:

I too have my doubts about 21 because it says the Chief Officer and Attorney General must consult with the Comité des Connétables and the Comité des Chefs de Police. It does not say, because we are told it is impractical, to add a further provision that the prior agreement of the Comité should be reached. So, this one is consultation and I have long experience of consultation in Jersey. Most of the time it means: "We will listen to you and then we will go away and do what we want." So consultation there, Comité des Chefs de Police possibly cut out of the loop and we will end up: "This is the way we are going to operate." So, I do not like that one and I am going to vote against it and I would urge others to vote against it too. Then 27, here we are and how many times have we heard this before? This is just enabling and allowing the Minister to bring regulations some time further on. However when he does come back to us saying: "Here are the regulations. We want to privatise this aspect of the police service or this aspect of the police service" then we will have already agreed to the principle because we let the Minister.. and the Minister is shaking his head, the way Ministers time-immemorial do saying: "I would never play that trick on you. You have already agreed in principle." Well, I have heard it many, many times that we have agreed in principle. I have heard it once today. We agreed the principle of these some 18 months ago, so therefore part of the argument is: "We have got to let these through because I am only doing what you asked me to do." That is the reality and that will be the reality here. So, the reality in the absence of any T.U.P.E. (Transfer of Undertakings (Protection of Employment)) Regulations - safeguarding conditions for employees and police officers or non-police officers employed by the Minister currently - will be: "We are privatising this service, so you are made redundant. Go and apply to G4S or whoever is taking up the contract and have their terms and conditions and not the ones you currently have" and that will be something that we agreed in principle today. Now, I do not think we should be giving the Minister the power to do this. This is a whole different principle, which needs debating as a principle, and not next time when he comes with the regulations that we have already agreed to. So, I think we should, as a body, be rejecting this one. I do not think if we did reject it, it would make any difference to all the rest of the law because this says we can do it by privatisation, but the functions will still be done if we were to vote on that. So kick this one out and say: "No, come to us with a principle about privatisation" especially if the police force, which is a very, very sensitive area indeed, and the standards that we have achieved in our police force have been done because it is government run. It is a function of government. It is not a function of a private profit-making company to run our police force or to give services to our police force transporting prisoners: "Oh dear we have lost another one." How many times do we hear it in the national press: "G4S has lost a prisoner and he is on the run for a while." Okay, let us avoid that if we possibly can. Let us vote against 27.

Deputy J.A.N. Le Fondré:

I would like to hear from either yourself or from the Attorney General before we vote on matters. I can see him beavering away there, so he may be on to the case.

The Deputy Bailiff:

He has got full rights to speak in the Assembly. I have no doubt he is considering whether and when he would make a contribution.

4.6.3 Deputy G.C.L. Baudains:

I think it was Deputy Le Hérissier who said to move on quickly, it being non-controversial. I am having a little difficulty with Article 22. First of all building on Deputy Martin's previous concerns I notice in Article 22(1)(b): "... in another part of the British Islands will make officers available to the Chief Officer" and yet when we look over the page on Article 23 when it comes to the verse with the Chief Officer seeking assistance, they "may". I am not only noticing the difference, but I

am not quite sure how a Chief Officer could enforce that; how he can insist on forces assisting him. Then I come on to another conundrum. 22(2)(b) states: "... in another part of the British Island" and yet in 22(3) it says: "... during his or her period of duty in Jersey." I am sorry, I fail to understand exactly where this assistance is going to be coming from and does it or does it not include the Honorary Police? I am slightly concerned that the Chief Officer will be telling the Honorary Police that they will assist him. Then I am slightly concerned and I hope the Minister can allay my fears, Article 24 is an example: "States may set out in regulations." What I do not want to find is what has happened too many times in the past is that we as Members reading the *Evening Post* or other form of media that a regulation has been made and it is 6 weeks before we can overturn that if we need to. Will these regulations be coming for the States to debate or not?

4.6.4 Deputy C.F. Labey of Grouville:

Mine is just a very quick question. It is to do with Article 22(2) as well in that: "The Chief Officer may with the approval of the Minister make other officers available in the British Islands." I was just wondering if only the British Islands; we could not make officers available, for example, in France and vice versa and what kind of co-operation is there between the French police and the police here?

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

I would just like to comment on Article 21 and the concerns of Deputy Le Fondré. Of course there is one other body that we would need to consult with if we have a discourse and/or disagreement between the Minister, the Comité des Connétables and the Comité des Chefs and that is the Parish Assembly. The Parish Assembly have a right to command by virtue of a 4-man roquette(?) and could instruct the Connétable if perhaps they have a disagreement to withhold the budget to the Honorary Police in their way of expressing their discontent should the Minister try to impose a condition on us and I wonder if the Minister has a view on that?

4.6.6 Deputy J.A. Martin:

Well, I think if I was one of the Constables, and what the Constable of St. Peter has just said, I would be even more concerned with 21 because whatever Deputy Le Fondré says, this is only to consult and to go to a Parish Assembly to withhold the budget from the Honorary and does not give them any power. It gives more power to the States Police and the Attorney General and one that has never been accused of being a "Constable hugger", I think the Constable should take this one back [Laughter] because I really think it is "beware of what you wish for" time. I am sorry, one is worded very "must by agreement" and the other word is just "consult" and we are all looking to the Attorney General to pull some rabbit out of the hat, but I do not think it suits me personally. I have another question and the Minister said it has been debated and we did ask him to speed up, I know, but it is Article 26. I want to know under (2)(a): "Make provisions for the Minister to designate in writing States employees under designation being by description of a post of a job entitled to carry out such functions of a police officer as a Minister may specify in accordance with such regulations." I want to know first who these people could be; an example will do. But I go down to (5) which really worries me: "In making the designation in accordance with the regulation under paragraph (2)(a) the Minister must specify whether a States employee so designate is under the control of the Chief Officer or some other specified person or body." I want an example again; I am very suspicious. If you are not worried about the Honoraries, the Constables - and I disagree on the Honoraries. I think they do a fantastic job. I think it can be improved; do not keep them all separate. If you remember and listen back - and I am talking about Article 27 now - about bringing in other police force and as Deputy Southern's concern within this Article, service means functions usually undertaken by a police officer. The Minister himself said - he did not mention the Honoraries that might not be used - this might go down to a steward or somebody of that sort. No

mention of the Honoraries doing this work. Now, is this because we have not got any police and then Honoraries and then a steward and then going to the U.K.? It does not make it clear again. As I say, the Constables always think that I am having a go and I do not like the honorary system, but I think there is a lot in here. Probably it has been scrutinised in the law, but what is being proposed, why would you not first say that is going to be an Honorary Police and not a steward? Let us say there are couple of events coming up; one in Peoples Park and one in Howard Davis Park. Who is policing that: stewards, the Honoraries or the main? Now, we should have enough of all 3 in the Island not to go elsewhere or not to make a service. But I do emphasise on what everybody says about if you are under any disillusion that you think this keeps the Constables or the Comité de Chefs, I would like to say, even in the same room when they were negotiating under (2) as Article (1) in 21 I would totally vote against it because they have to bring it back and it has to be more reason. So, I just suggest that to my friends on the Constables benches.

4.6.7 The Attorney General:

Yes, I doubt very much if I am going to bring a “rabbit out of a hat” as Deputy Martin has suggested, but it seems to me the following considerations might be of use to the Assembly in considering Article 21. Article 21 is essentially about operational policing. It is not about high level dealing with the operation of policing generally; it is about operational policing. It is about the detail of how things are done on a day-to-day basis, it seems to me. It is the detail of the kind of information that can be exchanged, how that can be exchanged, which may have legal aspects to it. It is how the police force will work in tandem with the Honorary Police on a day-to-day and an operational basis, and I would respectfully suggest that this Assembly would not wish to be in a position to delve into operational policing in those respects anymore than it would wish to delve operationally into any other aspect of operational policing in the Island. It seems to me that it is entirely right what has been said about Article 21. It is for the Chief Officer and for the Attorney General to agree. It is for them and it is mandatory upon them to consult with the Comité des Connétables and the Comité des Chefs de Police, but ultimately after having a proper consultation the decision is that of the Attorney General and that of the Chief Officer of Police. It seems to me however that the Chief Officer of Police is responsible, to a great extent, for operational policing, to the new Police Authority. Specifically under 18(2): “The Chief Officer is accountable to the Police Authority for the general administration, governance and business of the States Police Force” and it seems to me that that is a route by which any unreasonable or difficult decisions being taken by the Chief Officer could be addressed without the States Assembly needing to get into the area of operational policing. Of course I have a statutory obligation under Article 21 for which ultimately I must be accountable to this Assembly, and it seems to me that that accountability could well take the place, as it often does in such matters as questions in the States or indeed in discussions outside this Assembly with members of the Comité des Connétables or other States Members, but it does seem to me that those are, in a sense, last resort scenarios, if you want to put it that way. The reality of it is there is an obligation on the Attorney General and an obligation on the Chief Officer of Police to reach an agreement and it must be assumed that the Attorney General will fulfil his obligations as will the Chief Officer of Police and I do not think I can assist any further.

[16:30]

Deputy G.P. Southern:

May I just seek clarification from the Attorney General? He seems to have said it is not for us to interfere with operational matters in respect of the police, but surely the debate today is setting up the mechanism by which the relationship between the Honorary and the police is put in place; and the key word there is “consult” rather than “get prior agreement” with the people who best know what operations are like from a part of the Honorary. It seems to me it is perfectly ...

The Deputy Bailiff:

It is clarification; it is not a second speech.

Deputy G.P. Southern:

He appears to have said that by questioning this arrangement we are interfering. Is that what he is saying?

The Attorney General:

No, I beg your pardon, I was not saying that. What I was intending to address in the observation that I made in that respect was Deputy Le Fondré's observation: "What is the last recourse; can it come back to this Assembly?" and what I was indicating was that questions of operational policing, as a matter of principle, should not come back to the Assembly and I meant to go no further than that and I hope that that does clarify the position.

4.6.8 Deputy J.H. Young:

I just wanted to briefly say that Article 21 effectively brings into play 6 bodies involved with the policing of the Island; adding the Constable of St. Peter's proposal, that makes it 7. We have the Minister, we have the Police Authority, we have the Chief Officer, we have the Attorney General, we have the Comité des Connétables and we have the Le Comité des Chefs de Police. That strikes me as being a very confusing recipe and the sheer complexity is one of the reasons why I find it very, very difficult to give wholesale support because as complex as it is, it can cause misunderstanding. People do not know where they are and I am afraid the wording of 21 basically is like trying to "plait fog"; basically it does not achieve anything. It says that you have just got to "consult" and I think that is not a good thing to put in a States law. Now having made that point, there are a couple of points I would like the Minister to pick up, please. One is Article 17(4)(b) where: "The Chief Officer has the power to acquire, hold and dispose of property in his sole name as being the corporation sole." Could I just ask him to clarify whether that does or does not include real estate? I assume it does not include real estate since that sits in States machinery under the Property Office. Could I also ask him to give us some guidance, please, on the sort of contractors, the sort of functions, that he may seek to include in the powers under Article 27, because I think that is a substantial point of principle when we go and empower persons who are effectively outside of the net to give them the sort of strong powers that we know that our police officers require.

4.6.9 Deputy M.R. Higgins:

Just following on from Deputy Young, this question in Article 17(4)(b): "... to acquire, hold and dispose of property." Obviously many States Members have reservations about the police force acquiring Tasers and may have other reservations if they wanted to acquire, I do not know, heavy weapons or armoured vehicles as they did in Guernsey. According to this provision it appears the Chief of Police can do what he likes within his budget. Would the Minister please clarify whether we have any say in regard to those matters?

4.6.10 Senator F. du H. Le Gresley:

I have resisted speaking in this debate because the Minister, quite rightly, has been very thorough in presenting these Articles and unfortunately as always "the devil is in the detail" and the more I sat here listening to other Members, I kept coming back to something I was not comfortable with and on page 35 the Article 16(3)(a) which is where: "The police officer has the powers and privileges relating to policing, which the Centenier has under customary law or any enactment, except (a) the power formally to charge any person with an offence." Now, my memory goes back over many years about policing in Jersey and I seem to recall that previous Chief Officers of the States of Jersey Police have been upset or challenge why they have to call in a Centenier to charge a person

with an offence. It strikes me that we are debating a law which will be in force, if it is approved today, for the next 10, 15, maybe 100 years, and we are perpetuating something very strange that exists in Jersey. I mean I do find it very odd that we have a modern police force with modern equipment and modern motorcycles and possibly Tasers and yet we are going to pass a law today that says they cannot charge any person with an offence. I submit that that is very strange and I would ask the Minister to advise the Assembly what consultation took place with regard to that particular clause in the law. How much consultation took place with the public as opposed to just with the Honorary Police and perhaps the Comité des Connétables?

4.6.11 Senator S.C. Ferguson:

As you might expect, I will rise upon that particular point. There are a number of us in the States who have been Centeniers in previous lives and I think the important thing about it has been the fact that it is a second pair of eyes looking at the evidence produced by the police before a charge is made. This has been, certainly in my short time as a Centenier, extremely valuable. On some occasions people who should not have been charged were not and in other cases where more evidence was required then the police have to go back and get the evidence. I think a second pair of eyes looking at the evidence is important. Centeniers take their duties under this particular rule very seriously and although the Minister for Social Security may think that perhaps it is a bit O.T.T. (over the top) or something like that, I think a lot of the police appreciate the fact that there is somebody else that they can call on to sort of look at a problem, something like that. But really I think this has served us very well for, I do not know how many hundreds of years, certainly before my time – just. I think it would be very sad and very counterproductive to lose this particular power.

4.6.12 Senator P.M. Bailhache:

I would like to follow Senator Ferguson because I entirely agree with everything that she has said. The Centeniers' right to charge offenders of criminal offences is not strange. It has been part of our law and part of our system of criminal justice for a very long time and so far as I am aware there is no mood in the States Police to want to take over the Centeniers' right to charge offenders at all. It is the right which underpins the system of Parish Hall Inquiries and what in other places is called restorative justice. It enables young people, in particular, to be taken out of the criminal justice system and dealt with at Parish Halls by Centeniers by being given different penalties or simply by allowing the Centenier to adjourn the matter for 6 months to see whether the young man is willing to live up to his undertaking to behave himself over that period of time. It keeps young people out of the Magistrates Court or the Youth Court and it is a thoroughly positive and useful thing to have. I would therefore be very much opposed to any suggestion that the Centeniers should not retain their right to charge because it is, as I say, fundamental to a way in which criminal justice is administered in Jersey. [Approbation]

4.6.13 Deputy S. Pitman:

Just very quickly I want to disagree completely with the last 2 speakers. It is not strange; it is something I think that is completely out of date and really without probably intending to do it the last 2 speakers are undermining the reputation of our proper uniformed police. That is no disrespect to the Honoraries at all, but it is completely outdated and I think Senator Le Gresley was completely right to mention that and I think I share his views, and that is the way I will be going on it.

The Deputy Bailiff:

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

4.6.14 Senator B.I. Le Marquand:

Article 21, I am grateful for the learned Attorney for his thoughts in relation to that and he is absolutely right. Of course the Police Chief in relation to managerial matters is accountable. He is first of all accountable of the line to the Police Authority and ultimately policy matters can be set in appropriate areas by the Minister. But Article 21 is simply about co-operative working, deciding a system for working together effectively and this is not high level policy. This is at a lower level, hence why it was given to the level of the Police Chief or the States of Jersey Police rather than the Police Authority or the Minister. It would be a very sad day, I have to say, if people could not trust the Attorney General of the day to enter into appropriate arrangements. I believe that the present Attorney General, and indeed all future Attorney Generals, will enjoy the complete confidence both of the Comité des Connétables and of the Comité des Chefs de Police and indeed I am aware that if there are issues where there may be some slight difference between the two, it would not be unusual for that to be referred to the Attorney General for his opinion as a means of determining any issues which hypothetically might ever exist. Article 27, I am going to agree with Deputy Southern on something and that is that this does decide something in principle, but not what he said in principle. All this decides in principle is that there may be in the future a time when this Assembly wishes to activate under that Article 27. It most certainly does not commit to any particular area being appropriate. Deputy Baudains raised the point under Article 22 in relation to whether Honorary Officers were included in relation to: "... Chief Officer may seek assistance." Well, the answer is no, but Article 22 says that he: "... can only seek assistance if the resources of the force and the Honorary Police are insufficient." So, he already will have exhausted the Honorary Police resources before arriving at this point. He raised a point in relation to Article 24, wherever in a statute it refers to regulations that are made by the States. It is only if there is reference to an order that it is made by the Minister and then laid before the States.

Deputy G.C.L. Baudains:

I wonder if the Minister would give way for a moment?

Senator B.I. Le Marquand:

Yes, I will certainly give way.

Deputy G.C.L. Baudains:

My query on Article 22 and the reason I referred to the Honorary Police is because I could not understand the apparent difference between 22(3): "period of duty in Jersey" and 22(2): "in another part of the British Isles." You cannot be in both?

Senator B.I. Le Marquand:

Yes, I am sorry I missed that point. 22(2) is simply saying where they may come from. These are officers who would be brought over to Jersey to act for a period as if they were Jersey Police Officers to assist the Jersey Force in Jersey. That is what 22(3) is saying and 22(2) is simply saying they can only be police officers or from another law enforcement agency within the British Islands. Article 21, I have already made the point about this being about working in partnership. Deputy Martin raised an issue in relation to stewards. I only referred to stewards in passing in the context of Article 24 in relation to charges being made for police services. That was in relation to issues of policing events and that is not relevant to Article 26. It is purely a comment in passing in relation to 24.

[16:45]

Where in 26 we are referring to employees who may undertake functions, a classic example which already exists is we have employees who are exercising functions of security at the Magistrates Court and the Royal Courts and do not have any statutory powers. That is happening at the moment. They are operating by way of assistance to police officers who do have statutory powers.

So, that is a classic example of security officers who assist in the transportation and the movement around of officers. There is a point about Article 26(2)(a) and 26(5), which I am struggling to remember what that means; I think it was Deputy Martin's point. But in relation to 26(2)(a) everything is subject to 21: "The States may, by regulations, make provision." All that 26(2) is doing is saying what sort of matters those regulations might contain. The power to make the regulations remains with the Assembly which remains sovereign. 26(5) was worrying Deputy Martin and I will give an example again to assist her, and the example is indeed the courts because if the courts are providing security arrangements for people being transported to the court and in or about the court, the issue will arise as to whether in performing those security arrangements they should be under the control of the Chief Officer of Police or indeed in the Royal Court, the Bailiff or in the Magistrates Court of the Magistrate. That is the sort of issue that I am talking about where they are provided. That is an unusual circumstance because by customary practice police officers retain the responsibility for transport and security in and around the courts. I cannot think of another arrangement like that, but that is the specific issue where there is another organisation for whom they are providing the service, like the courts, where it may be appropriate for them to take instruction ultimately there. A question from Deputy Young in relation to Article 17(4)(b), no, this is not intended to apply to real estate. This is really items of equipment and vehicles and things of that nature and it is purely making it clear that as a corporation sole he can hold the ownership of those items which otherwise would be held in the name of the Minister, of course, if one thinks about it. So, in all other departments it is the Minister who holds such items, but in relation to the police force it is more appropriate it be the Chief of Police. Article 27 was an issue in relation to the type of contracts that might be entered into. Well, of course the States of Jersey Police Force enters into all sorts of contracts. For instance there are force medical advisers who have a contract for the States of Jersey Police to examine individuals for their safety or in relation to drink driving or whatever. So, there could be other professionals being brought in under contract. They might be forensic accountants, for example, being brought in under contract. The States body in addition to its own people at times needs to buy in specialist services in that kind of way, but those are the sort of examples. There was an issue as to the sort of items which might be covered under Article 27. The only sort of items that I am aware of that there are any thoughts currently that might be covered under that - and as I say things are at a very early stage in consideration of that and I have made no decisions whatsoever - would be transport of prisoners, court security and indeed the operation of security within the cell block at police headquarters. Those sorts of items have elsewhere been privatised. I am not saying there are any current plans to do that, but I was asked for examples of the sort of things that hypothetically might be within that remit. But again nothing is going to happen unless the States Assembly specifically approves it. Senator Le Gresley had opened an interesting "can of worms" in relation to the role of the Centeniers charging. I will be straightforward with you, as I always am. I am a realistic; if I had gone anywhere near this, this would have completely jammed up this piece of legislation for many, many years. I personally am supportive of the role of the Centeniers, but I am realistic to know to go anywhere near this would completely jam it up and in any eventuality this Assembly is not making any changes here. This reflects the status quo; there is no change. My view is the majority of the public would favour keeping the status quo for the sort of reasons mentioned by Senator Ferguson and Senator Bailhache and I do for the same reasons. I think I have covered all the points. I move Articles ...

Deputy M.R. Higgins:

Sorry for interrupting. The Minister did not answer my question.

Senator B.I. Le Marquand:

I am sorry.

The Deputy of Grouville:

Nor mine, Sir.

Deputy M.R. Higgins:

Mine was in relation to Article 17(4)(b) where it says: “The Chief Officer may in the name of his or her office acquire, hold or dispose of property” and in terms of acquiring property I raised the question of Tasers. We know that the Guernsey Force bought armoured vehicles. What is to stop them bringing all sorts of other anti-riot kits if they wanted to buy it because we are giving the power to the Chief Officer?

Senator B.I. Le Marquand:

They already have anti-riot kits, as a matter of fact.

Deputy M.R. Higgins:

Do they? [Laughter]

Senator B.I. Le Marquand:

They also have a secure vehicle in relation to armoured things, but not one which costs anything like as much as their counterpart.

Deputy M.R. Higgins:

Have they got a water canon yet?

Senator B.I. Le Marquand:

No, they do not have a water canon, but they would require authorisation from the Minister in exactly the same way as they require authorisation from the Minister in relation to Tasers. This is merely saying that as a corporation sole that the Chief Officer can hold these items. It is not saying he can go mad and buy absolutely anything he likes. It does not cut across the other principles which are set out in here. I am sorry I did omit the question from the Deputy of Grouville. If she could just remind me what it was?

The Deputy of Grouville:

Yes, I was asking about Article 22(2) if there was any co-operation and if there is the ability to deploy officers in France or vice versa?

Senator B.I. Le Marquand:

The answer is yes. Different forces do work together and pass information to each other, but this is dealing with officers coming to Jersey and having policing powers in Jersey and because the training in relation to officers outside the British Islands in terms of powers of arrest and such nature is so different that is not going to be appropriate. There is nothing to stop a French officer coming over to the Island and fulfilling some function to assist, but without having powers of arrest and other such matters which go with the office of police officer. I hope I have now dealt with the questions. I think that there were individuals wanting 21 and 27 moved, so perhaps if I move 16 to 20.

Deputy G.P. Southern:

Can we have a separate vote on 16?

Senator B.I. Le Marquand:

On 16 as well, yes. I leave you to sort that out, Sir. [Laughter]

The Deputy Bailiff:

Separate votes have been asked for in relation to Article 16, Article 17, Article 21 and Article 27; is that correct? Very well, Article 16, all those Members in favour of Article 16? The appel is called for. I will ask Members to return to their seats. The vote is on whether or not to adopt Article 16. I will ask the Greffier to open the voting.

POUR: 40

Senator P.F. Routier
Senator S.C. Ferguson
Senator A.J.H. Maclean
Senator B.I. Le Marquand
Senator I.J. Gorst
Senator L.J. Farnham
Senator P.M. Bailhache
Connétable of St. Helier
Connétable of Trinity
Connétable of St. Clement
Connétable of St. Peter
Connétable of St. Lawrence
Connétable of St. Mary
Connétable of St. John
Connétable of St. Ouen
Connétable of St. Brelade
Connétable of St. Martin
Connétable of St. Saviour
Deputy R.C. Duhamel (S)
Deputy R.G. Le Hérisssier (S)
Deputy J.A. Martin (H)
Deputy of St. Ouen
Deputy of Grouville
Deputy J.A. Hilton (H)
Deputy J.A.N. Le Fondré (L)
Deputy S.S.P.A. Power (B)
Deputy K.C. Lewis (S)
Deputy M. Tadier (B)
Deputy E.J. Noel (L)
Deputy M.R. Higgins (H)
Deputy A.K.F. Green (H)
Deputy J.M. Maçon (S)
Deputy G.C.L. Baudains (C)
Deputy of St. John
Deputy J.H. Young (B)
Deputy S.J. Pinel (C)
Deputy of St. Mary
Deputy of St. Martin
Deputy of St. Peter
Deputy R.J. Rondel (H)

CONTRE: 4

Senator F. du H. Le Gresley
Deputy G.P. Southern (H)
Deputy S. Pitman (H)
Deputy T.M. Pitman (H)

ABSTAIN: 0

The Deputy Bailiff:

We now come to Article 17. Those Members in favour of adopting Article 17, kindly show? The appel is called for. I will ask the Greffier to reset the voting and to open it. 17 is being asked for separately. If all Members have had the opportunity of voting and I ask the Greffier to close the voting and announce that Article 17 has been adopted: 39 votes in favour and 5 votes against.

The Greffier of the States:

The following Members voted contre: Deputy S. Pitman, Deputy Tadier, Deputy T. Pitman, Deputy Higgins and Deputy Young.

POUR: 39

Senator P.F. Routier
Senator S.C. Ferguson
Senator A.J.H. Maclean
Senator B.I. Le Marquand
Senator F. du H. Le Gresley
Senator I.J. Gorst
Senator L.J. Farnham
Senator P.M. Bailhache
Connétable of St. Helier
Connétable of Trinity
Connétable of St. Clement
Connétable of St. Peter
Connétable of St. Lawrence
Connétable of St. Mary
Connétable of St. John
Connétable of St. Ouen
Connétable of St. Brelade
Connétable of St. Martin
Connétable of St. Saviour
Deputy R.C. Duhamel (S)
Deputy R.G. Le Hérissier
(S)
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy of St. Ouen
Deputy of Grouville
Deputy J.A. Hilton (H)
Deputy J.A.N. Le Fondré
(L)
Deputy S.S.P.A. Power (B)
Deputy K.C. Lewis (S)
Deputy E.J. Noel (L)
Deputy A.K.F. Green (H)
Deputy J.M. Maçon (S)
Deputy G.C.L. Baudains
(C)
Deputy of St. John
Deputy S.J. Pinel (C)
Deputy of St. Mary
Deputy of St. Martin
Deputy of St. Peter
Deputy R.J. Rondel (H)

CONTRE: 5

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

ABSTAIN: 0

The Deputy Bailiff:

We now come to Articles 18, 19 and 20. All Members in favour of adopting those Articles, kindly show? Those against? The Articles are adopted. Article 21, those Members in favour of adopting Article 21? The appel is called for. Yes, Members who have left the Chamber if they can please return the seats. I will ask the Greffier to open the voting.

POUR: 35		CONTRE: 9		ABSTAIN: 0
Senator P.F. Routier		Deputy J.A. Martin (H)		
Senator S.C. Ferguson		Deputy G.P. Southern (H)		
Senator A.J.H. Maclean		Deputy of Grouville		
Senator B.I. Le Marquand		Deputy J.A.N. Le Fondré (L)		
Senator F. du H. Le Gresley		Deputy S. Pitman (H)		
Senator I.J. Gorst		Deputy M. Tadier (B)		
Senator L.J. Farnham		Deputy T.M. Pitman (H)		
Senator P.M. Bailhache		Deputy M.R. Higgins (H)		
Connétable of St. Helier		Deputy J.H. Young (B)		
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisseier (S)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

The Deputy Bailiff:

We now come to Articles 22 to 26. Those Members in favour of adopting those Articles, kindly show? Those against? Those Articles are adopted. Article 27, the appel is called for. I invite the Greffier to open the voting. If all Members have had the opportunity of voting and I will ask the Greffier to close the voting and can announce that Article 27 has been adopted: 34 votes in favour, 10 votes against.

The Greffier of the States:

The following Members voted contre: the Connétable of St. John and Deputies Le Hérissier, Martin, Southern, S. Pitman, Tadier, T. Pitman, Higgins, Maçon and Young.

POUR: 34		CONTRE: 10	ABSTAIN: 0
Senator P.F. Routier		Connétable of St. John	
Senator S.C. Ferguson		Deputy R.G. Le Hérissier (S)	
Senator A.J.H. Maclean		Deputy J.A. Martin (H)	
Senator B.I. Le Marquand		Deputy G.P. Southern (H)	
Senator F. du H. Le Gresley		Deputy S. Pitman (H)	
Senator I.J. Gorst		Deputy M. Tadier (B)	
Senator L.J. Farnham		Deputy T.M. Pitman (H)	
Senator P.M. Bailhache		Deputy M.R. Higgins (H)	
Connétable of St. Helier		Deputy J.M. Maçon (S)	
Connétable of Trinity		Deputy J.H. Young (B)	
Connétable of St. Clement			
Connétable of St. Peter			
Connétable of St. Lawrence			
Connétable of St. Mary			
Connétable of St. Ouen			
Connétable of St. Brelade			
Connétable of St. Martin			
Connétable of St. Saviour			
Deputy R.C. Duhamel (S)			
Deputy of St. Ouen			
Deputy of Grouville			
Deputy J.A. Hilton (H)			
Deputy J.A.N. Le Fondré (L)			
Deputy S.S.P.A. Power (B)			
Deputy K.C. Lewis (S)			
Deputy E.J. Noel (L)			
Deputy A.K.F. Green (H)			
Deputy G.C.L. Baudains (C)			
Deputy of St. John			
Deputy S.J. Pinel (C)			
Deputy of St. Mary			
Deputy of St. Martin			
Deputy of St. Peter			
Deputy R.J. Rondel (H)			

The Deputy Bailiff:

Finally in this section, those Members in favour of adopting Article 28, kindly show? Those against? The Article is adopted. We now come to Articles 29 to ...

Senator B.I. Le Marquand:

Sir, I wonder if I could have a short break. I am getting tired and need to attend premises downstairs. I wonder if we could take the statement of the Senator behind me, which should not take too long, that will give me a little break?

The Deputy Bailiff:

I am sure Members would be willing to accommodate in that respect.

Senator B.I. Le Marquand:

I am suitably grateful, Sir. [Laughter]

The Deputy Bailiff:

Very well, thank you. Senator Ferguson, I understand you have a statement to make on a matter of official responsibility.

Senator S.C. Ferguson:

Yes, indeed. I think I can probably get through it quickly, so the ...

The Deputy Bailiff:

Not too quickly. [Laughter]

STATEMENT ON A MATTER OF OFFICIAL RESPONSIBILITY

5. Senator S.C. Ferguson, Chairman of the Corporate Services Scrutiny Panel, will make a statement in accordance with Standing Order 79(4) regarding the scrutiny of the proposition entitled Tourism Development Fund: assistance to the private sector (P.26/2012)

5.1 Senator S.C. Ferguson:

Members will recall that at our sitting on 2nd May, P.26/2012 was referred to the Corporate Services Scrutiny Panel under Standing Order 79. In accordance with that Standing Order I can confirm that the panel has subsequently considered this matter and agreed to review the proposition. The panel has established a sub-panel to undertake the review of which Deputy Power will be Chairman. He will be joined on the sub-panel by Deputy Rondel and, as Chairman of the Economic Affairs Scrutiny Panel, the Deputy of St. Martin. I will not take part because as Members will recall I have a conflict of interest in this review. I understand that the sub-panel is due to meet tomorrow at which time it will confirm terms of reference. I can also report that it is the sub-panel's intention to hold public hearings with the Minister for Treasury and Resources, the Minister for Economic Development and the Chairman of the Tourism Development Fund and arrangements are being made for those to take place. The debate on P.26/2012 is currently listed to resume on 10th July. I would ask that it remain listed for that date, by which time the sub-panel will have completed its review and reported to the Assembly.

The Deputy Bailiff:

Are there any questions from Members for the Chairman of the Corporate Services Scrutiny Panel?

5.1.1 Deputy R.G. Le Hérissier:

Yes, does the Chairman believe that it will be necessary to get major recipients of previous and potential government funding in order that they can assess whether or not such groups or such individuals or such organisations are the right kinds of organisations to receive funding and if so how will she go about encouraging this participation?

Senator S.C. Ferguson:

I think the Deputy raises some very good points and I will refer them to the Chairman of the sub panel to deal with.

[17:00]

5.1.2 Deputy M. Tadier:

Does the Chairman think there is enough of a timescale to look at the various issues surrounding what is being proposed to the fiscal stimulus here to look at such things as fiscal leakage, how much of the money being proposed here would find its way back into the Jersey economy and to stay here in the long term?

Senator S.C. Ferguson:

Yes, again the Deputy raises some interesting economic questions, ones which the panel has also raised about the various fiscal stimuli that are being applied and so on and so forth, so that these are, as I say, interesting economic developments and no doubt the Minister for Treasury will come up with some ideas. I am sorry, no, it will be the Chief Minister because of course the Economic Adviser works for the Chief Minister and I think probably an economic review of the monies that we have spent, whether under fiscal stimulus or under Tourism Development Fund, would be useful, but I think, on the basis of the proposition, the Chairman of the sub-panel and the members thereof are of the opinion that they can perform the review within the timescale given, and I have the utmost confidence in them to do that.

Deputy M. Tadier:

It is a different question, Sir, so I will let other people ...

5.1.3 The Deputy of Grouville:

I cannot help but feel this is Scrutiny window-dressing. No, I am sorry; I am entitled to my opinion. This is a review that is going to take place and the debate resumes on 10th July. Bear in mind that Economic Development lodged the report on 26th March. I believe, if we are meant to resume the debate on 10th July, if there are such findings in the report, what timeframe does the Chairman envisage that amendments can be brought forward in, if there are substantive suggestions/recommendations, if this is going to mean anything, or if it just a delay?

Senator S.C. Ferguson:

Well, obviously, I presume that the Deputy is talking about amendments by the Scrutiny Panel and not by Members of this Assembly. I think with these sorts of reviews it is usually fairly clear early on as to whether amendments are needed. I am not sure what the position is if the debate has already commenced. **[Aside]** Right, thank you. Sorry, I do not think we have really, sort of, considered that, but ... sorry, Sir.

The Deputy Bailiff:

No. Carry on. I did not realise you were still answering the question.

Senator S.C. Ferguson:

No. I will finish and let you come in, Sir, no problem.

5.1.4 Deputy R.G. Le Hérissier:

Can the Chairman indicate, given she is conserving her energy and absenting herself, will she be applying her formidable energies on P.A.C. (Public Accounts Committee) to procure the early publication of the Lime Grove Report?

Senator S.C. Ferguson:

That is nothing to do with me, that is a matter for the Auditor General, and nobody tells the Auditor General what to do.

The Deputy Bailiff:

I am not sure it is much to do with the Tourism Development Fund either. Deputy Tadier?

5.1.5 Deputy M. Tadier:

I am happy to give way to Senator Ozouf, who has not asked a question yet, otherwise I will proceed. I am sure we have time either way, Sir.

The Deputy Bailiff:

You may miss your opportunity, Deputy Tadier.

Deputy M. Tadier:

In that case, I will not be so generous. Will the Senator confirm whether there will be an opportunity for Members of this Assembly who think that they may have a better plan than what is being proposed and scrutinised here, in the sense of a cheaper option which is more effective at stimulating both tourism and the economy, to make submissions formally to the sub-panel?

Senator S.C. Ferguson:

Submissions to any Scrutiny Panel or sub-panel are always welcome and I am sure if the Deputy cares to put his ideas together and probably agrees to appear as a witness, then I am certain that the Chairman and members of the sub-panel will give it full consideration. Obviously, I cannot dictate what they are going to do with the review, but I am sure they will receive any ideas, any submissions favourably.

5.1.6 Senator P.F.C. Ozouf:

Would the Chairman agree that while arguments of economic leakage are interesting academic questions, what is really important for Jersey at the moment is the creation of jobs for local people and will they direct their attention on the effectiveness of the T.D.F. (Tourism Development Fund) to securing additional jobs of local people in tourism?

Senator S.C. Ferguson:

I do not think that the good Senator and I agree on the economic side because I would like to have seen an economic review of the fiscal stimulus. We have seen an accounting view, but we have not seen an economic view. I think, yes, we need to look and see whether the Tourism Development Fund is putting money into projects which bring jobs to the Island; for instance, I understand that the Jersey Heritage historic properties to let are doing very nicely, thank you very much, but there are other projects which, certainly when I looked at them, I thought: "Well, you know, where are the jobs for the locals in this?" But, basically, yes, we need to look at where they will produce jobs. As other Members will know, I do not believe that normally government can make jobs. Government can provide the economic background, the atmosphere, but government cannot make jobs. If government makes jobs, they are usually in the public sector, and that is not where we want to produce jobs.

Senator P.F.C. Ozouf:

A point of clarification. Is the Senator not aware that the F.P.P. (Fiscal Policy Panel) are economists, not accountants.

Senator S.C. Ferguson:

The F.P.P. tend to be Keynesian economists and, as the Minister knows, I do not quite subscribe to Keynes' theories; I prefer the Austrians.

The Deputy Bailiff:

If we can get back to the Tourism Development Fund. Deputy Maçon.

5.1.7 Deputy J.M. Maçon:

Will the Chairman reaffirm that this particular review was looking at the governance and dispensation of public funds to private individuals, and that is the key thing which many of the Members were concerned about when it was referred to the Scrutiny Panel in the first place?
[Approbation]

Senator S.C. Ferguson:

I thank the fellow Chairman of the Scrutiny Panel for reminding us of that and I am sure that the Chairman and the members of the sub-panel will keep that in mind.

5.1.8 Senator A.J.H. Maclean:

Does the Chairman think that if Members of the Assembly have a cheaper and better way to stimulate tourism and the economy, that it might be a good idea to share those with the Minister for Economic Development?

Senator S.C. Ferguson:

Maybe the Minister for Economic Development has not noticed the judicious application of my handbag to him on occasion.

PUBLIC BUSINESS - resumption

6. Draft States of Jersey Police Force Law 201- (P.182/2011) - resumption

The Deputy Bailiff:

That is an appropriate moment to bring this to a halt. We now return to P.182, the States of Jersey Police Force Law, and, Minister, you were about to propose Articles 29 to 34.

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

Yes. Article 29 has to do with impersonation of a police officer and it creates various offences, which already exist; there is some slight tweaking of the wording, but essentially the same offences in relation to impersonating a police officer, making a statement or doing an act calculated falsely to suggest a person is a police officer, which is the Article 29(1) offence, and there is a separate 29(2) offence of wearing an article of police uniform circumstances, 29(3), of having an item of police uniform. In certain circumstances, there are defences there as well. Article 4 is a definition of "police uniform" and Article 5 is an interesting addition to make it clear that Honorary Police officers, by having such items, were not impersonating States Police Officers, and there is a parallel provision later on in the Honorary Law. Article 30 is offence in relation to wasting police time, which is essentially the same as before. Article 31 deals with amendments to other enactments, and that takes us to schedule 1 of the law. Most of these are just consequential amendments upon the changes of structure. Previously, there were some definitions of a police officer in other laws which referred to officers under the 1974 law; that having existed before the definitions have been done away with, because "police officer" will clearly refer to both States and Honorary Police Officers. So I am not going to go into any detail with those, but I come in passing to Article 10 of the first schedule, which is amendments to the Police Complaints of Discipline (Jersey) Law, which has been referred to before as a separate law. This is doing away with the court control officers' references, which are also dealt with in the current statute. Then, really, the item I have to look at in detail is Article 11 of the schedule, which deals with the Police Force (Jersey) Law 1974. Because this is incomprehensible on its own, what I propose instead is to rapidly take Members through what this law will look like with these amendments, and that requires turning to page 13 of the report, which sets out what the Honorary Police (Jersey) Law 1974 will look like once these amendments have taken place. Firstly, it will be called the Honorary Police (Jersey) Law. What is

happening here is the rump of the remainder of the old 1974 law now gets a new name and applies only to the Honorary Police. Article 1 contains interpretation, and you will see that wherever things are in dark print, that is an amendment. Article 2, the duty of Honorary Police Officers, Article 3, the powers of Honorary Police Officers. In particular, there is a slight amendment in 3(4) in relation to the situation where a Centenier declines to charge any person as to the power of the Attorney General to give such directions. That is Article 3(4). Article 4, composition of Honorary Police, there is no change there. Article 5, jurisdiction, there is no change there. Article 5(a) that is request for assistance, there are no changes there. Article 20, property in possession of Honorary Police, this parallels the situation that we had before with property in possession of the States Police. Article 22 remedies against members of the Honorary Police, there is no change there. Again, the liability if Honorary Police are sued falls upon the Connétable of the Parish, and will continue so to do. Article 23, impersonation of an Honorary Police officer, here we have got similar provisions to those which we had in relation to States Police Officers. This represents a change because the penalties have been increased from the previous situation for the various different offences, and now parallels the penalties for impersonation of States Police Officers, or wearing an item of police uniform, or having improperly an item of police uniform. Article 24, wasting Honorary Police time, and the citation then becomes to the Honorary Police Force Law. So that is all that is left of the 1974 law, this is a minor tweaking of it, but substantially, it is removing the provisions which relate to the States Police, which have got a new law. That then takes me back to the rest of schedule 1, which I will not comment on because these are consequential changes. That then takes me back to Article 32, transitional provisions. Those are contained in schedule 2, and I have already commented on the fact that the Police Negotiating Board will continue, and the States of Jersey Police Association will continue until regulations are made to change the first or until the Police Association themselves decide to have a different constitution. (1) and (2) are simply saying the Chief Officer and Deputy Chief Officer continue an arrangement in relation to them until such time as these may be changed by regulations or, in the case of police officers, orders.

[17:15]

Article 33 merely says an order or regulations of the law can contain other transitional consequential incidental or supplementary provisions. Finally, Article 34 is the citation, and this law will require an Appointed Day Act for the whole or parts of it. I move Articles 29 to 34, which incorporate schedule 1 and schedule 2.

The Deputy Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak on Articles 29 to 34 or schedules 1 and 2? No Member wishes to speak. Would those Members in favour of adopting those Articles and those schedules kindly show? Those against? They are adopted. Do you move the Bill in the Third Reading, Minister?

6.2 Senator B.I. Le Marquand:

I do, Sir. I wanted to, in closing, give my thanks to the various groups who have worked on this, particularly to those who have worked on the Advisory Group, but also to the Scrutiny Panel, Law Officers' Department, law draftsmen, Chief Officer of Police, Police Association, the Connétables, Chefs de Police and all others who have provided advice and counsel in relation to this. Also to the Members of this Assembly; although they may have given me a bit of a hard time in terms of working hard this afternoon, I think it is absolutely right. This is a serious piece of legislation dealing with policing in the Island and I am grateful to Members for treating this so seriously and asking me probing questions which hopefully, in the main, I have been able to answer. So I move for a Third Reading.

The Deputy Bailiff:

Does any Member wish to speak in the Third Reading? Very well, all those ... yes, Connétable of St. John?

6.1.1 The Connétable of St. John:

Yes. On behalf of the Constables, I would like to thank the Minister, because this has been around for some 12 or 14 years, and he is the only Minister ... previous to him it was Presidents who were looking at this particular piece of legislation and it became very difficult for a number of Members in the past to bring this forward. I would like to congratulate the Minister on the hard work he has put in making this happen. **[Approbation]**

The Deputy Bailiff:

Does any Member wish to speak? Very well, I invite Members outside the Chamber to return to their seats. The vote is on whether or not to adopt the Bill in the Third Reading, and I ask the Greffier to open the voting.

POUR: 39

Senator P.F. Routier
Senator P.F.C. Ozouf
Senator A. Breckon
Senator S.C. Ferguson
Senator B.I. Le Marquand
Senator F. du H. Le Gresley
Senator L.J. Farnham
Connétable of St. Helier
Connétable of Trinity
Connétable of St. Clement
Connétable of St. Peter
Connétable of St. Lawrence
Connétable of St. Mary
Connétable of St. John
Connétable of St. Ouen
Connétable of St. Brelade
Connétable of St. Martin
Connétable of St. Saviour
Deputy R.C. Duhamel (S)
Deputy R.G. Le Hérisier (S)
Deputy of St. Ouen
Deputy J.A.N. Le Fondré (L)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy K.C. Lewis (S)
Deputy M. Tadier (B)
Deputy E.J. Noel (L)
Deputy T.A. Vallois (S)
Deputy A.K.F. Green (H)
Deputy J.M. Maçon (S)
Deputy G.C.L. Baudains (C)
Deputy of St. John
Deputy J.H. Young (B)
Deputy S.J. Pinel (C)
Deputy of St. Mary
Deputy of St. Martin
Deputy R.G. Bryans (H)

CONTRE: 3

Deputy G.P. Southern (H)
Deputy S. Pitman (H)
Deputy M.R. Higgins (H)

ABSTAIN: 0

Deputy of St. Peter
Deputy R.J. Rondel (H)

ORAL QUESTIONS - resumption

7. Questions to Ministers Without Notice - The Chief Minister

The Deputy Bailiff:

Right. We now have 2 matters outstanding from this morning: there was the second question at large for the Chief Minister, which we will start now. Deputy Higgins?

7.1 Deputy M.R. Higgins:

Would the Chief Minister tell me when he proposes to bring forward some proposals to adopt the Carswell recommendations?

Senator I.J. Gorst (The Chief Minister):

The Deputy is imparting to me new information with regard to my proposals to bring forward the Carswell recommendations. I understand from reading media outlets that P.P.C. (Privileges and Procedures Committee) are proposing to review the Carswell recommendations, and I have no doubt that they will be asking probably my opinion and probably the opinion of the Council of Ministers in due course, and I look forward to giving my opinion to that piece of work.

7.2 Deputy G.P. Southern:

Will the Chief Minister state whether there is a publicly-accessible register of the beneficial ownership of companies, trusts and foundations registered in Jersey and, if not, can he explain how the tax authorities in other jurisdictions with whom we have signed T.I.E.A.s (Tax Information Exchange Agreement) can do any effective research to discover if one of their citizens who they suspect of having undeclared assets in any such Jersey vehicles does, in fact, have such assets?

Senator I.J. Gorst:

I think that the Deputy already knows the answer to the question with regard to publication of information with regard to those types of structures that he has asked about. As he also knows, the T.I.E.A.s that we have signed do require and place obligations not only on ourselves but on those jurisdictions to have reasonable grounds, and that is as it should be.

7.2.1 Deputy G.P. Southern:

Could the Chief Minister address the second part of the question: how are they to do any research upon whether any of their citizens has got assets in the Island?

Senator I.J. Gorst:

I did address that question: I said that there ought to be reasonable grounds.

7.3 Senator S.C. Ferguson:

The Terms and Conditions Review is scheduled to save us £14 million. Can the Chief Minister confirm that the States is on line to achieve this and to deliver these savings?

Senator I.J. Gorst:

I think as the Senator probably knows, as part of the Comprehensive Spending Review, there was a proposal to save £14 million, which could be made up with regard to changes in terms and

conditions or with regards to pay. I inherited, and the current States Employment Board inherited, a position where we needed to make a pay-off as we did - again, that is known in the public domain - and we are working on changes to terms and conditions.

7.3.1 Senator S.C. Ferguson:

Is the S.E.B. (States Employment Board) on line to achieve these savings?

Senator I.J. Gorst:

Of course, we are working towards - and our mandate is to endeavour to achieve - those savings, in the context of which I have just outlined.

7.3.2 Senator S.C. Ferguson:

What is the probability?

Senator I.J. Gorst:

Be in no doubt, it is extremely difficult. I have not carried out any probability or sensitivity analyses so I am not able to put a number on it but, indeed, it is challenging.

7.4 The Deputy of St. Ouen:

In the Strategic Plan, we are told that we are going the next step, that the plan signposts the high-level strategic directions which will be translated into detailed short, medium and long-term delivery plans to ensure that clear strategies, action plans and success criteria develop for each of the priorities. Can I ask the Chief Minister when we are likely to see such plans?

Senator I.J. Gorst:

That is a very good question. I am about to undertake a series of meetings with Ministers so that we can work together upon those plans and we will come forward with delivery vehicles. I have already spoken previously about setting up similar teams to the Back-to-Work Team, the Health Ministerial Oversight Group and introducing Back-Benchers on to those teams so that we ensure that we do deliver.

7.4.1 The Deputy of St. Ouen:

How does the Chief Minister plan to measure progress and report progress?

The Deputy Bailiff:

Deputy, I am sorry, can we go back to the old arrangement where you try to catch the speaker's eye before you just stand up and ask another question? It is much easier because I can then control questions around that.

The Deputy of St. Ouen:

The problem is, Sir, that you do not give us a chance to ask a supplementary question unless we leap to our feet and literally butt in.

The Deputy Bailiff:

Well, having had that little exchange, perhaps you would like to ask your supplementary question.

The Deputy of St. Ouen:

Sir, my supplementary question is: how does the Chief Minister plan to measure the progress in the delivery of these plans and equally, how does he propose to report that progress?

Senator I.J. Gorst:

As the Deputy will be aware, the previous Council of Ministers have reported progress against targets of strategic plans and business plans and that, I believe, is the best way to do so again with the Strategic Plan, and that is what I will be proposing.

7.5 Deputy T.M. Pitman:

What a naughty boy the Deputy of St. Ouen is. Could the Chief Minister clarify how much nearer we are to getting this Committee of Inquiry into historic abuse saga on the way?

Senator I.J. Gorst:

Yes, the Deputy again raises a good question. It is, unfortunately, taking longer than I would have liked. I am hopeful that I will be in a position to lodge terms of reference later this month so that we can approve them in this Assembly prior to the summer recess.

7.6 Deputy R.G. Le Hérissier:

Can the Chief Minister indicate whether independence or a variant thereof, is a formal item on the agenda of the Council of Ministers at the moment?

Senator I.J. Gorst:

No. It is not. The Council of Ministers is committed to working more closely with Guernsey and understanding and improving that relationship and what formal structures might be needed to drive that relationship forward. Be in no doubt, as I am sure the Deputy is aware, our most important political and economic relationship is with the United Kingdom, and the Council of Ministers is absolutely committed to building and improving upon that relationship, and that is why we have spoken, and will continue to visit the United Kingdom to explain to parliamentarians and the U.K. Government what Jersey does, what it has to offer, how it meets international standards. To that end, I am supportive of us setting up a London office, and I hope that we will be able to bring proposals in due course to do that. We must strengthen that relationship because it is so critically important while at the same time, of course, ensuring that we are masters of our own destiny.

Deputy M.R. Higgins:

Sir, can we have extra time if the Minister takes so long to answer?

7.7 The Connétable of St. Lawrence:

When the Chief Minister does finally bring forward measures by which he will measure the achievements of his Ministers to deliver on the Strategic Plan, in the highly unlikely event that any of them fail to deliver [**Laughter**] how will the Chief Minister deal with that particular Minister?

Senator I.J. Gorst:

A very good question, but it is difficult to answer. We are all human so, inevitably, some initiatives of this Government will not work out in the way that we had initially intended. I think I touched upon some of these areas when I appeared before P.A.C. with regard to the power that the role of Chief Minister has, and I know that again this will be an area which is touched upon by the P.P.C. sub-panel looking at the machinery of government. Ministers are corporation sole; if I as Chief Minister feel that a Minister is not performing, without the goodwill of that Minister saying that they are going to either change their way or decide to step down because they think it was of such a great magnitude, then it is for this Assembly. We need to consider whether that is an appropriate and fit process for the Government that we want for our community. So there are no easy answers

to that question, but I will be asking Ministers to perform and I will be expecting them to perform and them to act accordingly.

7.8 The Deputy of St. Martin:

I am sure the Chief Minister will have sent his best wishes to his new counterpart in Guernsey, but could he inform us whether he has had any serious discussions with the Guernsey new Chief Minister and, if so, what they were about?

Senator I.J. Gorst:

Sending good wishes are serious, in my opinion. We have not spoken about an agenda for action yet, we have spoken, but I, with my Assistant Minister, Senator Routier, will be in Guernsey, starting those talks for action on Thursday. I know also that the Minister for Treasury and Resources is intending to visit his counterpart later this week as well; we are absolutely committed to not just talking but seeing good, solid action.

[17:30]

7.9 Deputy J.H. Young:

The Strategic Plan includes 2 commitments in the actions to bring forward schemes to both generate affordable housing and for supporting first-time buyers. Could the Minister explain the arrangements he has put in place? In particular, which Minister has taken lead responsibility from the Council of Ministers and which Ministers are in support and when does he think we may likely see a report with some proposals?

Senator I.J. Gorst:

I spoke earlier about a scheme that the Minister for Housing and the Minister for Treasury and Resources will be bringing forward shortly, which will indeed help first-time buyers with regard to purchasing and with regard to the problems around loan to value. Of course, there are 2 departments, or 3 depending on how we are going to use States-owned land, which have an interest in ensuring that we have affordable housing and that sites are used appropriately. That is one of the reasons why I support one of the proposals in the Housing White Paper with regard to a new strategic housing unit. We should have this centralised, we should know who is responsible and, no doubt, Ministers will discuss, argue, where that appropriately sits and within which department that appropriately sits. But as the Deputy knows, I am committed, the Minister for Housing is committed, the Minister for Treasury is committed, the Minister for Planning and Environment is committed to delivering more affordable houses to our community.

7.10 Deputy M. Tadier:

Will the Chief Minister comment now - or if not, tomorrow - when he or the rapporteur brings the latest T.I.E.A.s being signed to the House on the research of, I think, Danish academics and economists, which suggest that the more T.I.E.A.s one signs, the more inverse the correlation to the revenue that is gained by that jurisdiction's finance industry?

Senator I.J. Gorst:

I have not personally read that particular article or that research, but I have read around it and I am aware that doubt has been cast upon the amounts and the particular piece of research with regard to the correlation between signing of T.I.E.A.s and deposit base and banking deposits. Therefore, I do

not think it is right for me to comment, but I think enough doubt has been cast for me not to take it seriously.

7.10.1 Deputy M. Tadier:

Could I ask, in that case, that the Minister do a bit more research and find out to answer these questions, because they do have serious consequences if States Members are to vote for things which may harm our own finance industry. They should be taken with the correct information.

The Deputy Bailiff:

Will you do more research, Chief Minister?

Senator I.J. Gorst:

I am not sure that I will do more research, Sir, but I would simply say this: I do not believe that the signing of T.I.E.A.s damages our community or our industry; I think it continues to show that we are committed to the best international standards and that is a commitment which we will continue to live up to.

The Deputy Bailiff:

I know there are other Members wanting to ask questions, but I regret the 15 minutes has now come to an end. There is left over the statement that the Minister for Social Security was going to make. I am not sure whether Members would like to take that tomorrow morning or to adjourn at this stage? Does somebody wish to propose the adjournment?

Deputy G.P. Southern:

I propose the adjournment, Sir.

The Deputy Bailiff:

The adjournment is proposed. The States will now adjourn until 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:33]