

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 2nd FEBRUARY 2010

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[9:30]

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

QUESTIONS

1. Written Questions

1.1 CONNÉTABLE S.A. CROWCROFT OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE HARCOURT SCHEME FOR THE ESPLANADE:

Question

Does the Minister consider the Harcourt scheme for the Esplanade Quarter to be no longer practicable, and would he explain what, in his view, are the next steps for the development of this site?

Answer

The Planning and Environment Minister is absolutely committed to the Esplanade Quarter Masterplan and to its delivery as the new financial quarter for St Helier.

Having recently received advice from the Law Officers it is hoped that the Minister will determine the application shortly.

It is for the applicant to comment on how the scheme will be progressed rather than for the Minister of Planning and Environment.

Any permission will be subject to a Planning Obligation Agreement which will provide protection to ensure the development cannot commence until the financial standing of the developer to complete the development is proven, and to ensure the development cannot commence until a formal development agreement has been entered into and approved by the States. This will ensure that the States interests are properly protected.

1.2 SENATOR J.L. PERCHARD OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE DESIGNATION OF A SITE OF SPECIAL INTEREST OR A BUILDING OF LOCAL INTEREST:

Question

Will the Minister outline the process undertaken before a building or site is designated as a Site of Special Interest or a Building of Local Interest.

Answer

The process of adding a Site of Special Interest (SSI) to the List of Sites of Special Interest is defined by Law¹. There is no prescribed legal process for adding a Building of Local Interest (BLI) to the Register of Buildings and Sites of Architectural, Archaeological and Historical Importance in Jersey, but the same procedure required for the designation of SSIs is adopted for BLIs to provide a consistent approach.

There is a six stage approach to this process.

¹ Article 52 Planning and Building (Jersey) Law 2002

Stage 1 – Assessment by Jersey Heritage with advice from Ministerial Registration and Listing Advisory Group (MRLAG).

Stage 2 – Recommendations made to the Minister

Stage 3 – If recommendation accepted – notice of Intention to List or Register

Stage 4 – Consultation with and response from interested parties

Stage 5 – Ministerial public hearing to confirm decision, decision then in writing

Stage 6 – Appeal to the Royal Court if required

Further information

The assessment of the building or place's heritage value is carried out, on behalf of the Minister, by Jersey Heritage against a set of published criteria². This ensures that the Minister receives professional expert advice about the historical, architectural or archaeological interest of the building or place that is independent of and separate to the planning process. The provision of this service is governed by a Service Level Agreement between Jersey Heritage and the Planning and Environment Department, the costs of which are met by the Planning and Environment Department.

As part of the process of assessment, Jersey Heritage also secures the view of a panel of local experts knowledgeable in aspects of Jersey's history, architecture and archaeology. This group – the Ministerial Registration and Listing Advisory Group – is appointed in accord with best practice as set out by the Jersey Appointments Commission. Among its membership are representatives of organisations such as the Association of Jersey Architects; La Société Jersiaise; and the National Trust for Jersey.

The process of Listing or Registration involves the service of a Notice of the Minister's Intent to List or Register a building or place. This can be served on the owner or, where the owner is not known, on site. The Notice will be accompanied by a schedule, plan and photographs setting out why the building or place is considered to be special or important.

The service of a Notice of the Minister's intent to List or Register a building or place provides the owner, and any other interested party, with an opportunity to submit written representations directly to the Minister about the proposals to include it in the List or on the Register. Any such representations should relate to the special interest of the site and the Minister has to take any such representations into account. He does this at a Public Hearing, where owners and other interested parties are provided with an opportunity to speak in support of their representation before the Minister makes his decision whether or not to add the building or place to the List or the Register. Once the Minister has made a decision, the owner is notified in writing, and the List and/or Register, is updated.

In the event of the Minister deciding to add a building or place to the List of Sites of Special Interest, an aggrieved person can appeal to the Royal Court. The Court can confirm the inclusion of the building or place on the List or it may order the Minister to remove it from the List. There is no right of appeal against a decision to add a Building of Local Interest to the Register.

Where the Minister considers it necessary or expedient to restrain unauthorised actual or apprehended works to a building or place that he believes has special interest, he may provisionally include it in the List of Sites of Special Interest straightaway³. Once again, this requires the service of a Notice advising that the site has been Listed. This provides the owner with a minimum of 28

² Supplementary Planning Guidance Note 9 (Nov 2008) [*Identification and designation of buildings and places of architectural, archaeological, historical or other interest*](#)

³ Article 53 Planning and Building (Jersey) Law 2002

days to make representations and the Minister with a maximum of three months to decide whether or not to retain the building or place on the List. The same process of expert assessment and consideration of representations is undertaken for provisional SSIs, as outlined above.

The List and the Register is open to public inspection and is available online.

The Planning and Environment Minister is proposing to introduce a new single form of heritage protection for historic buildings and places – to be known as Listed buildings – replacing the existing two tier system of Sites of Special Interest (SSI) and Buildings of Local Interest (BLI). It is also proposed to introduce protection for groups of buildings and places with a particular architectural and historic character that will be designated as Conservation Areas.

All the Minister's proposed changes to the Island's heritage protection system are set out in a White Paper which is currently open for public scrutiny and comment. The new system will simplify how the historic environment is identified, making clear what is protected and why.

It is intended that the process of designation for the new system of heritage protection will be based on the existing legal process which presently exists for Sites of Special Interest, as set out above.

1.3 SENATOR J.L. PERCHARD OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE DESIGNATION OF JERSEY'S WEST COAST ASA NATIONAL PARK:

Question

Will the Minister explain what he considers to be the benefits and disadvantages of designating much of Jersey's west coast as a National Park?

Answer

St. Ouen's Bay has long been recognised for the unique character of its natural environment: the 1968 St. Ouen's Bay Development Plan recognised it as '*the only large coastal open space left in the Island*' and in 1978 it was designated by the States as a '*special place*', the principal objective of which was to protect and enhance the natural environment, through positive land management, with a strong presumption against significant and inappropriate development: the St. Ouen's Bay Planning Framework (1999) provided the framework and proposed mechanism by which this was to be achieved.

The proposal to designate St. Ouen's Bay as part of the proposed Coastal National Park is, therefore, considered to be consistent with and complementary to the longstanding acknowledgement of the area's high environmental value and recognises that the area needs to be appropriately managed if the quality of the landscape is to be sustained.

The principal benefits of the proposal are therefore related to the protection and management of this area. The principal disadvantage would be the misconception that such a designation would lead to an unreasonable management and protection regime.

Protection

The proposed designation of a Coastal National Park for Jersey contained within the draft Island Plan embraces not only much of the Island's west coast, represented by St. Ouen's Bay, but also those other highly sensitive and vulnerable but valuable landscapes including the north coast and south-west headlands, the low-wooded edge of the north-east coast; north coast woodland valleys; and Jersey's offshore reefs and islands. The draft Island Plan proposes that these areas of the Island

be given the highest level of protection from new development in order to protect and enhance their natural beauty, wildlife and cultural value.

The benefit of this for St. Ouen's Bay is that its landscape quality will be protected from inappropriate development.

Management

The designation of a National Park boundary will inevitably embrace both living and working landscapes where many of the characteristics that provide its special appeal are the result of human activities and management of the landscape. The Minister for Planning and Environment has proposed, in the draft Island Plan, that he will work with individuals, community, amenity, business and special interest groups to develop a Management Plan for the Coastal National Park which will have, as its principal objectives, the promotion of an understanding and enjoyment of the National Park by all who live and work in or visit it.

The benefit of this for St. Ouen's Bay is that the National Park designation provides a framework within which all interested parties can come together to determine how best the area can be managed to ensure that its special qualities are sustained into the future.

In the consultation* that has been carried out to date⁴ about the designation of a National Park for Jersey there has been clear support for such a designation and the inclusion of St. Ouen's Bay within it. It is considered that this is because there is a broad acceptance that it is important to protect and manage the landscape of St. Ouen's Bay if it is to remain as a high quality environment.

Disadvantage

Perhaps the only disadvantage of proposed designation is that there is a misapprehension, of those who do not support the proposal and may be affected by it, that the creation of a new National Park for Jersey will impose an unduly and unreasonably restrictive planning and management regime upon those areas included within it. This is, however, a matter of perception and one that needs to continue to be addressed through discussion and engagement of those with an interest in those areas proposed to be embraced by the National Park, including St. Ouen's Bay.

Background Information on the Public Consultation

*A public consultation on the proposal for a National Park for Jersey was publicised and conducted during March 2009. The process included a questionnaire that was sent to 800 addresses within the St Ouen's Bay area and that was accessible to all on-line and two stakeholder workshops where specific individuals or organisations were identified and targeted, one held during the day at the Societe on the 10th March 2009 and one in the evening at St Ouen's parish hall on the 11th March 2009.

A combination of questionnaire and workshops was chosen to ensure that a) the process was as democratic as possible –i.e. open to all and b) that qualitative data relating to perceptions and specific concerns of key stakeholders could be gathered.

The key headlines from the questionnaire are that there is support for the concept with 84% either agreeing or strongly agreeing that the creation of a National Park would bring benefits. In relation to the scale of the proposed National Park, 84% either agreed or strongly agreed that the boundary should extend beyond St Ouen's Bay and of those, 83% either agreed or strongly agreed that the boundary should be extended to include the South-West coast from Noir Mont to Le Petit Port.

¹ Green Paper (2008) *Island Plan: strategic options and A National Park for Jersey?* (March 2009)

Both workshops were well attended by 56 people in total. Outputs showed;

- There is significant support for a National Park.
- 1 Most organisations and individuals who contributed to the consultation saw benefits to themselves and/or to the Island.
- 2 There is consistency about what special qualities should be considered within a National Park - consistent with the National Park purposes set out in IP White Paper.

1.4 SENATOR J.L. PERCHARD OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE INCREASED COST OF PLANNING FEES:

Question

Given claims by the Association of Jersey Architects that planning fees have risen by 500% since 2008, will the Minister detail exact increases in planning application fees for each year from 1st January 2008, throughout 2009 and any increases implemented or planned for 2010?

The total increases in planning application fees since he became Minister for Planning and Environment?

Answer

Fees have increased since the beginning of 2008 and those increases are detailed in the attached documents. Between 2007 and 2008 fees for planning applications increased by 2.5% - some figures were rounded up for practicability – in line with the State’s Anti-Inflation Strategy.

However, it became increasingly evident that the level of service required to process applications in an effective and efficient manner was not matched by the resources of the Department. Consequently the 2009 Planning and Environment Business Plan – which was approved by the States in September 2008 – allowed for a cost-of-living uplift for most categories and also an increase in fees for commercial developments that would fund improvements in the service. In particular, developments of more than 5 dwellings attracted a premium and the fees for the provision of commercial floorspace – whether by new build or change of use – either increased in themselves or the means by which they were calculated resulted in a comparable increase. A further increase at the beginning of 2010 of between 5% and 25% - averaging out at a 15% increase overall – further consolidated this approach, but also reflected the need to make good cuts in the Department’s budget in 2010.

As is evident from the attached table that the vast majority of categories have increased nowhere near the 500% figure that comprised the press headline, but it is acknowledged that there have been some significant increases. These increases reflect the fact that the granting of planning permissions operates mainly in the interest of the applicant but also reflects the significant improvement in performance of the Department over the past 12 months.

Turning to the example quoted by the President of the AJA this reflects the philosophy of shifting the burden of fee income to developments that generate significant levels of income for the developer. A commercial development of 2787 sq.m (30,000sq.ft) would attract a planning application fee of £26,197. This figure should be put into the context of the overall development costs, including land purchase, construction costs and professional fees, and the market value of the development, against both of which it represents a miniscule percentage.

Total changes in fees between 2008 and the end of 2009, and the increases since Senator Cohen became Minister are attached.

Planning and Environment Department

Changes in Planning Application Fees from January 2008 to 1st Jan 10						
	January 2008 fee	1 Mar 08 - 31 Dec 08	1 Jan 09 - 31 Dec 09	2010 fee	Variance	Variance
	£	£	£	£	£	%
New dwellings and associated works (including change of use to form a dwelling)						
Flats (per flat)	233.00	239.00	See note*			
Dwelling houses (per house)	465.00	477.00	See note*			
For each flat up to and including 5			245.00	306.00	73.00	31%
For each additional flat			335.00	420.00	85.00	25%
For each dwelling house up to and including 5			489.00	610.00	145.00	31%
For each additional dwelling house			665.00	830.00	165.00	25%
Prefabricated portable dwelling unit (per unit)	155.00	159.00	163.00	203.00	48.00	31%
Extensions and alterations to a dwelling						
Extension of a dwelling up to 20 sq.m in floor area	78.00	80.00	82.00	102.00	24.00	31%
Extension of a dwelling over 20 sq.m in floor area	155.00	159.00	163.00	203.00	48.00	31%
Material alteration of a building where the where the work is of a minor nature (per building)	78.00	80.00	82.00	102.00	24.00	31%
Material alteration of a building where the where the work is of a major nature (per building)	155.00	159.00	163.00	203.00	48.00	31%
Other new buildings, extensions and changes of use						
Erection or extension of any building up to 20 sq.m in floor area	78.00	80.00	See note*			
Erection or extension of any building up to 20 - 50 sq.m in floor area	155.00	159.00	See note*			
Erection or extension of any building up to 50 - 100 sq.m in floor area	233.00	239.00	See note*			
Erection or extension of any building up to 100 - 250 sq.m in floor area and for every additional 250 sq.m	465.00	477.00	See note*			
Erection or extension of a glasshouse or polytunnel for agricultural purposes for every 500 sq.m	155.00	159.00	163.00	203.00	48.00	31%
Erection or extension of any other building for agricultural purposes for every 500 sq.m or part thereof	233.00	239.00	245.00	306.00	73.00	31%
Erection, extension or change of use of a building for a non-residential use (per sq.m) **	See note*		7.50	9.40	1.90	25%
Change of use of land (or part) for any purpose	233.00	239.00	245.00	306.00	73.00	31%

other than those listed above						
Mineral extraction (per 1 acre, 2.25 verges or 0.4 hectare site area)	1,940.00	1,989.00	2,039.00	2,555.00	615.00	32%
Movable Structures (such as burger vans, ice cream kiosks and marquees)	155.00	159.00	163.00	203.00	48.00	31%
Miscellaneous development not otherwise specified. (per1 acre, 2.25 verges or 0.4 hectare site area)	233.00	239.00	245.00	306.00	73.00	31%
Miscellaneous works (not carried out as part of other work)						
Replacement windows (per application) (No charge if the windows are timber)	39.00	40.00	41.00	51.00	12.00	31%
Satellite dish	39.00	40.00	41.00	51.00	12.00	31%
Replacement of or substantial alteration to a shop front	155.00	159.00	163.00		8.00	5%
Erection of sign or advertisement per sign	39.00	40.00	41.00	51.00	12.00	24%
Flag pole, telephone box or other similar structure (each)	39.00	40.00	41.00	51.00	12.00	31%
Wall, fence or other similar structure (each)	39.00	40.00	41.00	51.00	12.00	31%
Swimming pool (not enclosed)	155.00	159.00	163.00	203.00	48.00	31%
Formation or alteration of a vehicular access	155.00	159.00	163.00	203.00	48.00	31%
Provision or material alteration of a tank for the storage of liquid or gaseous fuel	39.00	40.00	41.00	51.00	12.00	31%
An application for assessment of impact of a High Hedge in accordance with the High Hedges application		350.00	359.00	450.00	100.00	29%

****Note - Increase Between 1/1/09 and 1/1/10 - method of calculation changed from Jan 2008**

Since Senator Cohen became Minister	December 2005 fee	2010 fee	% increase
Category 1 – New dwellings and associated miscellaneous works (including change of use of a building to form a dwelling)	£	£	
A. For each flat up to 5	210	306	46
B. For each additional flat	210	420	100
C. For each dwelling house up to 5	420	610	45
D. For each additional dwelling house	420	830	98

E. Prefabricated portable dwelling unit (per unit)	140	203	45
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Category 2 – Extensions and alterations to a dwelling

A. Extension of a dwelling up to 20 sq.m in floor area	70	102	46
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B. Extension of a dwelling over 20 sq.m in floor area	140	203	45
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C. Material alteration of a dwelling where work costs £10k or less (per dwelling)	70	102	46
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Material alteration of a dwelling where work costs more than £10k (per dwelling)	140	203	45
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Category 3 – Other new buildings, extensions and changes of use

A. Erection of extension of a glasshouse or polytunnel for agricultural purposes for every 500 sq.m of part thereof	140	203	45
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B. Erection of extension of any other building for agricultural purposes for every 500 sq.m or part thereof.	210	306	46
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C. Erection or extension of a non-residential building or change of use of a building to a non-residential use (Per sq.m)	2.2	9.4	327
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D. Change of use of land (or part) for any purpose other than those listed above	210	306	46
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E. Mineral extraction (per 1 acre, 2.25 verges or 0.4 hectare site area)	1,750	2,555	46
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F. Movable Structures (such as burger vans, ice cream kiosks and marquees)	140	203	45
G. Miscellaneous development not otherwise specified. e.g. demolition, reservoirs, golf courses, outdoor recreational development, earthworks (per 1 acre, 2.25 verges or 0.4 hectare site area or part thereof)	210	306	46
H. Material alteration of a building where work costs £10k or less (per building)	70	102	46
I. Material alteration of a building where work costs more than £10k (per building)	140	203	45

Category 4 – Miscellaneous works (not carried out as part of other work)

A. Replacement windows (per application) (No charge if the windows are timber)	35	51	46
B. Satellite dish	35	51	46
D. Erection of sign or advertisement	35	51	46
E. Flag pole, air con units or other similar structure (each)	35	51	46
F. Wall, fence or other similar structure (each)	35	51	46
G. Swimming pool (not enclosed)	140	203	45
H. Formation or alteration of a vehicular access	140	203	45
I. Provision or material alteration of a tank for the storage of liquid or gaseous fuel	35	51	46
K. An application for assessment of impact of a High Hedge in accordance with the High Hedges (Jersey) Law 2008. see note ²	350	450	28

Notes:

1. Method of calculation changed in 2009 from fixed fee for a given floor area to a fee for each sq.m. of total floor area. Figures given for 2006 are an average of all fees charged across the categories listed in 2006.

2. Type of application came into force 2008

1.5 SENATOR J.L. PERCHARD OF THE CHIEF MINISTER REGARDING COSTS OF TERMINATING CONTRACTUAL AGREEMENTS:

Question

Following his written answer to a question from Deputy R.G. Le Hérisier of St. Saviour on 17th November 2009, in which the Chief Minister wrote that the terms on which personal contractual arrangements were terminated were personal and confidential to the parties concerned, does he agree that the tax paying public has a right to know and should be made aware of the cost of terminating the contractual arrangements with any public employee, or contractor and will he, in his capacity as the Chairman of the States Employment Board, undertake not to agree to any future financial settlements with any public employee, or contractor employed by the States that permits a confidential financial settlement?

Answer

Contracts of Employment, and issues which arise from them (for example settlements on termination), are invariably highly personal and therefore should be kept confidential. This represents good practice in the employment field, and especially in a small community such as ours.

Also there are invariably sound commercial and legal reasons why details of settlements with contractors should remain confidential.

Further, the prospect of publicity would make negotiations in these, often difficult, circumstances much more difficult.

I am therefore not able to give the Senator the undertaking he is seeking.

1.6 SENATOR J.L. PERCHARD OF THE CHIEF MINISTER REGARDING DISCIPLINARY ACTION BY THE STATES EMPLOYMENT BOARD:

Question

As the Chairman of the States Employment Board -

- (a) does the Chief Minister agree that it is quite reasonable for the States of Jersey as an employer to take any appropriate disciplinary action against an employee who is at the time the subject of a police investigation?
- (b) will the Chief Minister agree to take independent legal advice when considering disciplinary action against an employee of the States of Jersey who is the subject of a police investigation?

Answer

There are occasions when it might be reasonable for the States Employment Board to take appropriate disciplinary action against an employee who is subject to a police investigation. This should be particularly the case where an employee is alleged to be in breach of an internal rule of conduct quite separately from an alleged criminal offence. Legal advice is taken and will continue to be taken.

1.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE EXTENT OF INVOLVEMENT IN THE RESTRUCTURING OF JERSEY POST:

Question

To what extent, if any, has the Economic Department been in consultation with the management of Jersey Post, either directly or through the Jersey Competition Regulatory Authority or other bodies, over the recently announced restructuring plan for Jersey Post?

Will the Minister clarify whether the redundancies at Jersey Post will lead to a reduction in jobs and advise how many employees are currently employed and how many it is envisaged will be employed the end of the process in 2013?

Does the re-alignment of pay to market rates for particular skill sets and activities mean pay cuts for any employees, and if so which grades and how many? Further, will the Minister outline for members the depth of any such pay cuts?

Can the Minister assure members that this process will not result in deterioration to the Universal Service Provision, including collection and delivery provision?

Has the Minister received any assurances that Post Offices or sub post offices will not be closed or otherwise affected by this process?

Answer

As an incorporated body Jersey Post is not required to consult with the Economic Development Department (EDD) or the JCRA on proposed staff restructuring.

Employment-related issues are a matter for Jersey Post operating as an independent incorporated entity.

However, Jersey Post does invite EDD to regular briefings regarding the challenges faced by the organisation and potential business development opportunities. At the most recent meeting with Jersey Post on 6th January 2010, attended by the Minister for Economic Development and the EDD Chief Executive, the Department was informed of the imminent announcement of a call for expressions of interest for voluntary redundancy (VR) from up to 80 staff over the next four years.

Jersey Post has announced that restructuring has the objective of reducing operational costs by replacing a number of the full time posts with part time positions. This cost reduction is necessary to sustain Jersey Post's operations in the light of a continued and significant reduction in the volume of traditional mail and associated postal revenues. Faced with this position, Jersey Post must seek to reduce costs and increase the revenue contribution from its business development activities.

The VR programme does not include "pay cuts" for existing employees. It provides the choice for employees deciding to take voluntary redundancy and then to apply, along with any external

applicants, for new jobs created by Jersey Post. Pay levels for new jobs created will reflect market rates. The VR programme applies to all grades in Postal Services, up to and including the General Manager.

Any changes to the Universal Service Obligation (USO), including any impact on Post Offices and Sub Post Offices would be a matter for Jersey Post and the JCRA as the postal regulator. The interests of the consumer are and will continue to be fully protected under the Law through regulation by the JCRA.

1.8 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE IMPACT OF THE RESTRUCTURING OF JERSEY POST ON INCOME SUPPORT EXPENDITURE:

Question

Will the Minister detail for members the extent that the Social Security Department has been involved in discussions over the impact that the restructuring plan recently announced by Jersey Post will have on redundancies and reduced wages and consequently on the Department's expenditure on Income Support and supplementation? Will he give members an estimate of these projected costs?

Answer

A representative of the Social Security Department has met with the management of Jersey Post and members of the Communications Workers Union (CWU) following announced redundancies within the organisation. As members will be aware, Jersey Post is working with its employees to identify those who may wish to take voluntary redundancy. Departmental officers are presenting talks to the staff of Jersey Post to provide information on pensions, contributions and benefits in order that staff can make informed decision about their futures. Staff from Jersey Enterprise and Careers Jersey are also providing assistance to Jersey Post employees. The Jersey Advisory and Conciliation Service is also involved.

The information currently available suggests that 80 staff will be made redundant over a four year period, with opportunities for re-employment under a new organisational structure.

It is impossible, at this early stage, to quantify the possible additional Income Support expenditure, if any. Income Support is a household benefit and will vary according to, amongst other factors, the number of children in a household, the household tenure, and the income of a spouse or partner.

Supplementation acts as a benefit paid to lower paid workers. If an individual is receiving supplementation and then loses their job, the cost of supplementation will be reduced. If an individual is working and being paid above the earnings ceiling (£43,752 p.a. for 2010) and then loses their job, there is no impact on supplementation. It would also be possible for supplementation to increase if a worker agreed to a redundancy package from their current job, and was then re-employed at a lower wage, which was below the earnings ceiling.

There is a further possible financial implication in Social Security terms. Workers who are made compulsorily redundant may be entitled to claim contribution credits until they find alternative employment. Contribution credits create future benefit liability, the cost of which is borne by the Social Security Fund and, ultimately, contributors to the Fund.

Until such time as redundancy terms are finalised with individual workers, it is impossible to estimate any net increase or decrease in the departmental budget.

1.9 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE INVOLVEMENT OF LAWYERS FROM 7 BEDFORD ROW IN WORK RELATING TO THE HISTORIC CHILD ABUSE INQUIRY:

Question

Will H.M. Attorney General please clarify whether any of the three former members of 7 Bedford Row Chambers subsequently employed within or by the Attorney General's office, as mentioned in an answer to a written question on 19th January 2009, were involved in any way in work relating to the Historic Abuse Inquiry; and if so, would he advise what form this involvement took?

Answer

The Attorney General does not understand why such clarification is sought or why the identity of who worked on the Historic Abuse Inquiry is relevant provided that they were competent to do so.

However, the answer to the question is that none of the three former members of 7 Bedford Row Chambers who were subsequently employed within the Law Officers' Department as stated in the answer to written question 5027 tabled on the 19th January 2009 worked on the Historic Abuse Inquiry during the time that they worked in the Law Officers' Department.

It is a matter of public record that one of those lawyers, Crown Advocate Stephen Baker, since entering private practice in Jersey, has been briefed in the Historic Abuse Inquiry: i) to advise on cases in which allegations of historic abuse have been made; and ii) to prosecute those cases which have been capable of prosecution in accordance with the usual tests applied by the Attorney General in Jersey (which correspond with the tests applied by the Director of Public Prosecutions in England.) Crown Advocate Baker has given extensive and professional advice on each of the case files he has reviewed where no prosecution has been commenced, and all such cases that he has prosecuted have resulted in convictions.

The other two members of the Law Officers' Department, who were formerly of 7 Bedford Row chambers, one now in private practice and one still with the Law Officers Department, have not worked on the historic abuse cases and do not currently do so.

1.10 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING COMPLAINTS FROM RESIDENTS OF ALBERT QUAY APARTMENTS IN RESPECT OF ANTI-SOCIAL BEHAVIOUR:

Question

Will the Minister advise how many complaints, if any, have been received by the States of Jersey Police over the past twelve months relating to anti-social behaviour emanating from the area around the Albert Quay Apartments and surrounding land, particularly problems involving cars and motor bikes; further still, how many arrests have been made and how many charges have been brought against those involved in such anti-social behaviour?

Given the number of complaints from residents concerning anti-social behaviour involving cars and motorbikes outside the Albert Quay Apartments, will the Minister advise whether it is the

responsibility of the States of Jersey Police or the Harbours Department to deal with this; and whether speed limits and Island-wide restrictions on the sounding of horns within certain hours can be enforced by the States of Jersey Police?

Answer

A total of 114 incidents have been recorded by the police in the area of Albert Quay.

This represents all incidents, and not the number of public complaints. Nearly 10% of incident logs were created by Police officers dealing with occurrences directly, and not as a result of calls from the public - in addition to responding to reports from the public, officers have been specifically tasked to patrol the area since March 2009.

Summary	Total
Drugs	4
Other offence	2
Road Traffic Collision	4
Suspicious activity	1
Antisocial behaviour/Public Order	41
Motoring Antisocial behaviour/offences	62
Grand Total	114

In the vast majority of cases the States of Jersey Police have responded very swiftly, often within 10 minutes. The States of Jersey Police have also used CCTV to monitor the area. In most cases officers have found no problems with drivers or persons located in the area.

Over the last year 8 arrests have been made in the locality:

4 x drugs offences

1 x drink drive

1 x anti-social behaviour

1 x public order

1 x taking and driving away

The States of Jersey Police can deal with offences in the area in accordance with the relevant legislation, be this speeding, sounding of horns or any other offences.

The States of Jersey Police and the Harbours Department have been in liaison in an effort to resolve the reported problems.

I believe that it will be possible to considerably reduce the amount of anti-social behaviour being reported in the area by introducing barriers which would restrict public access to the area,

particularly at night time. Such an approach would be preferable and would avoid the current considerable use of Police time and resources.

1.11 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING A REVIEW OF TAXATION RATES:

Question

Given that taxation rates are in line for review, based on current figures, would the Minister advise what increase in revenue would be achieved by the introduction of a progressive tax rate of either 25% or 30% being implemented for those earning more than £100,000 per annum?

Answer

Progress and outcomes from the Comprehensive Spending Review will be fundamental in deciding whether tax increases will be needed to address the potential structural deficit.

Any consideration given to raising revenue through increased taxation will be assessed on a range of criteria including distributional (who pays how much more/less), economic and administrative impacts.

It is not clear whether the Deputy is asking about the effect of an increase in the rates of tax on all earnings for those earning more than £100,000, or an increase in the rate of tax just on earnings above £100,000.

Based on 2008 assessments, if a 25% rate of tax were introduced on taxable income over £100,000, then this would increase revenue by £12.3m. If a 30% rate of tax were introduced this would increase revenue by £25m.

1.12 DEPUTY T.M. PITMAN OF ST. HELIER OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING CORRESPONDENCE WITH THE SUSPENDED CHIEF OFFICER OF THE STATES OF JERSEY POLICE:

Question

Following her response to a question on 19th January 2009, concerning the letter of complaint to the Privileges and Procedures Committee made by the suspended Chief Officer of the States of Jersey Police, when the Chairman stated that she had intended to mention the letter to the rest of the Committee but that it had not been done, whilst also stating that she often did not inform the Committee of such contacts, would the Chairman advise whether she feels that such comments are consistent; and whether she feels that such practice does not undermine confidence in the Committee to do its job?

Answer

I do not consider that my remarks at the last meeting were inconsistent and I am happy to clarify once again the manner in which the letter from the suspended Chief Officer of the States of Jersey Police dated 30th October 2009 was dealt with.

The letter was addressed to me as Chairman and when it was received I discussed it with both the Greffier and the Deputy Greffier of the States. The professional advice given both by the Greffier

and the Deputy Greffier was that the matters raised in the Chief Officer's letter did not fall within the remit of PPC as set out in Standing Orders. I concurred with the advice and as a result I saw no reason to refer the matter for a decision to the full Committee as that would merely have delayed my response to the Chief Officer.

As I mentioned in my answers at the last meeting it is normal practice for any letters that I send on behalf of the Committee to be included for information on the next PPC agenda. Because of the Christmas recess and difficulties in arranging a meeting this had not been done by the beginning of January although the letters were on the agenda for the meeting of 26th January 2010. I have already acknowledged to PPC that I should have been more alert to the potential political sensitivity of this letter and circulated it earlier although I would reiterate that that would merely have been for information as I remain totally satisfied that the answer I had given after seeking advice was the correct one.

I believe Hansard shows that I did not state that I often do not inform Committee of such contacts as suggested in this question. What I did say was that I did not raise the matter with the Committee as the matters were clearly outside the terms of reference of PPC. I can only, in fact, recall one previous occasion when I wrote a letter in similar circumstances and on that occasion the person who had contacted me was fully satisfied with the explanation that the matters fell outside the terms of reference of PPC.

I do not feel that the practice followed undermines confidence in PPC as it would clearly be a waste of the Committee's time to ask all 7 members to consider matters that fall outside our terms of reference.

Although it is not strictly relevant to answer this particular question I would reiterate the comments I made at the last meeting that there is a procedure set out in Standing Orders to deal with matters such as those raised by the Chief Officer and this is a Committee of Inquiry. I did not believe it was my role to suggest this to the Chief Officer when responding on 13th November 2009 but I indicated in my letter that I was aware he was receiving assistance from a member of the States and that that member might be in a position to suggest a political remedy.

1.13 THE DEPUTY OF ST. MARTIN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE TOTAL COST OF THE DEPARTMENT'S LEGAL FEES:

Question

- (a) Will the Minister give the total cost to date of all legal fees incurred by the Health and Social Services Department in taking advice and representing the Department in relation to Mrs. Rourke and the exclusion of a Hospital Consultant Gynaecologist?
- (b) Will the Minister provide -
 - (i) a breakdown as to whom the fees were paid and monies received?
 - (ii) the cost of all the enquiries/investigations undertaken in relation to the above two persons?
 - (iii) the details of the various review bodies appointed and monies received?

- (iv) the total cost in salaries paid to the excluded Consultant and to the various staff employed to cover his absence from work?
- (c) Who was responsible for the oversight of the expenditure?

Answer

- (a) The Health and Social Services Department has incurred legal fees to the sum of £136,953.05 in relation to advice received and the representation of the Department in respect to the death of Mrs. Rourke and the exclusion of the Consultant Gynaecologist.
- (b) (i) The legal fees were paid to a single law firm, Backhurst, Dorey and Crane.
- (ii) Enquiries and investigations have been undertaken by:
- Verita at a cost to date of £558, 430.29
 - Hannah Goodwin, who were commissioned by the States Employment Board to look at the procedure adopted when the Consultant Gynaecologist was excluded. Their review is yet to be completed and the total cost is not expected to exceed £40,000
 - Mr. K Hutchinson, an independent Human Resource professional, who was asked to review the need for a disciplinary procedure. His fees were £6,750.
- (iii) Review bodies were consulted in accordance with the policy for handling concerns and disciplinary procedures relating to the conduct and performance of doctors and dentists. This included consultation with the National Clinical Assessment Service (NCAS) with whom HSSD have a standard contract for services in place, at an annual cost of £16,200. This contract allows HSSD to consult with NCAS on all matters arising in relation to clinical performance. The General Medical Council were also consulted and this incurred no charge.
- (iv) To date, the total salary costs for the excluded consultant and staff employed to cover his absence are £760,372
- (c) Expenditure was authorised and monitored by the incumbent Chief Officer and since August 2009 by the Acting Chief Officer.

1.14 THE DEPUTY OF ST. MARTIN OF THE MINISTER FOR HOME AFFAIRS REGARDING THE NUMBER OF PROPERTIES SEARCHED BY THE STATES OF JERSEY POLICE IN RELATION TO THE SUSPECTED MISUSE OF PERSONAL COMPUTERS:

Question

- (a) Will the Minister inform Members of the number of properties, since January 2007, that have been searched by the States of Jersey Police in connection with the alleged misuse of personal computers and other electronic devices?
- (b) How many searches, if any, were conducted with the authority of a search warrant?
- (c) How many searches, if any, were conducted without a search warrant, and why?

- (d) How many people, if any, have been arrested as a result of the searches?
- (e) How many people, if any, have been charged with offences in relation to the searches?
- (f) What is the average time that personal computers and other items seized following the searches, are retained by the police?

Answer

Unfortunately, the questions are phrased in such a broad way that it is not possible to provide an answer to them without considerable research. As an example, question (c) would cover all instances of 'stop and search'.

Initial estimates from the States of Jersey Police are that a manual research of some 9,050 custody records would be needed. It would then be necessary to check these against paper copy warrants and PPCE authorities.

If this information were requested under the Freedom of Information Legislation in the UK, it would undoubtedly be classed as an exempt case. The obligation to comply would be discharged since it would exceed the appropriate expense limit [currently £450], and the information would only be supplied upon agreement to pay the necessary costs incurred in recovering the information.

Given the disproportionate nature of the request, along with the need to balance the use of scarce resources, I would ask the questioner to refine the question to enable me to elicit the specific information sought.

1.15 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE '(J)' CATEGORY LICENCE POLICY:

Question

Will the Minister state whether the policy of granting permanent '(j)' category licences has changed and state what proportions of the 348 and 533 licences granted in 2009 and 2008 respectively were granted in the public and private sectors?

Answer

The policy on granting permanent 1(1)(j) permissions has not changed and remains as follows in relation to the length of the consent (as extracted from the published policy of the Population Office):

6. The length of a (j) category consent

The following policies are adopted in relation to the length of a consent:-

- *Posts which meet the (j) category consent criteria, where the employer is well established, and which require extensive knowledge and experience, will be granted an unlimited (j) category consent on commencement.*
- *Posts which meet the (j) category consent criteria, and are required for a specific purpose or time limited period, or where the employer is a new start up, may be granted a time limited (j) category consent.*

The split of 1(1)(j) approvals between the public and private sector is as follows:

J approvals 2005 - 2009	2009	2008	2007	2006	2005
Public Sector	14	18	29	32	17
Private Sector	334	515	468	453	365
Applications approved	348	533	497	485	382

These figures exclude teachers and professions allied to medicine, the appointments of which are managed by Education Sport and Culture and Health and Social Services Departments. However, public sector manpower, including an analysis of 1(1)(j) employees for all Departments for the period 31st December, 2009, will be reported on 31st March, 2010. In the meantime, an analysis of actual private and public sector manpower, including teachers and professions allied to medicine, is as follows:

	Jun 2009	Dec 2008	Dec 2007	Dec 2006	Dec 2005
Public sector “j” employees	641	660	832	710	n/a
Private sector “j” employees	1,120	1,120	1,000	900	740

1.16 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE MEDIATION PROCESS BETWEEN THE STATES EMPLOYMENT BOARD AND TEACHING UNION REPRESENTATIVES:

Question

Following the breakdown of the mediation process between the States Employment Board and teachers’ representatives, will the Chief Minister inform members what instructions were given to the States representatives on the 2009 pay offer in order to allow meaningful mediation to take place? What further measures, if any, does the Chief Minister have under consideration to avert the prospect of industrial action in schools?

Answer

The States Employment Board’s negotiators were asked to ensure that the full details of the States financial circumstances and the Island’s economic circumstances (which underpin the Board’s current pay policy) were explained to those attending the mediation, especially as these included a number of full-time Trade Union Officers from the UK.

The Board also gave its negotiators full remit to discuss its current pay offer at the mediation, provided that any possible agreement did not increase the overall sum of monies available for pay. The Board did not enable its negotiators to reach any settlement for 2009 which increased the pay bill in that year. This was in accordance with States policy.

My understanding is that the Unions at the mediation declined to discuss the Employer’s offer for 2010 and 2011.

The Board's negotiators remain ready to meet with Teachers' Unions at any time to discuss its offer for the years 2010 and 2011.

1.17 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE WHITEHEAD REPORT RECOMMENDATIONS:

Question

Notwithstanding the ongoing consultation process in which the Housing Department is engaged, will the Minister inform members what options, if any, he has under consideration to eliminate the under-funding of £7.5 million on annual repairs and maintenance identified in the Whitehead report?

Answer

The Whitehead report identifies that spending on building maintenance is under funded in 2 areas:-

- Day to Day Repairs £2.5m per annum; and
- Major improvements and refurbishments £5m per annum

As the Deputy has pointed out in his question the Whitehead review is still in the consultation phase and no decisions have yet been reached about the future of social housing provision or the long term issues relating to funding. As we begin to consider what we will do, I believe that it is vital that we do so in the context of the wider budgetary issues facing the States as a whole.

Addressing the funding shortfall is not something which the Housing Department can do on its own. The available options, which include a reduced annual return to Treasury, rent increases, sales of properties or borrowing against future rental income, all have implications for either the Treasury or Social Security. Detailed analysis is being undertaken and both of those departments are being consulted with.

Professor Whitehead suggests, and I tend to agree with her, that greater levels of efficiency are possible by freeing the Department from the bureaucracy of the current system. Such steps are vital if the Department is to be able to react to the changing needs of our population and make best use of the existing social housing stock.

Notwithstanding the under funding, the Department is making significant inroads into the maintenance backlog. 105 sales to tenants and 24 open market sales have generated over £30m; all of that sale income has been ring-fenced and used for refurbishment or development works. 7 significant projects with a total value of £26.85m have already been completed, another £18m is due to be spent in 2010 including £5.8m on 34 new homes at Salisbury Crescent. The Department is trail blazing in respect of the construction element of the fiscal stimulus programme which has already seen 4 projects successfully tendered and a further 9 projects out to tender including Phase 2 of Le Squez.

1.18 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF H.M. ATTORNEY GENERAL REGARDING PROCEDURES FOLLOWED IN THE SELECTION OF CROWN ADVOCATES:

Question

What procedures are followed in the selection of Crown Advocates and to what extent do they conform with the selection principles laid down by the Appointments Commission? Why was prosecution work in relation to the Historic Abuse Inquiry confined to one firm in 2009?

Answer

Crown Advocates represent the Attorney General personally, and their appointment is a matter solely for him with the approval of the Bailiff. The Appointments Commission is not involved. They are invited to act for the Attorney General in criminal matters for an initial period of up to five years.

Two Crown advocates were retained for the historic child abuse enquiry at an early stage. As it turned out, all of the prosecutions arising out of the Historic Child Abuse Enquiry were conducted by one Crown advocate. There were two reasons for this. First of all, it became apparent that the state of the police investigation files meant that there was an enormous amount of work necessary to be done in cross indexing the material in police hands both to ensure that proper disclosure was made to the defence and to enable informed decisions to be taken in relation to the strengths and weaknesses of any individual potential prosecutions. This meant that it was more cost efficient to have one firm aware of the entirety of the picture emerging from the investigation. The second reason was the practical one that the other Crown advocate became immersed in a major case in the Royal Court which continued for far longer than had first been anticipated and his availability was therefore constrained.

1.19 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING POWERS USED UNDER ARTICLE 84 OF THE PLANNING AND BUILDING (JERSEY) LAW 2002:

Question

Would the Minister identify how many times he has exercised his powers under Article 84 of the Planning and Building (Jersey) Law 2002 and on what grounds and would he define what is meant by "a ruinous or dilapidated building"?

Answer

Article 84 of the Planning and Building (Jersey) Law 2002 is one of a number of Articles under Chapter 6 of the Law that deal with the condition of land (which in this context includes buildings on the land), and confers powers on the Minister for Planning and Environment to abate any problem through the service of a notice.

Specifically, Article 84 (1) states:

“ARTICLE 84

Minister may require repair or removal of ruinous or dilapidated buildings.

- (1) If it appears to the Minister that a building is in a ruinous or dilapidated condition it may serve a notice requiring that the building or a specified part of it be demolished, repaired, decorated or otherwise improved and that any resulting rubbish be removed.”

Article 91 of the Law requires the Minister to specify in sufficient detail the works to be carried out, and a reasonable time to complete them depending on what is required. Articles 93 and 94

state that it is an offence not to comply with a notice, and that in default, the Minister may undertake the works and recover his reasonably incurred costs from the person failing to undertake the work. There is no right for the owner to claim compensation under these provisions, but there is an appeal to the Royal Court on the grounds that the action taken by or on behalf of the Minister is unreasonable with regard to all the circumstances.

No notices have been served by the Minister under this Article, although the threat of serving a notice has been sufficient in two cases for action to be taken by the property owner to remedy the problem.

The Law does not define what constitutes a “ruinous or dilapidated building”. They are ordinary words, and the Royal Court is likely to apply the ordinary meanings to them. In order for a building to be ruined or ruinous, would in the Minister’s view require the property, effectively, to be a wreck and therefore incapable of occupation. A dilapidated building is likely to be a building in an extreme state of disrepair. Each case is be different, and will depend on the evidence of and the degree of ruination or dilapidation.

In determining whether to serve a notice, the Minister will principally consider any other likely solutions to remedy the state of the building. In most cases the building owner themselves have aspirations for redevelopment and refurbishment which if balanced correctly through the planning system will have the same result. The other principle consideration is the likely cost to the public purse if a notice under Article 84 is not implemented by the landowner with pressure then falling onto the Minister to implement the notice. In determining whether to serve a notice each case must be dealt with on its merits, and must be seen to be reasonable in the eyes of the Court.

1.20 DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING SAVINGS TARGETS FOR 2010:

Question

Would the Chief Minister provide a detailed breakdown of the savings targets of £419,000 for 2010 with which the Deputy Chief Executive has been tasked and advise what specific savings targets, if any, he has beyond 2010?

Answer

The Deputy Chief Executive is responsible for the delivery of corporate savings as outlined in the 2010 Business Plan. These are:

• Energy consumption	£50k
• Joint Fraud Office	£230k
• HR Policies	£200k
Total	£480k

In addition, the pro-rata savings for the Chief Minister’s department for 2010 are £139k which will be delivered by the Deputy Chief Executive through the streamlining of the customer services section.

In the previous answer provided on 19th January 2010, a figure of £419k was provided which was in error, the figure should have been £480k. The error is regretted.

The 2010 Business Plan also shows corporate savings targets for 2011 and 2012 amounting to £1.07m and £1.37m respectively. Reviews of office accommodation and terms and conditions of service are expected to generate further savings which it is expected will contribute significantly in future years.

2. Oral Questions

2.1 Deputy K.C. Lewis of St. Saviour of the Minister for Planning and Environment regarding the demolition of unsightly derelict buildings:

Will the Minister authorise or instruct the demolition of unsightly derelict buildings, such as Pontins and the Fort Regent Pool, without prejudice to any planning application that may or may not be subsequently approved, and if not, why not?

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

The technical aspects of this part of the Planning and Building Law are covered in my written answer to Deputy Le Hérisier's question this morning. In determining whether to serve notice - and any notice can range from requiring redecoration through to demolition - each case must be dealt with on its merits and must not be seen to be unreasonable in the eyes of the court. All material considerations and solutions must be taken into account before considering such notices. The court would expect the Minister to act in a proportionate manner and so is not likely to consider it unreasonable for the Minister to show that other solutions had been considered. The Plémont site is currently subject to a development application and the entire Fort Regent area will be the subject of further consideration by the new political steering group. For the above reasons I do not, at this stage, consider that I could demonstrate that all other reasonable steps had been taken, and it would not be appropriate for me to issue a notice requiring demolition on either site. Thank you.

2.1.1 Deputy K.C. Lewis:

Is the Minister aware of the dilapidated state of Fort Regent, for instance, which has been let go for many many years and is the subject of much graffiti and vandalism and with very high wind I believe the roof to be unstable. I do not see a problem that without prejudice the building should be demolished immediately. Does the Minister not agree?

Senator F.E. Cohen:

While the building may be in a pretty poor state, particularly in terms of graffiti, *et cetera*, I do not think that all reasonable steps could be demonstrated to have been taken and therefore, I do not think it appropriate to issue a demolition notice at this stage.

2.1.2 Connétable D.J. Murphy of Grouville:

Would the Minister agree that this site is in fact going to be a very expensive proposition, because I understand that it is full of asbestos and from a demolition contractor friend of mine who priced the job, he was talking about £1.5 million to £2 million to flatten it.

Senator F.E. Cohen:

I am afraid I am unaware of the asbestos content of the particular building.

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

Would the Minister not agree that there are many glasshouse sites which, similar to these 2 buildings, are in a very dangerous condition, broken glass into the ground and so forth? Would he not agree that he has been very reluctant to move on these very obvious sites?

Senator F.E. Cohen:

I have, in relation to 2 of these particular sites, made it clear that I intended to issue an order and in view of that the dangerous glass was removed, but I am perfectly happy to look at further sites.

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

I wanted the Minister to clarify this phrase that the Minister uses: "All other reasonable steps have been taken." I am not clear who is taking the steps and what they might have been, if one did not simply move and tidy-up, for instance, Plémont. What are these reasonable steps that are the alternatives to tidying-up the site and making it safe?

Senator F.E. Cohen:

A reasonable step may be, for example, to consider a current planning application as is the case with Plémont currently. Until the planning application is determined, I do not believe that it would be appropriate to issue a demolition order.

2.1.5 The Deputy of St. Mary:

Is it the case that at Plémont there have been continuous planning applications and then when one is turned down the next one is in absolutely immediate, or are there not quite long gaps where it simply sits there as a possible danger to the public?

Senator F.E. Cohen:

There have been quite long gaps but there is a current planning application and I think the applicant has a right to have that application determined.

2.2 Deputy F.J. Hill of St. Martin of the Minister for Health and Social Services regarding the circulation of copies of the Verita Report before the presentation on 1st February 2010:

Will the Minister state which Members received copies of the Verita report ahead of the presentation on Monday 1st February 2010, and why the majority of Members were denied copies until the actual presentation?

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

I can confirm, apart from myself, that Senator Alan Breckon in his capacity as chairman of the Health, Social Security and Housing Scrutiny Panel is the only States Member to receive a copy of the Verita report ahead of the presentation made to States Members yesterday. Copies of the report in draft were shared with Senator Breckon and both of my Assistant Ministers. One of my paramount concerns throughout this very difficult time has been to ensure that the interests and welfare of Mr. Rourke and the family have always been taken into account. This approach, I am pleased to say, was endorsed by Senator Breckon in his email he sent to all States Members last Thursday. Commitments previously given to Mr. Rourke to keep him fully informed of the progress of the review have required that he should have had proper opportunity to read and reflect upon the report prior to its publication and general release. This commitment has now been fulfilled to the best of my ability and a series of meetings with Mr. Rourke and also with Verita, with members of the family.

2.2.1 The Deputy of St. Martin:

Will the Minister accept that it is normal practice that the documents are produced and circulated to Members, and indeed the media, the day before to allow them ample time to read the documents which would have course been embargoed? Does the Minister not agree that to ask Members to have read the report, of well over 300 pages, just an hour before the actual presentation, was unreasonable?

The Deputy of Trinity:

With all due respect, I think this is not a usual report that one would expect from any department or like a Scrutiny Report. This is, and continues to be, a very highly sensitive report. One which is about a death of a nurse and a patient, Mrs. Rourke, and that has been my concern for the family all the way along. I understand the Deputy's concerns and I said yesterday at the States Members' presentation that 2 members of the Verita team will be coming back at the end of this week and that there will be a follow-up meeting for any States Members who wish to speak to them there or, in fact, contact Verita direct so they can begin to understand the report.

2.2.2 Deputy R.G. Le Hérisier:

Would the Minister outline whether the purpose of giving the draft to the chairman of the Scrutiny Panel was information only, or was there an expectation that if that person thought there were faults or whatever with the report they would be expected to respond?

The Deputy of Trinity:

During the debates last July - and that was confirmed in the letter that I sent to Verita - to make sure that it is truly independent and Verita did confirm that yesterday, that it is totally independent, it was agreed it went to the 4 people and one of them was Senator Breckon as his role as chair to keep an independent check over it. I am sure if Senator Breckon thought that there was anything missed or wanted to make a comment, I am sure that he would have done and he would have done it straight to Verita.

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

Does the Deputy accept that any report which is embargoed, presumably, does contain a certain amount of sensitive information otherwise it would not be embargoed in the first place? Secondly, does she agree that it is completely unacceptable to keep Members in the dark with only 2 hours notice before a presentation of such an important document?

The Deputy of Trinity:

As I said, I understand Member's concerns but my priority is the family and Mr. Rourke. **[Approbation]** It has been a very difficult time for him over the last 3 years and following on from this report, just to remind Members too, that there still needs to be an inquest.

[10:00]

2.2.4 Deputy T.M. Pitman:

I think all of our priority is the family and that is why we would have appreciated more time to read and digest the document. Would the Deputy be frank with us and tell us which Members of the States it is that she does not believe can be trusted with a document before ... yes, will the Deputy please tell us, and be frank, what the real reason was and if there are Members in here which she does not trust with information that she classes as sensitive, but is essential for us to all do our jobs properly.

The Deputy of Trinity:

How can I answer that? I can say that it is, and remains to be, a very sensitive and delicate report. There is a family... and the question I think you asked me, you said do I trust States Members? I will throw that back to States Members, that is for everybody's own conscience.

2.2.5 The Deputy of St. Martin:

Of course there will be additional costs now having the Verita team back and I would like to compliment them on there report, from what I have seen of it, it is well read and obviously more to come. But could the Minister give the Members the date and time of this particular meeting, and if

it is possible maybe we could have more than one hour with them. So, is the Minister able to give us the date and time of the meeting - possibly Thursday, I think the Minister mentioned?

The Deputy of Trinity:

Yes, I hope I can; we are looking either Thursday or Friday but it is a long States agenda so I would like to think it is Thursday but it all depends how long the States agendas go, if we use the full day on Thursday. I will try and work something out because I agree, I think States Members need more than an hour and I will try and fit something and let Members know as soon as I can.

2.3 Senator S.C. Ferguson of the Minister for Treasury and Resources regarding plans to deal with the structural deficit expected in Jersey in 2012:

Given the reticence of the United Kingdom Government to set out clearly their plans to deal with the country's deficit, would the Minister advise how he intends to deal with the structural deficit expected in Jersey in 2012?

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

As Members will be aware, the Council of Ministers met last Thursday to review spending forecasts and to consider how to deal with projected deficits. The Council is determined to control States spending to guard against future unsustainable structural deficits. There will be major challenges that will require first, a review of those services which are essential or highly desirable; secondly, a determination to deliver services efficiently across the States of Jersey; thirdly, consideration of a wider implementation of user pays principles; and finally, tax changes, including a review of Zero/Ten. The comprehensive spending review is designed to deliver the first 3 elements of this and the fiscal strategy designed to deliver the fourth. The C.S.R. (comprehensive spending review) process has now started, working with States departments it will analyse all areas of States spending in order to identify the possibility of saving £50 million over the next 3 years, to understand the implications of proposed savings and to target improvements. There will be 6 in-depth reviews looking at terms and conditions of employment, court and case costs, Health and Social Services, Education, Social Security and Home Affairs. All States departments will be asked to identify and find savings. The final decision on the balance between savings and taxes will of course be a political choice and it will be taken in this Assembly as part of the Budget and Business Plan debates. The next Members will hear from me is shortly in terms of inviting Members to a workshop where I am hopeful to discuss these matters in a wider forum.

2.3.1 Senator S.C. Ferguson:

Will the Minister tell the House what the most recent estimates indicate that the structural deficit will be for 2012 and 2013?

Senator P.F.C. Ozouf:

The most recent estimate at the mid point is £45 million, but I need to be completely clear with Members that that does not include the requirement to find some new money for some areas of States spending which is not already factored-in. In addition, I need to find a realistic solution to contingencies. Every year there is unexpected expenditure and I need to build in a realistic £12 million or £14 million contingency every year and to find the necessary growth for some areas such as Health and Social Services. So the total figure that we are looking at in terms of a structural deficit is likely to be in the region of £70 million or £80 million.

Senator S.C. Ferguson:

I assume the Minister means that for 2012. I did ask about 2013 as well.

Senator P.F.C. Ozouf:

I apologise to the Senator. It is looking, to a great extent, into a crystal ball to see where the global economy and its implications to the financial services industry will be. But I think a reasonable working assumption is that there is a structural deficit of which we need to put in contingency plans for within the region of £50 million recurring every year.

2.3.2 Senator B.E. Shenton:

I will help the Minister with this, because the answer is yes. Does the Minister consider very high rises in parking charges and a doubling of planning fees to be efficiency savings?

Deputy G.P. Southern:

User pays.

Senator P.F.C. Ozouf:

No, I do not. But I also would defend the respective Ministers in needing to identify appropriate income in order to pay for their services. In respect of planning, they are cost recovery for commercial developments and I would point out to those individuals that do not think the States of Jersey is expensive to look at the cost of property occupation, to look at the cost of planning and holding commercial property in, for example, the United Kingdom compared to Jersey. We are not highly taxed and in my view it is appropriate that taxpayers are not asked to subsidise planning development. The decision in relation to car parks, that was a matter that was discussed in the Business Plan debate and I do not think is a surprise to Members.

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

Would the Minister not accept that without Zero/Ten there would be very little deficit, if any at all, and as has proved to be unacceptable to the people that have foisted it upon us in the first instance the sooner it is withdrawn and returned to 20 per cent tax the better.

Senator P.F.C. Ozouf:

The Deputy, with respect, is wrong if I may say. If we had not implemented Zero/Ten we would not have seen the economic growth that the Island has seen in the last 4 to 5 years. Zero/Ten was the right policy at the time, it has not been found non-compliant with the E.U. (European Union) despite there being rumours about that issue. I have confirmed that in my budget statement last year. I am however, with the Chief Minister, reviewing Zero/Ten in the light of changing global norms in relation to taxation and if there are opportunities for collecting greater amounts of money from business and from corporation tax, of course I will do so. That will limit the taxes that are required for the Island community.

2.3.4 Deputy P.V.F. Le Claire:

Now that we have made our money on Zero/Ten, is it not time to get out of it?

Senator P.F.C. Ozouf:

Zero/Ten provides what is fundamental to what we do in Jersey which is providing tax neutrality. We seek to tax the services that are provided to financial services not, in often case, the underlying activity. That is a standard well known and an understood arrangement. We provide tax neutrality, it is the source of what we do, it is the source of the growth of our economy and the source of our prosperity. I have every intention of maintaining competitiveness of the Jersey economy and maintaining tax neutrality.

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

Would the Minister explain to Members exactly how Zero/Ten has produced boom years when it has not been implemented and now has singularly failed to meet the mark of the E.U. standard?

Senator P.F.C. Ozouf:

The Deputy well knows that the proportion of taxes that Island residents pay, both in terms of direct and indirect tax, is much lower than most other places. Yet we enjoy a very high level and generous services in terms of Health, Social Services, Home Affairs. We spend a great deal at this Assembly, so where does that money come from? That money comes from a successful financial services industry which benefits our economy. That is what benefits of maintaining Zero/Ten and all the reforms that we have made in the last few years.

Deputy G.P. Southern:

Zero/Ten has yet to be implemented and has failed, how can it have produced boom year?

Senator P.F.C. Ozouf:

I do not know where the Deputy has been for the last couple of years but Zero/Ten is in place. It has been debated by this Assembly and we are currently seeing the first tax year's result of it. The strong signal that this Assembly sent out 4 or 5 years ago in relation to putting its House in order for tax plans, yielded the growth that we have seen in the last few years which the Deputy and others have spent.

2.3.6 The Deputy of St. Mary:

Taking a slightly different tack, I just wondered if the Minister could assure the House that in the C.S.R - in the comprehensive spending review - he will give due attention to the principle that prevention is better than cure and the phrase that comes to mind is false economies and when he is looking for economies, will he assure the House that he will be very very careful about false ones?

Senator P.F.C. Ozouf:

I agree with false economies and I agree that we need to have a wide-ranging review of spending across the whole States of Jersey and we need to be honest with taxpayers and Islanders about the services that we are going to provide. I want to, for example, and the Council of Ministers agreed that we would - in identifying savings - clearly split-out any revenue raising measures versus efficiencies and cuts so that we are clear with people about the opportunities that we identify to raise money by user pays charges.

The Deputy of St. Mary:

It did not quite answer the question of whether the Minister will seriously take on board this issue of saving money and then rueing the day later which we spend a lot of time doing in this House. I have read a bit of Verita, I know that there are implications in there as well on this front and I would again ask the Minister, will he take this matter of not saving rashly and then paying the consequences?

Senator P.F.C. Ozouf:

We need to be realistic. I was reviewing the Treasury on Friday and looking at the growth in States expenditure over the last 5 years. Indeed, I think that we have added an additional £70 million worth of new money in terms of Social Security, Health and departments such as the Prison. At the same time, we have delivered efficiency savings across the organisation and yes there is some debate with the P.A.C. (Public Accounts Committee) of exactly what was determined politically, but certainly we have delivered £20 million or £30 million worth of savings. I believe that all organisations can deliver their services more efficiently and more effectively. But it does not need to be done sensitively and I hope that Members would agree that every political problem does simply not require the writing of a cheque from taxpayers. We need to be long sighted in terms of the way we structure services, and put the right checks and balances in place.

The Deputy of St. Mary:

Can I ask a supplementary to that?

The Bailiff:

Sorry, not for the moment, Deputy. There are others who want to ask questions as well.

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

The Minister mentioned at the beginning of answering questions about sustainability. From 2005 to 2009 we saw an economic growth of 19 per cent in the Island. Could he explain exactly what he means by “sustainability on the way forward”, and how far forward we are looking in regards to taxes?

Senator P.F.C. Ozouf:

I think that is an excellent question. The sustainability, as far as public finances is concerned, I would simply say is that we need to match income with expenditure on a year to year basis. I agree that it is appropriate that we run a budget deficit in 2010 and probably 2011, because we need to be investing in the economy, keeping people in work, allowing students to improve their skills in a way that if we did not make those budget deficits and if we did not invest, for example, in infrastructure there would be greater numbers of people unemployed. I am supportive of a budget deficit for the period of the downturn, but I want to see public finances restored to a longstanding, matching income and expenditure certainly within 2 or 3 years. That is what I call sustainability.

Deputy T.A. Vallois:

The Minister did not answer my question in regards to how far forward we are looking for sustainability in the Island?

Senator P.F.C. Ozouf:

I apologise. Certainly, I want to be looking at public finances 4, 5, 6 years out and certainly I want to move to a business plan which is agreeing spending limits on a 3-year basis as opposed to the yearly circus of a yearly settlement of budgets which gives departments absolutely no incentive in order to make savings within year and to have long term planning. So certainly 2 or 3-year cycles.

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

Given, in your statement, you said that obviously taxation is relatively low in Jersey - which obviously helps the general public to afford our exceedingly high cost of living - if taxation is to increase, what would the Minister’s plans be to reduce cost of living?

[10:15]

Senator P.F.C. Ozouf:

The Constable is absolutely correct in identifying one of the core problems that we have in Jersey as to the rising cost of living which rose well above that of the United Kingdom throughout many of the years of the 1980s and 1990s which meant that, effectively, people were no better off as a result of rising prosperity because inflation eroded their purchasing power. We have done a great deal in this Assembly to improve the issue of inflation. We have introduced a Competition Law, we regulate utilities, we have increased competition. That is the key to driving efficiency and to driving down the cost of living in order that the Jersey taxpayer’s pound can go further.

The Bailiff:

Deputy Higgins, do you wish to ask your question now?

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

Yes, Sir. I was seeking clarification from the Minister, we were talking about Zero/Ten; a number of people asked and the question is - when did Zero/Ten come in? Was it 1st January 2010? In which case, have you seen any benefit from it yet?

Senator P.F.C. Ozouf:

The Deputy knows that when Zero/Ten came in as far as taxation arrangements and tax returns are... But I would point out to the Deputy that in taxation and in business generally, it is important to give as much long term planning as possible in relation to taxation changes. That is why the whole Zero/Ten agreements were made a number of years ago in order to give certainty. You do not change taxation systems every year, they are long in gestation, they are long in research, and you need to give people a long lead time into those changes and businesses will factor that into their plans.

Deputy M.R. Higgins:

If it has only just come in, how can he claim, therefore, he has had a financial benefit in the past?

Senator P.F.C. Ozouf:

The certainty that Zero/Ten gave business and drew business to Jersey throughout the growth of the last 3 to 4 years and we, in fact, beat a lot of our offshore comparatives in relation to beating them for higher levels of financial services activity and the tax revenues that accrued to the Island followed as a result.

2.3.10 Deputy M. Tadier of St. Brelade:

It follows very much on from the question of Deputy of St. Mary, to do with false economies which I think was hinting at long term investments. If and how will the Minister take into account long term benefits which may not be immediately tangible in the short term, in terms of cost benefit analysis?

Senator P.F.C. Ozouf:

That is quite a broad question. Ministers are determined to look long-term at the way that they structure their services and in the way that we provide the infrastructure and the facilities for services in the longer term. I do not want the comprehensive spending review to be regarded as simply a negative in terms of death by a thousand cuts in terms of government expenditure. This is a one-off opportunity to restructure the way we provide services for the longer term. The Minister for Education, Sport and Culture looking at the long term needs of the Island in terms of skills and education, maybe reconfiguring some of the arrangements that he has in primary or secondary skills. To the Minister for Health and Social Services, the way and the location in which she provides hospital facilities maybe on fewer sites with different physical facilities. I fully understand the need to have to find an 'invest to save' pot. In order to get savings we may need to have upfront investment in terms of new facilities to cut long term costs and restructuring money and those are discussions that the comprehensive spending review will have and I certainly want to engage in Members in terms of having an initial workshop to get Members' ideas.

2.3.11 Senator S.C. Ferguson:

As I understand it, the Minister says he is planning for a deficit of £70 million to £80 million in 2012. It seems incredibly optimistic to me to plan for only £50 million in 2013. Would the Minister care to confirm this figure and if he has not got the figures will he undertake to provide them?

Senator P.F.C. Ozouf:

The Senator refers to figures that are in the budget statement that was published last year and I need to tell her that I regard the structural deficit for 2010 as a reasonable certainty in terms that it is likely to happen. What I have said is that unchecked, the structural deficit or the deficit for the States of Jersey will be certainly in the region of £40 million, £60 million, £70 million if we do not take corrective action. Corrective action on savings; corrective action on cuts; corrective action in terms of changes to taxation. But I do not want to take any action until I have got a reasonable

certainty of the income line and, as the international economy unblocks, so we will have certainty of the income going forward.

Senator S.C. Ferguson:

The Minister has not answered the question. If he is basing his £50 million savings on forecasts of a structural deficit, I think it only sensible to inform this House and the public of the possibilities of the structural deficit in 2012 and 2013. Will the Minister undertake to provide the up to date forecast? He can qualify it and say this is a forecast, but will he undertake to provide the public with that information?

Senator P.F.C. Ozouf:

I am always happy to be pressed by the Senator but I would remind her that these figures are set out in the budget statement that was I think circulated to Members last week where it clearly shows a range of deficit that is expected unchecked. This is without the corrective action that the Council of Ministers has committed to do. In other words, unchecked based on the latest scenario, the midpoint estimate is for a deficit in 2013 of £50 million and a further £50 million in 2014. But that comes with the health warnings that I have already said.

2.4 Deputy G.P. Southern of the Minister for Economic Development regarding plans to restructure Jersey Post:

When was the Minister informed of the plans to restructure Jersey Post?

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

On 6th January.

2.4.1 Deputy G.P. Southern:

Can the Minister assure Members that the restructuring will not result in a deterioration of the universal service provision and, in particular, has the Minister received any assurances that post offices or sub-post offices will not be closed or otherwise affected by this process?

Senator A.J.H. Maclean:

No, I cannot. All I can say is quite simply that the Jersey Postal Service is working with the regulator, the J.C.R.A. (Jersey Competition Regulatory Authority), in discussions with matters surrounding the universal service obligation, for example, and all matters relating to postal services to ensure that the best possible service is delivered to ensure they maintain the good quality of customer service that is currently delivered.

2.4.2 Deputy G.P. Southern:

Has there been any meeting between the Jersey Post and J.C.R.A. over these 2 issues - the universal service obligation and the opening of post offices?

Senator A.J.H. Maclean:

That is a matter that the Deputy would need to direct towards the J.C.R.A. or Jersey Post themselves.

2.4.3 Deputy G.P. Southern:

Is it not the case that the Minister can direct the J.C.R.A. to take a look at this particular issue, and will he do so?

Senator A.J.H. Maclean:

At this stage I would have no intention of directing the J.C.R.A. to do so. I would expect the Jersey Postal Service to engage with the J.C.R.A. as is their requirement if they were required to make any changes to the universal service obligation.

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

I am taken aback by the reply to the Deputy, given that the Minister has only known about this since 2nd January, which is of concern, because I have had postmen knocking on my door about reforms longer than that, considerably longer. Will the Minister please inform Members how many reforms have taken place within the Postal Department in recent years, of which I am aware as a former member of that committee, how many there have been. I sincerely hope he can give us those numbers of reforms. Also, will he give us details of the remuneration paid to the Managing Director and directors of the board and whether or not they received a gratuity after 12 months, i.e. a gratuity being a bonus within that, given our postmen have not received pay rises yet?

Senator A.J.H. Maclean:

I thank the Deputy for his questions. With regard to the second question - the matter of the pay structure for the Managing Director and the directors - that really is a question that should be directed to the Minister for Treasury and Resources. Of course he is responsible as the shareholder, and I am sure if he is so inclined he would be more than delighted to provide the information to the Deputy. As far as reforms are concerned, the most relevant reform was in 2006 with the introduction of the Postal Services Law which was approved by this Assembly which incorporated Jersey Post. That set the footing for a much more well-structured, incorporated body to operate in a commercial manner to ensure its sustainability. What we have to bear in mind is that the retail aspect of Jersey Post is currently losing nearly £1 million a year. It is essential that that organisation modernises itself and ensures that it is not a drain on public finances. We cannot afford further drains on public finances in the current circumstances where we face structural deficit in a matter of a year or so.

2.4.5 The Deputy of St. John:

As the Minister has yet again refused to answer the question I will put it again. Will he please give details of the remuneration package of the Managing Director and directors? He should be aware, he has a responsibility for this department on those figures, otherwise why is he answering a question that should be directed to the Minister for Treasury and Resources? He, as the Minister with the responsibility for this department, must know chapter and verse about it.

Senator A.J.H. Maclean:

The Deputy should be aware there is a separation of duty in this regard. The Minister for Economic Development has responsibility from a regulatory perspective, through the J.C.R.A., but not the matter that he particularly asks. If he refers to the question asked by Deputy Southern, it is indeed about the restructuring of Jersey Post, not about pay grades or indeed payments made to the Managing Directors or other directors.

2.4.6 Deputy S. Pitman of St. Helier:

Will the Minister concede that the policy of increasing competition to our utility companies will just mean more redundancies in our utility companies? Also, would he not admit that to increase competition against our publicly-owned utilities will decrease States responsibility, which will be in line with the Minister for Treasury and Resources' policy of privatisation?

Senator A.J.H. Maclean:

No, I do not agree with the Deputy at all. I think that, first of all, we have an effective regulator in the J.C.R.A. which is there in place to ensure that entities such as Jersey Post are properly regulated. I think that duty is carried out very effectively and I think that by opening up the market in the way that it has been ... this is not something that is unique to Jersey, it is happening

elsewhere in the world. We cannot swim against the tide, we should not seek to swim against the tide. What we should do is ensure that we have fair competition and sustainable competition and that is what I believe is currently being delivered.

2.4.7 Deputy S. Pitman:

The Minister did not answer my first question. Will he not concede that if we continue to increase competition or allow competition of our utility companies that there will be more redundancies in our utility companies? Further, will he not admit, as I have asked, that there will inevitably be less need for States publicly-owned utility companies if we increase competition?

Senator A.J.H. Maclean:

It is not a foregone conclusion that just through competition it is going to lead to redundancies. Nevertheless, I think, and also the Deputy should bear in mind, the current economic climate that we are having to operate in which ensures that - as a by product - that all businesses are finding the conditions for trade extremely difficult and extremely challenging. On that basis, cost reductions in operations of businesses is something that one would expect to see. It is unfortunate, nobody likes to see anybody losing their job but unfortunately, in these current climates, that is something that one would unfortunately see. As far as Jersey Post is concerned, I do not believe there is a direct link in this case, although public sector organisations such as this do have to operate in a more commercial manner.

2.4.8 Senator J.L. Perchard:

Given the suggestion by the Minister to the Deputy of St. John that he should refer his question on the levels of remuneration of senior management to the Minister for Treasury and Resources, is he content that the shareholder representative - the Minister for Treasury and Resources - holds the board of directors of Jersey Post properly to account for the levels of remuneration paid to senior management?

[10:30]

Senator A.J.H. Maclean:

I believe he does but, again, I would suggest that if the Senator requires confirmation he should perhaps speak directly to the Minister himself. But as far as I am concerned, I am perfectly content.

2.4.9 Senator J.L. Perchard:

I wonder how the Minister for Economic Development could answer that question categorically, when he admitted in his answer he does not know the levels of remuneration that the senior managers of Jersey Post are being paid?

Senator A.J.H. Maclean:

First of all, I did not admit that. But secondly, I was merely answering the question that I have the utmost confidence in the Minister for Treasury and Resources to carry out his functions in an effective way, as I have witnessed on many other occasions.

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

Could the Minister answer whether it is really good practice where the post office is trying to get rid of 80 jobs, return 50 for a lot less wage, when we have people from Income Support sitting down there with the post to make up their money. How is this possibly saving the States any money and is it really making people want to go out to work? It is absolutely ridiculous.

Senator A.J.H. Maclean:

First of all, these 2 issues are separate insofar as what Jersey Post have sought to do is to ask for expressions of interest for voluntary redundancy. I should say that they have already had, I believe,

71 of such expressions in a very short period which I think is encouraging. I would also add, while saying that, that I have been encouraged by the way in which the postal service management, in particular, and the Communication Workers Union have worked very closely together. In fact, I saw a quote which was of interest, a publicly delivered quote in the media from the Communication Workers Union which said these redundancies are being dealt with in an open, fair and manageable way. I think that that is an encouraging point. But as far as the Deputy's question about the 80 requests or expressions of interest for voluntary redundancy, it is quite simply that the company itself will be advertising for new posts which are different posts, part-time posts, and of course anybody can apply.

2.4.11 Deputy J.A. Martin:

I wish the Minister would do his homework, they are not different posts, they are exactly the same job. In fact some of them are even higher-skilled, less pay. So please do not try and pull the wool over my eyes and would the Minister not get his facts right - 50 new jobs doing the same work, if not higher skills, less money. That is what the post office is openly offering and I do not know where his communication he is reading, but that is what I am being told and that is from the horse's mouth - being a postman.

Senator A.J.H. Maclean:

It is quite correct that the posts are being re-advertised; there are posts which are part-time posts which are being advertised. That may well be doing the same function but as a part-time individual and, yes, they are at market rates. That is quite correct. But I should add that the Communication Workers Unions representing the workers of Jersey Post, in conjunction with the management, have agreed this particular plan. We are living in a world where we have to look to the future, we are looking for the long-term sustainability of Jersey Post and because of that difficult decisions have had to be taken by the management of Jersey Post to ensure that the business is sustainable in the long term and the jobs are maintained.

2.4.12 Deputy G.P. Southern:

Now that the Minister has admitted reluctantly he has responsibility for regulation of the post office through the J.C.R.A., will he seek from the J.C.R.A. assurance that universal service obligation and post offices will not be affected by these proposed changes and return to this House in short order with a statement to that effect?

Senator A.J.H. Maclean:

No, I will not. What I will do is that I will ensure that the Jersey Competition Regulatory Authority carry out their function as they are empowered to do and that is to discuss with Jersey Post, requirements that Jersey Post may be putting forward for potential changes to the universal service obligation in regards to the future sustainability of their business.

Deputy G.P. Southern:

Supplementary if may, Sir?

The Bailiff:

Please do not let out an expression like that.

2.4.13 Deputy G.P. Southern:

I do apologise, Sir, and so I will put it formally. What universal service obligation does this Minister have to this House?

Senator A.J.H. Maclean:

I am not entirely sure what the Deputy is referring to in particular. I am more than happy to answer the questions that are put to me to the best of my ability and that is what I believe I have done.

2.5 Deputy P.V.F. Le Claire of the Deputy Chief Minister regarding the cost of compiling retail sales surveys:

How important are the retail sales surveys conducted as part of our understanding of the local economy and what do they cost to compile and publish in terms of manpower and resources.

Senator P.F.C. Ozouf (Deputy Chief Minister - rapporteur):

The quarterly Retail Sales Inquiry represents an important new addition to the suite of business surveys run by the Statistics Unit which help us monitor economic conditions in the Island. In addition to the Retail Sales Inquiry, the Unit publishes an annual measure of G.V.A. (Gross Value Added) and G.N.I. (Gross National Income), an annual survey for the financial services sector, a quarterly Business Tendency Survey, which explores the current and short-term future indications of confidence in the Island economy. All of these latter surveys are by nature backward looking, while the Business Tendency Survey provides a current and leading future prospective. The quarterly Retail Sales Inquiry provides valuable complementary information on the state of the Jersey economy and, in particular, consumer activity in the Island. All aspects of the Retail Sales Inquiry are conducted in house by the Stats Unit. In terms of manpower, I am advised that it is a total of one sixth of a F.T.E. (full-time equivalent), which covers the full calendar year. The survey form and report are printed by the Statistics Unit at a cost of approximately £100 per annum and the cost for postage - which includes sending the form to sample businesses and a business reply envelope - has a cost of £500 a year.

2.5.1 Deputy P.V.F. Le Claire:

I would like to congratulate the Minister, before I put the next question to him, on the management of the team and the costs that have been kept extremely low for this important piece of work. But I also point out the reason why I have asked this question is, having been given a copy of the Jersey retail sales survey for quarter 4, it was pointed out to me by one of the retailers that their sales for that previous quarter had been 35 per cent down. In this form that is sent out to all businesses the boxes only allow you to go 5 per cent up or 5 per cent down. You cannot tick further than 5 per cent up and you cannot tick further than 5 per cent down. If this is important supplementary valuable work, we need to get a true reflection of business being conducted and will the Minister agree that in the future these questions will take a true reflection of the retail sales activity by allowing for indications of greater than 5 per cent increases and greater than 5 per cent decreases?

Senator P.F.C. Ozouf:

I will pass the Deputy's compliments on to the Stats Unit for the cost about running this survey and I will also speak to them about whether or not there should be other opportunities to put greater levels of percentage for. I think the Stats Unit is well known among businesses and Members to be incredibly diligent in the way that they carry out their responsibilities. They are also very accessible and perhaps if the Deputy wants to suggest that the particular retailer makes direct contact with the Stats Unit, I know that the Head of Statistics would be more than delighted to engage with them. I will say to Members that as far as the information I have, the survey and the sample data is as good as the Stats Unit normally do in terms of getting coverage of businesses in an appropriate measure of retail sales. Clearly, if there is one business with dramatic falls in sales, that does need to be factored but I do not think it undermines the overall number.

2.5.2 Deputy P.V.F. Le Claire:

That is very encouraging, I will take it up with the Minister to perhaps speak to the Statistics Unit myself on behalf of the people that have spoken to me, because it is more than one retailer that is expressing this concern. I think that that retailer, as it happens to be a vender who is vending from one of the States-owned properties, they would be reluctant to put their name forward as having been the reason for this question. However, I do think it is important that if we publish in the

public domain through the media the fact that sales are down 3 per cent, they may in fact be down 10 per cent, they may be down 15 per cent. We need better information, as the Minister has said himself in the past, does he agree with that?

Senator P.F.C. Ozouf:

I would not want the message to go out that the Statistics Unit's figures are wrong. The quarter 3 survey had a response rate of 71 per cent of businesses which was a total of 47 per cent of the total retail subsector. I will take up the issue of the individual that had a greater level of sales but I am sure that somewhere in the form there are further opportunities to mark additional information for the Stats Unit. I would also say that retailers and businesses generally should have absolute confidence in the confidentiality of data given to the Statistics Unit. They are independent, they are part of the Chief Minister's Department from an organisation point of view, but they are independent and they do not share data with other States departments, so that businesses can be safe in the knowledge that their data will not be shared and it will be used for appropriate reasons.

2.5.3 The Deputy of St. John:

Given the Statistics Unit comes under the Minister's remit, could ... some months ago I returned to the House, I put questions to the Minister referencing the volumes of bottled water imported into the Island. He said he would get me the information and also I could speak to the Statistics Unit. As yet, the response I got from the Statistics Unit, they had no information on this, yet I am still waiting for the full information to come from the Minister and, that being the case, will he instruct the Statistics Unit to keep records on the volumes of bottled water coming into the Island?

Senator P.F.C. Ozouf:

I am standing in for the Chief Minister in relation to questions for the Statistics Unit and the Deputy is asking me questions about the accounting records wearing my other hat as the Minister for Treasury and Resources. I need to say to the Deputy that his questions about bottled water and expenses incurred by the States has worked. The fact that the question has been raised meant that a number of departments including, I think, this building now no longer have bottled water but vendors go to the tap and simply chill water, which is cheaper. I am afraid that I cannot give an undertaking to ask either the Treasury or the Stats Unit to collect information on every single amount of bottled water imported into the Island. Such collection of information does have a disproportionate cost which is not worthwhile in terms of the administrative cost of providing it versus the benefit to it. But we can take sample information and I am happy to continue to engage to understand what the total estimate of the bottled water market in Jersey is.

2.5.4 Deputy P.V.F. Le Claire:

I do not think this retailer sells bottles of water but if I may press the point, I have a copy of the form, I will share it with the Minister afterwards. I do appreciate his answering in response to the Chief Minister who perhaps does know. But there does not appear to be an appropriate area on the form for them to add this information, and the reason why I have raised this is because I have been told by more than one retailer that sales were down significant sums and I ask again if the Minister will agree to amend the form to have a better reflection of the important information that his department - through the Chief Minister - is conducting? Will he agree with me to seek to amend the form?

Senator P.F.C. Ozouf:

I will certainly take the matter up with the Statistics Unit.

2.6 The Deputy of St. John of the Deputy Chief Minister regarding the emergency exercise held several weeks earlier:

Would the Minister give brief details of the emergency exercise that was held several weeks ago, including the number of personnel involved across all services, whether it was considered successful, whether private organisations participated in the exercise, did the Island Honorary Police play an active part and, as the scenario was a plane crash, which department took overall responsibility?

Senator P.F.C. Ozouf (Deputy Chief Minister - rapporteur):

I am advised that Exercise Front took place on 13th January and involved a multi-agency response to a scenario of a simultaneous emergency located at the airport and St. Aubin's Bay following a mid-air collision. The purpose of the exercise was to test the Island's preparedness in the event of such an emergency. This exercise was also a requirement for the re-ratification of the Airport Civil Aviation Authority license. All emergency services, including the Honorary Police, participated. States departments, voluntary organisations and members of the public: around 300 individuals were involved in the day's activities including 15 Honorary Police. The States of Jersey Police take the lead in such incidents and convened a strategic co-ordination group drawn up from the emergency services and other relevant agencies, to assist command control and communication.

[10:45]

A formal structured debrief process is underway and initial findings highlighted the need to improve the clarity and role and responsibilities and the involvement of, particularly, the tasking of the Honorary Police. In addition, the handling of radio communications and the handling of the media also need to be looked into. Following the debrief, recommendations will be submitted to the Emergency Planning Board for their consideration. This was the largest live exercise the Island has ever taken to date and the early indications are very encouraging, that the Island has had a valuable opportunity to learn and to test itself in the event of a major incident. As with all exercises such as these, it is important to learn the lessons and to ensure that all participants are able to feed-back with their constructive comments.

2.6.1 The Deputy of St. John:

Given the Honorary Police were involved, and the number was considerably more than 15, can the Minister explain why sworn police officers were refused admission to the crash site by G4 staff while bus loads of other personnel were allowed through unhindered? Is the Chief Minister happy that the fiasco which occurred on his watch - or on his colleague's watch in this case because he is answering on behalf of his colleague - the fiasco that occurred on the watch, will he be carrying out additional exercises in the future, and also will he be seeing that the Civil Emergency Officer gets the necessary training so that he can lead an operation of this nature?

Senator P.F.C. Ozouf:

I discussed this matter with the Chief Minister before he departed and he wanted me to say that he agrees that there are lessons to be learnt in relation to the emergency exercise. Particularly, the communication and the role and responsibilities and the tasking of the Honorary Police and he is going to be following up on his return, and certainly it is going to be a matter which is going to be discussed at the Emergency Board. Clearly, it is vital that these exercises take place. It is almost a positive thing that things are identified so that improvements can be made, not only in the handling of the Honorary Police, but in other areas too.

2.6.2 Deputy C.H. Egré of St. Peter:

Having a great deal of experience in the field of emergency management, and in particular the aviation element, I was invited at the last exercise to be an observer. I have to say that privilege was not given to me on this particular case. Could the Minister (1) indicate which particular Scrutiny Panel is responsible for reviewing emergency planning and (2) would he make available to

me to review the paperwork involved in the build-up to the exercise, the exercise itself, the hot debrief and the final debrief?

Senator P.F.C. Ozouf:

I believe that the Civil Emergencies Department now has moved to the Chief Minister's Department and, therefore, it is the responsibility and under the purview of the Corporate Affairs Scrutiny Panel to review any matters in this area. I know that the Deputy of St. Peter has a strong interest in emergency planning and I am sure that the civil emergency officers would be more than happy to benefit from his experience and for any observations and opportunities for improvement that he has to recommend to hear them.

2.6.3 Deputy P.V.F. Le Claire:

That was my question, please forgive me through the Chair, Sir, to the Minister if he already indicated in his answer, it was rather long and I did not catch 100 per cent of it. I was trying to see, and ask, which politicians, if any, were involved in the political oversight of the exercise.

Senator P.F.C. Ozouf:

The Emergency Planning Board consists of a number of Ministers including the Chief Minister, I believe the Minister for Economic Development, the Minister for Transport and Technical Services, the Minister for Home Affairs. There are a number of Ministers that sit on the board. I do not, I am the stand-in when the Chief Minister is absent and I am aware that the Emergency Planning Board will be considering a full report in relation to the lessons learnt. But I have to say that I think it is a positive thing that such a comprehensive exercise is carried out and that lessons are being learnt in order that in the unfortunate event of an emergency happening, we are well equipped... and all agencies respond and communicate and work effectively together.

Deputy P.V.F. Le Claire:

So, is the answer that there were no political representatives during the exercise? Should there not be political representatives there during such an exercise in the future?

Senator P.F.C. Ozouf:

I am advised that 12 political observers were engaged. I know that the Chief Minister attended. I understand that the Minister for Health and Social Services, that the Minister with responsibility for the airport - Senator Routier - was there and also the exercise benefited from a review by His Excellency, the Lieutenant Governor.

2.6.4 The Deputy of St. John:

In response to a question raised earlier, will the Minister be making the report public that is being carried out? Also, can he tell us whether or not the press or the media were permitted access to all areas during the exercise, in other words, so as to be able to keep people honest?

Senator P.F.C. Ozouf:

Certainly I am more than happy to discuss with the Chief Minister the publication of a report to Members after the Emergency Board has discussed it, and I am afraid to say I do not understand the Deputy's question about honesty.

The Deputy of St. John:

Can I put it in a slightly different way? When an exercise in the past - of which I have been involved in quite a number - has been held, the media have been permitted to cover all areas and see exactly what is going on. On this occasion was that the case, or was it not?

Senator P.F.C. Ozouf:

The truthful answer is I do not know. I will find out and respond back to the Deputy. I understand that the media are important partners in relation to dealing with a civil emergency. They also have a role of scrutiny in order to ensure that the general public knows what is going on. I do understand that the particular circumstances at the airport and the particular security issues that are relevant in relation to running an airport may have prevented some of that on this occasion with this emergency.

2.7 Deputy T.A. Vallois of the Minister for Economic Development regarding the implementation of the recommendations contained with the LECG report on the ‘Review of regulatory powers, resources and functions of the Jersey Competition Regulatory Authority as a telecommunications regulator’:

In respect of the report completed by LECG on the review of regulatory powers, resources and functions of the Jersey Competition Regulatory Authority as a telecommunications regulator, could the Minister advise what work, if any, has been done by the Economic Development Department to implement the recommendations made in this report?

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

The LECG report focused on the J.C.R.A.’s function as Jersey’s telecoms regulator. The report’s recommendations will be captured in proposed amendments to the Telecommunications (Jersey) Law 2002. Specifically these are: streamlining of the law’s consultation procedures, providing the J.C.R.A. with the ability to fine operators in breach of a license condition, and to provide a mechanism to formally clarify license conditions for telecom operators. Law drafting instruction and law drafting time are required to realise the key recommendations. The law drafting process is underway and I intend to bring the amendments to the law that implement the recommendations of the LECG report to the States during 2010.

2.7.1 Deputy T.A. Vallois:

The Minister mentioned about a couple of the recommendations being taken into account. There was one in particular, recommendation 2, where the review showed that increased transparency and accountability would enhance the effectiveness of the regulatory process. Would the Minister be able to advise exactly how that is being implemented?

Senator A.J.H. Maclean:

The intention at the moment, through the law drafting process, is that recommendations 3, 4, 6 and 9 are currently included. If the Deputy has concerns regarding further recommendations that have not been included in full then I am more than happy to discuss them with her.

2.7.2 Deputy G.P. Southern:

But would the Minister accept that the review of regulatory powers was one of the recommendations made by a Scrutiny Panel, I think back in 2006, and does he accept that this is an example of good co-operation between Scrutiny and a Ministerial government?

Senator A.J.H. Maclean:

I am delighted to say that I do agree on this occasion with Deputy Southern. This is almost a rare occasion, I know we support similar football teams but apart from that there are very few other areas that we reach agreement on. I should also point out of course, seeing it is the Deputy’s moment in the sun, that he was in fact the chairman of the Scrutiny Panel at the time but I have to say that it was my predecessor, Senator Ozouf, who was the Minister at the time at Economic Development and I do accept that the 2 of them did not always work as closely as perhaps they could have done. But in this instance I would say that they worked extremely well together and this is a good example, so I do agree with the Deputy there.

2.7.3 Deputy T.A. Vallois:

The Minister mentioned that there were only 4 recommendations taken into account out of the 9 that was recommended by the report. Could the Minister, therefore, undertake to provide us with the reasons why the other recommendations have not been implemented and whether they will be in future?

Senator A.J.H. Maclean:

I will certainly give that undertaking to the Deputy. I should point out, aside from the recommendations that I have mentioned that are going to be contained within the amendment when they come forward, the J.C.R.A. have, themselves, since the report came out taken on board a number of the comments that were raised. They have, for example, published procedural guidelines on telecommunications regulation. They have revised their annual aims and objectives and so on.

The Bailiff:

Sorry, Senator, I think I am going to have to stop you. According to my calculation we are not all quorate. So could you summons Members please? Now we are quorate. Very well, yes.

Senator A.J.H. Maclean:

I am very disappointed, Sir, I thought I was more interesting than that. I was just summarising to say that aside from what is being brought forward with the amendments to the Telecommunications Law in light of the LECG report, the J.C.R.A. have, themselves, implemented a number of the recommendations. They have, for example, published procedural guidelines on telecommunications regulation. They have revised their annual aims and objectives into the Strategic Plan. They have adopted key performance indicators for competition law enforcement. They have broadened their statistical analysis of Jersey Telecom markets and they are currently looking at other matters related to the separation of accounts for Jersey Telecom.

2.8 Deputy M.R. Higgins of the Minister for Treasury and Resources regarding data relative to archive storage across States departments:

Following his response to a written question on 19th January 2010, would the Minister outline what significant resources would be required to furnish me with the data relating to archived storage across States departments and advise when he would be able to provide the information requested?

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

The Deputy seeks information on both the amount of archive space being rented each year and the cost this storage is to the States. There are many obvious locations used to house public records, however many exist in rooms and locations across the whole of the States of Jersey and to locate and quantify all of these would not be a simple task by any measure, and would require many hours of work if we are to give an accurate picture. The Deputy further asks me to provide the charges for the movement, maintenance, and retrieval of material. Just as I have to say to the Deputy of St. John in relation to bottles of water, unsurprisingly, we do not currently routinely analyse out financial data against these headings. To do so would require a search of systems and, again, the hours taken to do this would be difficult to quantify without embarking on the exercise itself. It is not my intention to immediately ask officials to embark on this significant piece of work unless there is an obvious benefit and payback to do so.

2.8.1 Deputy M.R. Higgins:

The Minister has extolled the importance of making savings in the public sector. This is quite an obvious area where money is being spent. Many departments have archive stores around the Island, in fact I have spoken to one or 2 Ministers about their archive stores and they did not even

realise they had them. Now, the point is, money is being spent to store documents or furniture or whatever at great expense to the public, and if Ministers do not know, they should know. Therefore, I would say to the Minister, is he not misleading the public when he says he is serious about finding waste in the public sector? All he has to do is send an email to each department. They should know their contracts, they should know what storage they have.

Senator P.F.C. Ozouf:

I am serious about waste and I am serious about concentrating resources in the direction that is likely to yield the biggest types of saving. If the Deputy has real, hard evidence that there is inappropriate or excessive use of storage and archive equipment or facilities across the States of Jersey then I will have it looked into. But I am afraid to say that I think that there are other higher priority areas of expenditure and analysis and data that need to be collected before focusing on data archive. I simply do not want to ask departments to go on a wild goose chase in order to give an accurate - because we would only give an accurate answer - to the question that says: "Will the Minister provide all the data in relation to archive storage?" I cannot see the point when there are obvious savings elsewhere that need to be focused on.

[11:00]

2.8.2 Deputy P.V.F. Le Claire:

Can I remind the Minister that the first Shadow Scrutiny review conducted by Deputy Southern's panel, which I sat on, was to do with the Tourism Office relocation and as a part of that relocation there was significant storage of archiving materials from that building into sheds in the countryside as part of the lease. This was conducted by W.E.B (Waterfront Enterprise Board). Surely when we are going to rationalise the use of States buildings and consolidate and save money in that regard, these issues will come into effect. Therefore, it is certainly reasonable to start to accumulate this information so that a better understanding of the archiving needs and requirements of the States is there for us to put into play and to measure against when we are asked to consolidate these States buildings as part of the new son of W.E.B., or whatever it is going to be called. Does the Minister not agree, now that I have refreshed his memory on that particular piece of work which was part of the lease?

Senator P.F.C. Ozouf:

I agree. I think that there are very significant efficiencies and savings and reduction in space that can happen across the organisation. But it is not only archive storage, it is office space. There is a generous per square foot allocation of office space across the States of Jersey. We regularly see States offices being inefficiently configured in traditional formats that are a relic of the 1960s and 70s in terms of their layout. It is a determination to deal with the really big issues of office and accommodation efficiency that I want to focus on rather than just simply focusing on archive and storage. If there are some departments, and I know that there are some and I am asking questions about the amount of archive storage to try and get an understanding... if there is a point that the Deputy is making, and there is a problem... for example, at Planning and Environment to see particularly if there is a particular archive issue there. But to do it across the organisation is simply not efficient, but I agree with the Deputy.

2.8.3 The Deputy of St. Mary:

It raises the question of the proper management of the archive of the States which is a very valuable historical resource, as well as being a useful resource in its own right. The Minister has just mentioned planning and quite clearly you must have not only an archive but a proper searchable well-functioning archive. I understand the difficulties he has outlined but I am worried that he has not once mentioned the word Jersey Archive where there are professionals whose life is to look after archives, to catalogue them and to make sure that they work and that they are accessible and

that they are stored in the smallest possible space. So would the Minister not agree that there is possibly a role in this area for the Jersey Archive?

Senator P.F.C. Ozouf:

I agree. The archive is an important facility that can be used in order to keep public records. The archive currently holds 480 cubic metres of public records belonging to public authorities across the Island. To ensure that these records are properly kept we allocate ... to provide those services in the private sector would cost around £140,000 a year, whereas the archive, under the service level agreement with Jersey Heritage, as I understand it, provides that facility. They are good at providing that facility and if their expertise and if their space can be used more by other States departments then we will encourage it.

2.8.4 Senator S.C. Ferguson:

I am amazed at this talk of archiving. Is it not time we got into the 21st century and scanned all documents as they came into the States?

Senator P.F.C. Ozouf:

I could not agree more, and that is exactly why we are going to be looking at process re-engineering across the organisation in terms of the comprehensive spending review. Where an electronic copy of a record can be kept, it should be, and it will certainly reduce cost and archive storage which Deputy Higgins is concerned about.

2.8.5 The Deputy of St. Mary:

Yes, that exactly; the answer of the Minister there to Senator Ferguson's question exactly points out the need for the involvement of people who know and are professionals in the field of archiving. It just seems to me, as we have now learnt, that they do a job that is worth £140,000 with respect to a few records - 480 cubic metres of them - for nothing. That is in itself a question. But would the Minister not agree that there is a synergy here to be had and there must be a better way of doing this?

Senator P.F.C. Ozouf:

I am more than happy to ask Property Holdings to consider using the Jersey Archive more appropriately. That £140,000 figure was just simply the cost of providing the storage. They provide an additional approximately £200,000 worth of advice in relation to the advice on storage, the transferring, the cleaning of records, the repackaging of records and also opening the facility for 3 days a week to the public. So they provide a great deal of benefit to the public in excess of £140,000.

2.8.6 Deputy M.R. Higgins:

I have another reason for asking the question. Part of it is - in fact it has been alluded to by Senator Ferguson and the Deputy for St. Mary - it is the idea of digitising archives and so on. I am very concerned that the States will this year be debating a Freedom of Information Law ...

The Bailiff:

Deputy, I am sorry, this is question time.

Deputy M.R. Higgins:

Okay. We have a Public Records Law; we have a Freedom Information Law that is going to be introduced; States departments have records scattered all over the place, they do not know what they have got. They should be digitising it, they should be dealing with this. We cannot ... does the Minister not agree that departments should not be allowed time when the Freedom Information Law comes in, to claim that they have got to get their records in order if they do not know what records they have got and where they are and digitise them?

Senator P.F.C. Ozouf:

Well at least I understand now the background of the reason for the question. The reason for the question is a forerunner to the Freedom of Information Law and I understand exactly now where the Deputy is coming from. I am happy to look at the issue of digitising records. Clearly, in the Freedom of Information Law, if it is brought in - it depends how it is brought in - there will be a requirement for States departments to release information. Clearly, in the longer term, it is important that we do digitise information because that is going to keep it in a cheaper, but also perhaps a more secure way and a more accessible way in the longer term.

2.9 The Deputy of St. Mary of the Minister for Transport and Technical Services regarding the sustainable transport policy consultation document:

Given that the Minister received over 1,000 responses to the Sustainable Transport Policy consultation document, when will a report be available which summarises it and what form will this report take?

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

An early preview of the raw results were provided to the Scrutiny Panel yesterday and the formatted and finalised summary report will be published electronically on the Government website at the end of February 2010.

2.9.1 The Deputy of St. Mary:

The reason I ask this question is that consultation is extremely important and I hope the Minister shares my joy at the strength of the response on this issue because it really was quite startling. It would be nice if he told us how many responses, because I said over 1,000 and that is the first little question. On the written comments, I know that the SurveyMonkey data is available and that is fairly easy to do, but what I was really wanting to know from the Minister was the way that the information would be presented as with regards to the many written comments. If he could tell us how many written comments there were, how they are going to be processed and how they are going to look in the final report, because I am very concerned that when people take the trouble to consult and give us the benefit of what they think that we should respond likewise.

The Connétable of St. Brelade:

It is a bit difficult for me to respond to the detailed questions of the Deputy without notice, but he is in possession of the draft responses as of yesterday and I think, to be fair, we have to wait till the end of the month until the proper summary is produced and then the results can be properly evaluated. I think I would take this opportunity to remind the Deputy that my department are in constant communication with the Scrutiny Panel and we liaise with them with regard to the production of these results and it is quite difficult to be running a parallel response service to the Deputy at the same time as the panel. I suggest that he does deal with the Scrutiny Panel and I am sure he will glean all information and put all his requests through that channel and it will be far more efficient.

The Deputy of St. Mary:

I am sorry, I raised this issue in the House because the issue of consultation itself is of extremely great importance on a wider gambit. It is important all around the States. The question was quite simple, I just wanted to know how the responses would be collated so that we get the full value out of them and I am surprised that the Minister thinks he has not had notice of this question.

The Connétable of St. Brelade:

I have not had notice of the question. I received the draft raw results, as intimated, yesterday as did the Deputy and I really cannot comment any further than that. So I think it would be far more beneficial to us all if the Deputy were to perhaps put this as a written question and enable me to respond in a far more sensible manner.

2.10 Deputy G.P. Southern of the Deputy Chief Minister regarding the breakdown of mediation talks with teachers' representatives:

Will the Minister inform Members of the reasons for the breakdown of mediation talks with teachers' representatives over their dispute with the States Employment Board?

Deputy A.E. Jeune of St. Brelade:

May I just ask for a point of clarity, I think it is? In relation to this question, would the Deputy need to express an interest?

Deputy G.P. Southern:

No, I have no interest in the pay negotiations taking place, nor has my wife; she is a representative, she is a retired teacher.

Senator P.F.C. Ozouf (Deputy Chief Minister - rapporteur):

I have provided an answer on a written question to the Deputy on this subject. I am advised that the reasons for the breakdown in mediation talks with the teachers representatives on the pay dispute was that the teachers representatives were only prepared to discuss a pay award from 1st June 2009 and were not prepared to discuss the employer's current offer for the next 2 years. The S.E.B. (States Employment Board) negotiators were not authorised to negotiate an award which would have increased last year's pay bill in 2009 which is in accordance, of course, with States decisions on this matter.

2.10.1 Deputy G.P. Southern:

Does the Minister accept that since the mediation team were given no scope to change any terms whatsoever, that this was, and certainly was seen by teachers' representatives, to be merely a time-wasting effort in which 5 national representatives were brought over to the Island to waste their time for 8 hours around a table?

Senator P.F.C. Ozouf:

Mediation is designed for both parties to explain what their position is on both sides of the argument and indeed it is an opportunity for the employer to explain the pressures on budgets, on States finances, to explain the offer and also to look forward to the future offers. I would have thought that the mediation would have been a very beneficial experience and a worthwhile opportunity for both sides and I regret to hear that simply the teachers' side - of which the Deputy will know well - was not simply prepared to engage in discussions but simply go back to the 1st June 2009 offer which must be regarded as a matter which has closed.

2.10.2 Deputy G.P. Southern:

Is the Minister aware of a subsequent letter from the Director of Education to teachers which says of the offer for 2010 and 2011: "This offer is dependent upon public sector workers agreeing to co-operate in a comprehensive review of terms and conditions of service. By agreeing to co-operate the unions would not be committing themselves to agree any eventual outcome." Firstly, is he aware that that assurance on non-agreement was never given to teachers representatives or to public sector representatives prior to this appearing in the letter and, secondly, does he not further accept that this comprehensive review of terms and conditions is, in fact, the one that he will conduct and

bring to this House? So whether agreement is reached or not, it will be this House and this Minister who is imposing a change in terms and conditions on public sector workers?

Senator P.F.C. Ozouf:

I was not at the mediation so I cannot say exactly what has been said and I am sure that the Deputy will understand that some Members are uncomfortable with him asking some questions in this manner. [Approbation] I am sorry if that is an uncomfortable position but it is something ...

Deputy G.P. Southern:

Can we clarify once and for all that there is no conflict of interest involved in my asking questions about public sector workers, teachers, or otherwise? Because this is where it keeps on being repeated and it is totally unfair.

Senator P.F.C. Ozouf:

It is a matter for the Deputy, clearly. But I believe that all ...

Deputy G.P. Southern:

Will he withdraw the implication that I am doing something wrong? Please do so. [Approbation]

Senator P.F.C. Ozouf:

Sir, it is a matter for the Deputy, I do not want to have a public debate about the membership of the negotiating team. It is really a matter for the Deputy, and other Members have raised it, it is not for me to comment. All I will say is that I believe I am aware of the letter that was sent by the Director of Education, in fact I have a copy of it here.

[11:15]

I believe also that teachers are understanding of the economic situation that the Island and other places face and I am sure that teachers will want to engage in the process of the comprehensive spending review in a manner which is designed to secure the long-term best interests of our young people and skills-raising in the Island, and that they will voluntarily come forward and be part of that review and come up with constructive helpful suggestions so that we can design an education service for the future.

2.10.3 Deputy G.P. Southern:

Is the Minister aware that previous improvements in terms and conditions in teaching, such as reduction of hours, cover, improvements in supplies, resources for teachers, a reduction in hours spent on administration, have not been universally across the board applied in all schools and that teachers representatives are in fact extremely sceptical of any offer on any table because previous agreements have not been upheld.

Senator P.F.C. Ozouf:

I do not believe that it is appropriate that we have negotiations on individual pay groups across the floor of this Assembly where there is bargaining processes and negotiations with recognised bodies and unions which happen to deal with that. What I will say in relation to teachers' pay is that I do know that pay rates for teachers in Jersey compare well to those of comparable jurisdictions and particularly the U.K. (United Kingdom). There are pressures in public finances in Jersey and I know that teachers know of those pressures and will want to work with the employer going forward in order to find solutions to our public finances difficulties.

2.10.4 Deputy G.P. Southern:

Is the Minister further aware that in fact terms and conditions in the U.K., especially with respect to pensions in particular, are in fact a great improvement upon terms and conditions in Jersey, and that

as a consequence there is a danger that recruitment from the U.K. into the Jersey education system is under threat?

Senator P.F.C. Ozouf:

I am advised that salaries compare well in Jersey with the U.K., especially at the lower and middle ranges and that we currently do not have a recruitment problem apart from particular disciplines, of which there is a national shortage. We also do not, I am pleased to say and advise, do not have a retention problem. We will continue to treat teachers appropriately and certainly the confidence which we can have in this Assembly towards our public financial management should be more reassuring to teachers than perhaps in the United Kingdom when one hears dramatic budget cuts of up to 20 per cent in departments, particularly in higher education which I would have thought it would be a concern to teachers in the United Kingdom but certainly not in Jersey.

2.11 The Deputy of St. Martin of the Deputy Chief Minister regarding the advice and training given to States employees on the Human Rights (Jersey) Law 2000:

Will the Chief Minister advise Members what advice and training, if any, is given to States employees and newly-appointed States employees, in particular, on the Human Rights (Jersey) Law 2000; what the current budget for the promotion of Jersey human rights obligation is; and whether there are any plans to increase the funding for that activity?

Senator P.F.C. Ozouf (Deputy Chief Minister - rapporteur):

It feels like the hot seat, Sir. The Deputy of St. Martin asked a similar question in February 2009 to which information was given demonstrating the significant resources that were expended on staff training when the Human Rights Law was introduced. I have asked for a copy of that answer to be distributed for Member's information. A booklet and video was produced as training aides and ongoing management training is provided which addresses issues of fairness in dealing with the staff and the public sector. While there is no specific budget for training for the Human Rights Law, the principles of the law and how it is applied in different roles are, and should be, embedded in policy and procedures and training throughout the States of Jersey. Those policies and procedures include matters specifically in relation to the Human Rights Law.

The Deputy of St. Martin:

I did not get the answer to the question I posed. I want to know really what budget ... would the Minister inform Members what budget has been allowed for and is there likely to be an increased budget for training?

Senator P.F.C. Ozouf:

I know the Deputy cares a great deal about human rights and what I would say to him is that it is almost encouraging that there is not a specific budget for human rights, education and training. Just as the Minister for Planning and Environment tells us that Environment should be at the heart of everything we do, so human rights should be at the heart of everything that the public sector do and should have a wide-ranging understanding. Certainly, the Council of Ministers was briefed by the Attorney General - his predecessor in fact - in relation to human rights. There has been a workshop which was also put on by the former Attorney General. I think that human rights knowledge and awareness is much greater than it was a number of years ago and should be at the heart of everything that we do.

2.11.1 Deputy M. Tadier:

I almost did not blink there to hear that the Minister for Treasury and Resources say that human rights is so important that we should not have funding for it, because presumably he will

acknowledge that it is such a specialist area that it does need a specialist funding stream as well. Is that not the case?

Senator P.F.C. Ozouf:

I did not say that there should not be a specific funding. I said that it should be at the heart of a lot of the department administrative functions that they carry out. Whether it is in relation to Home Affairs, in relation to Health, in relation to Housing, *et cetera*. Human rights cannot be simply put into one single box, it is at the heart of many decisions within public administration and to bring out a budget for it, in an identified sense, would be inappropriate and almost sideline it.

2.11.2 Deputy M. Tadier:

I would simply suggest that having a central body that would look specifically at human rights, which other departments could draw on, would be a benefit and I would ask the Minister if he agrees with that and to consider that.

Senator P.F.C. Ozouf:

Human rights is the responsibility - or should be - of every department working group, every States department and every public sector employee. So it is much wider than just simply having one budget with one person who exercises it. It is like what I say about financial management, it should be something that everybody is responsible for and human rights is the same.

2.11.3 The Deputy of St. Martin:

I think it is very helpful that the Minister has circulated the question that was asked last time because Members can see how little has been done from my question of last year. Could I ask the Minister then; a human rights working group was established in 2000 for the purpose of making everyone aware of it but it was dissolved in 2002. I would have thought that working party was probably a set of willing volunteers. Would the Minister not consider about re-establishing a working group, maybe from a cross-section, maybe States Members, or indeed States employees, so there would be some central body in line with what Deputy Tadier was talking about? Would he reconsider establishing that working group?

Senator P.F.C. Ozouf:

I am happy to take that up with the Chief Minister on his return. I would say to the Deputy that I think that a great deal has been done since 2000 when the working group clearly had a job of work to raise the basic understanding of human rights. The human rights seminar that the Attorney General carried out last year is an example of widespread understanding and a deeper understanding and a raising of the level of debate on human rights issues. Perhaps it is also something that Scrutiny could look at if they deem that this is something that should require resources from Scrutiny.

2.12 The Deputy of St. Mary of the Deputy Chief Minister regarding the use of the Retail Price Index (x) as the 'headline figure' instead of R.P.I:

Given that the R.P.I.(x) (Retail Price Index excluding mortgage interest payments) figure captures the real impact of any increase in the cost of living for all Island residents, will the Chief Minister undertake to review the position on the publication of the different types of R.P.I. so that the R.P.I.(x) figure becomes the "headline figure", instead of the R.P.I., which includes house prices and can therefore be misleading?

Senator P.F.C. Ozouf (Deputy Chief Minister - rapporteur):

The all-items retail price index is a compiled calculation published by the independent States Statistics Unit. The R.P.I. is designed to measure the average change in the price of goods and

services purchased by an average household in Jersey. The R.P.I. is therefore based upon the spending of such a hypothetical household. Clearly not all households in Jersey possess mortgages however when averaged across all households mortgage interest payments do appear in the spending of the average household and hence are included in the R.P.I. with an appropriate weight. Similarly, not all households purchase alcohol or tobacco, however when averaged across all households spending on both alcohol and tobacco do appear in the spending of the average household, and there again are included in the R.P.I. with an appropriate weight. The change in the R.P.I. provides the measure of the overall average change in prices experienced by the average household. The additional price indices produced by the Stats Unit, R.P.I.(x), R.P.I.(y) (Retail Price Index excluding mortgage interest payments and indirect taxation), R.P.I. Pensions and R.P.I. Low Income, provide insight into the underlying inflation and other effects for particular household groups. The appropriate measurement of consumer price inflation for the Island is and must remain R.P.I. In no sense is that measure of inflation misleading and therefore based on that the R.P.I. will remain the headline figure. However the R.P.I.(x) remains the target of underlying inflation which is a target that this Assembly has set.

2.12.1 The Deputy of St. Mary:

That is a very interesting reply. R.P.I.(x) is the measure of underlying inflation and that is what we are targeting. Could the Minister comment on the fact that last year in the middle of July, on the front page of our local paper, there was a headline about the pay freeze debate and directly underneath that there was a headline: "Retail Prices Fall" as if to say pay freeze not a problem. Now, that retail prices fall was based on the R.P.I. because house prices had fallen and with them the mortgages. Would the Minister not agree that that was misleading to the public and that R.P.I.(x) is a better measure of how price rises impact on average families?

Senator P.F.C. Ozouf:

I try and take responsibility for a lot of things but I cannot take responsibility for what the *J.E.P. (Jersey Evening Post)* writes. I think it is quite clear. The headline rate of inflation is R.P.I., which includes the cost of house purchases, and which includes both a component of interest but also the cost of housing. Underlying inflation removes the variable of interest rates and house purchase cost and is R.P.I.(x). I think we know exactly what each figure is. I do not know quite what point the Deputy is making in terms ... perhaps he is trying to make a point and going back to the pay freeze debate as to whether or not R.P.I.(x) should have been the leading indicator as opposed to the other. It is what it is. Headline is R.P.I., underlying is R.P.I.(x).

2.12.2 Deputy G.P. Southern:

Can I move the Minister on to R.P.I. Low Income, since he has mentioned it, and can I ask him since his statisticians collect the information for R.P.I. Low Income why it is not used as a basis for the minimum wage, which obviously must be low income households?

Senator P.F.C. Ozouf:

That is a matter for the Minister for Social Security to which I will ask him again, if he returns, if he has some new observations in relation to R.P.I. Low Income. I would agree with the Deputy that it is important to have an understanding of the inflation drivers behind all income groups and I would have thought that he would have welcomed, like me, the publication of different indices for decision-making in the Assembly.

2.12.3 Senator A. Breckon:

I wonder if the Minister could confirm that the index is influenced principally by outside factors like interest rates and oil prices of which Jersey has no control, but the other indices under it, which have been produced in the last 3 or 4 years, are local inflation such as price of goods and services and housing and petrol and things like that, and therefore they are of consequence to pensioners and those on low income?

Senator P.F.C. Ozouf:

Inevitably all of the indexes have factors which could be deemed as being out of control within the Island and those that are influenced by States policies. R.P.I.(x) simply takes out the cost of house purchase, which is a function of the cost of housing and interest rates, but all of the other R.P.I.(x), R.P.I.(y), and R.P.I. Low Income will have a measure of commodity price increases and local inflation in terms of the consumer markets. It is inevitably going to be a comparison between the 2 and I take this opportunity of thanking the Consumer Council for the work that they do in raising awareness of price levels which is part of the importance of an anti-inflation strategy of consumer awareness.

2.12.4 Deputy M. Tadier:

A moment ago the Minister told us that he cannot take responsibility for what the *J.E.P.* or any of the other media choose to disseminate. But surely the Minister will acknowledge that if he sends out a press release which highlights the R.P.I. as opposed to the R.P.I.(x) then obviously the *J.E.P.* or anyone else is going to lead with that story. Is that not the case?

Senator P.F.C. Ozouf:

I do not think the *J.E.P.* ever take what Ministers say and simply translate it into their copy. I wish they would sometimes. It is quite clear that we will explain our views of inflation in different contexts.

[11:30]

I regularly look at all of the dashboards of R.P.I. and take out various different points from what they are saying. R.P.I.(x) removes from the calculations the cost of house purchases. I want him to see what is happening to underlying inflation, not influenced by inflation. R.P.I.(y) took out the impact of tax increases to see the underlying change in prices compared to the U.K. not influenced by duty and tax increases. All of them are important in decision-making and it is important to understand what the individual indexes are measuring and we will highlight different indexes in order to explain various different situations. That is not bad.

2.12.5 Deputy G.P. Southern:

Does the Minister not accept that one factor which is under his control - that is the increase in user pays charges - will inevitably have a serious impact on R.P.I. Low Income, for example, or pensioner?

The Bailiff:

I am sorry, Deputy, I think that is drifting too far off the question which is R.P.I. indices. Are there any other questions? Deputy Le Claire.

2.12.6 Deputy P.V.F. Le Claire:

Does the Minister not agree that it is quite remarkable that the cost of house purchase has been removed from the R.P.I.(x) so that it does not skew the figures, when all of the other figures in life are determined by the cost of the rent and the cost of the accommodation as being an essential component of life?

Senator P.F.C. Ozouf:

I am happy to debate with the Deputy about the construction of different inflation measurements. The Statistics Unit used the internationally accepted definitions of different types of inflation. R.P.I.(x) is a figure which is calculated by central banks and economic units across the world and is designed to look at underlying inflation not including interest rate policies. The Bank of England, the European Monetary Authority makes decisions about interest rates but they are looking at underlying prices of which they want to look at indices that does not include the function of what

they are deciding in terms of interest rates. It is a fundamental in terms of economics to understand the drivers of different types of inflation and the Stats Unit just do the best practice of what is broadly accepted as the standards that the National Office of Statistics in the U.K. conduct. They are not inventing anything.

2.12.7 Deputy G.P. Southern:

Trying to phrase this differently so it does stay attached to the original question. Will the Minister state for Members which of the R.P.I. indices will reflect the recent massive increase in car park charges?

Senator P.F.C. Ozouf:

The car parking charges is a function of all indices in terms of motoring costs. I have not got the weighting in front of me. I have the report for the R.P.I. figure and I can give him a figure if he wants to have the inflation impact of parking charges across all the indices.

2.12.8 Deputy M. Tadier:

Around the time of the pay freeze debate there was a figure released to the ... printed in the *J.E.P.* that inflation was at or near zero only to have a few weeks later a completely different figure to say that the rate of inflation was roughly at 2 or 3 per cent. How does the Minister answer the charge that he has been manipulating the release of figures to suit his own needs?

Senator P.F.C. Ozouf:

I would not agree. The Statistics Unit publishes information independently and is completely uninfluenced by any Ministerial interventions or any representations that Ministers or civil servants may take out with the Statistics Unit. They are completely independent. They are overseen by a Statistics Users Group to preserve their independence and they are not told what to do, they report the facts.

2.12.9 Deputy M. Tadier:

I am not talking about the Statistics Group and the statistics that they produce, but I am talking about the way in which the communications team choose to release certain statistics rather than others depending on the time and the way that they can influence people. Does the Minister acknowledge that there is a key difference there?

Senator P.F.C. Ozouf:

Ministers take responsibility for what is in communication statements and communications is about explaining to the public why we are making different decisions. I do not think the Deputy would disagree that inflation rose very significantly in the period up to the global financial meltdown as a result of poverty increases, *et cetera*, and then fell dramatically as the economy saw difficulties around the world. There is nothing unusual in Jersey's inflation figures. It was low and that is one of the reasons why the pay freeze was suggested. That is a matter, I would remind the Deputy, that has been discussed in this Assembly on 2 or 3 occasions and he seems to me to be wanting to start another debate in relation to the pay freeze that was settled last year.

2.12.10 The Deputy of St. Mary:

The point here is not the pay freeze. It is how statistics are presented and how the public debate then carries on on the basis of the statistics. Half of the Island does not own a house: I think it is over half. The choice for the Minister is whether to present the public in the middle of last year with a 2 per cent increase in the cost of living or 0 per cent. That was the choice. The question is, can the Minister justify choosing 0 per cent as the headline figure and not 2 per cent, because what people experienced was 2 per cent unless they were a house owner?

Senator P.F.C. Ozouf:

Pay negotiations are not solely a function of inflation and the inflation experience and the inflation outlook. It is also quite realistic for an employer to say: "This is the amount of available resources that we have" and that is exactly the argument that was put and continues to be put to the public sector in relation to future current and future wage settlements. What is an affordable amount of money which the public and taxpayers can afford in order to fund public sector salaries? It is not only an issue of inflation, it is an issue of affordability too and I would remind the Deputy that we have got a difficulty in terms of a structural deficit and we are going to need, just as other governments around the world, need to go into constrained pay appropriately, both in terms of its level and the total amount that is available.

2.12.11 The Deputy of St. Mary:

Can I ask the Minister to answer the question? The question was can he justify the choice of one figure - 0 per cent - rather than 2 per cent given that the majority of Islanders are affected by the 2 per cent figure? That was the question. Not a whole lot about the pay freeze.

Senator P.F.C. Ozouf:

I think the Deputy is simply trying to make the point. He did not agree with the pay freeze. He is perfectly entitled not to agree with the pay freeze and he is attempting to ask me to confirm past experiences in terms of R.P.I. or R.P.I.(x) in relation to different arguments. The figures are what they are. The figures in relation to inflation are what they are in relation to R.P.I. and R.P.I.(x) last year and Members can understand very well exactly the impact on different households.

The Deputy of St. Mary:

The question was, can he justify his choice of figure? That was the question. He still has not answered it.

Senator P.F.C. Ozouf:

I did say, and I will repeat, that wage negotiations are not simply a function of inflation. They are a function of what is the available resources for the employer. That is why I tried to make the point that it is simply not a single figure of R.P.I. but also the availability of resources of which we have a structural deficit.

Deputy M. Tadier:

Can I raise a point of order; the question has clearly been asked and the Minister himself said this is not about the pay freeze and then the Minister goes on to talk about the pay freeze. This is complete nonsense.

The Bailiff:

I think it has been taken as far as it can.

Deputy G.P. Southern:

If I may seek a point of clarification because I think the Minister is in danger of misleading the House. I think it is important. The Minister seemed to be saying that inflation was low when the pay offer was withdrawn; does he not accept though he was referring to July and September figures when actually the negotiating figure is the March figure, which was 2.1 per cent?

Senator P.F.C. Ozouf:

I am quite clear that this question has been asked in order to reopen the discussions about the pay freeze.

The Deputy of St. Mary:

That is incorrect.

Senator P.F.C. Ozouf:

That is the suggestion that a figure in relation to R.P.I. was used to justify for the pay freeze. I simply say the figures are what they are and in relation to this whole issue of wages, it is not only R.P.I. that is relevant. That is all the point I am seeking to make.

2.12.12 Deputy G.P. Southern:

Does the Minister accept that the negotiating figure is the March figure which was 2.1 per cent? Yes or no?

Senator P.F.C. Ozouf:

No, I have made my point. They are, if I may say, asking me questions in relation to the pay freeze in relation to R.P.I. and I have sought to clarify that there is a difference between the 2 issues or there is a different issue of affordability and inflation. It is as simple as that.

The Deputy of St. Mary:

On a point of order ...

The Bailiff:

I think we have taken it as far as we can.

The Deputy of St. Mary:

I must ask a point of order on this.

The Bailiff:

If it is a point of order.

The Deputy of St. Mary:

It is a point of order. I just want to know what the position is. As a Back-Bencher or whatever, you call us, we ask questions of Ministers and this question has been obfuscated, but I just asked a question and the Minister is quite determined to shove me into a corner where I did not even ask the question because of that anyway, and I wanted an answer about R.P.I. because it is a very important question about how we present information, how the public relate to that information and the Minister simply does not answer the question. What is the position around that question? This is not the first time.

The Bailiff:

Ultimately how a Minister answers a question is a political matter for the Minister. Traditionally in this Assembly, unlike perhaps in Westminster, is that Ministers do in fact try and answer the question asked and that is, in my opinion, absolutely the right thing. Ministers should concentrate on the question and answer the question asked, not some question which has not been asked which is what tends to happen in Westminster. But ultimately that is a political matter, it is not a matter for the Chair.

Senator P.F.C. Ozouf:

I would just point out that I have been asked to clarify information that is in the public domain. The Deputy repeatedly asked me what the R.P.I. and R.P.I.(x) figures are and those figures are in the public domain and I think Standing Orders says that question time should not seek information that is already in the public domain.

The Deputy of St. Mary:

True. The point of the question ...

The Bailiff:

Enough, thank you. We have taken this one as far as we can and we have one more question still to be dealt with and that is the question which Deputy Vallois will ask of the Chief Minister.

2.13 Deputy T.A. Vallois of the Deputy Chief Minister regarding the future of Jersey's social policy framework:

In view of the proposed realignment of legislation and reforms being introduced later in the year by the House of Commons under an Equality Bill, would the Deputy Chief Minister advise whether the Chief Minister will be looking at a similar approach based on Jersey social policy framework, which was established in 2007?

Senator P.F.C. Ozouf (Deputy Chief Minister - rapporteur):

I understand that the Equality Bill is at the Committee stage in the House of Lords, which seeks to harmonise existing U.K. discrimination legislation where recent case law may have weakened the intended protection. Jersey has little discrimination legislation currently but is embarking on amending this, firstly through the continued development of employment legislation - the legislation on gender recognition is nearly completion and the States of Jersey recently agreed the development of legislation, of course, for civil partnerships. Clearly without the equivalent legal structure found in the U.K. a similar approach to that adopted by the U.K. cannot be taken. However, with a watching brief on the issues that the Equality Bill seeks to remedy, the development of anti-discrimination legislation in Jersey will be greatly assisted. Anti-discrimination is an important aspect of the social policy framework and it is reflected throughout the Strategic Plan. We strive to maximise the individual's potential of the population and to help everybody lead independent lives without discrimination.

2.13.1 Deputy T.A. Vallois:

The Minister mentioned discrimination in particular, but it also entails the Employment Law and Civil Partnership Law which we have just recently agreed. It also entails those laws and the basis of social policy. Would the Minister not agree that this would be something worth taking into account when the Discrimination Law eventually comes to this House?

Senator P.F.C. Ozouf:

I agree. I feel very strongly about discrimination. I do think that the best way in a small community to deal with discrimination is sometimes not the full legislative might and complex, burdensome legislation which will impose positive discrimination requirements on business in a small community, I sometimes think that that is something not necessary because we are a small community and by education, and by the good offices of organisation such as the Community Relations Trust, awareness and guarding against discrimination can be very effective. Certainly we will continue to keep a watching brief on the equality bill in the U.K. and seek to identify where we can learn from their experience.

2.13.2 Deputy G.P. Southern:

Will the Chief Minister pay particular attention to the impact of this new reform in the U.K. on access to postal voting for those with disability or mobility issues?

Senator P.F.C. Ozouf:

I am sure that is something that the Privileges and Procedures Committee will be looking into.

2.13.3 Deputy T.A. Vallois:

The Deputy Chief Minister mentioned positive discrimination, is he aware that in the Equality Bill they are mentioning bringing in regulation on positive discrimination; that it will be allowed and what his views are on that?

Senator P.F.C. Ozouf:

I am advised that there is going to be all sorts of positive discrimination in terms of obligations on organisations and public authorities to positively discriminate in a number of different ways and the Equality Law marks a further step in terms of positive discrimination in that regard. The U.K. is 20 years ahead of Jersey in relation to Discrimination Law, we are not even at the first post in relation to a Discrimination Law. I want to see that Discrimination Law brought to the Assembly and, in time, if the case is made - and if a strong case is made - the need for positive discrimination. But I think the best way in a small community is by way of persuasion and awareness raising of the need not to discriminate whether on the grounds of religion, creed, sexual orientation, age, disability, *et cetera*.

[11:45]

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

The Minister has just said that Jersey is 20 years behind with Discrimination Law and that he wants to see it brought forward. Will he in his role as the Deputy Chief Minister implore our Chief Minister to move ahead with this, and it is about time it was brought forward and it should not be as tardy as other laws that are only brought in when it is desperate measures?

Senator P.F.C. Ozouf:

It is a matter for the Minister for Home Affairs to deliver on Discrimination Law. I would say to the Deputy that I hope it is not desperate measures that Discrimination Law and the matters that Deputy Vallois raises about positive discrimination are not required because we are a caring community in relation to being respectful of different types of individual and people are not judged by what they look at or what they believe or where they come from. That is a function, I think ... something we should celebrate in Jersey as being a tolerant, accepting society. Legislation should be the backstop and I hope that we will never have a crisis in that regard.

2.13.5 Deputy D.J. De Sousa:

Just a quick supplementary. When I was recently in hospital I dealt with an Islander that has an illness that has caused a huge discrimination, so it does go on on Island. It is very naïve to understand that it does not.

Senator P.F.C. Ozouf:

I accept that it does and the Deputy raises an important point that we do not need a Discrimination Law in order to identify where there are issues. That is a matter that should be taken up with the Minister for Health and Social Services or the relevant public authority in order to deal with it. I would hope that we do not need a Discrimination Law to deal with where there are isolated cases of discrimination.

2.13.6 Deputy M. Tadier:

Does the Minister agree that he is once again partaking in sophistry, where on the one hand he pays lip service to the need for the importance of non-discrimination in Jersey but not to the point where we can enforce it in law? Will he confirm that the bottom line is that we cannot afford in Jersey to have a robust Discrimination Law or an Equality Bill such as in the U.K. because what comes first in Jersey is the bottom line in finance and not people's human and civil rights?

Senator P.F.C. Ozouf:

I am sorry that the Deputy feels the way that he does. He knows that I care very passionately about equality issues for a number of different reasons. I would say to the Deputy that every Member of this Assembly would be of the opinion that we should not need an anti-discrimination law or positive discrimination because we are a caring society of which Jersey is recognised both in terms of accepting different kinds of individuals but also caring for those people that are less fortunate

around the world, and the generosity of the Island over a number of decades I think is a testament to that. I do not think it is the bottom line. I think that Jersey is a generous, tolerant place and long may it continue.

2.13.7 Deputy M. Tadier:

With due respect, the Minister's argument is untenable because if we follow the argument through we could say that we do not need any laws. We do not need murder to be criminal because most people are not murders. It is a complete nonsense and will the Minister acknowledge that if Jersey is to safeguard its reputation internationally, which we are all trying to promote, then this is not conducive and not in line and that we do need to put this in legislation?

Senator P.F.C. Ozouf:

I believe that this Assembly needs to concentrate on law which really deals with the issue of discrimination in a positive way, for example, passing the Civil Partnerships Law, passing the Gender Recognition Law. Those are cases whereby the States of Jersey can recognise people equally and is not almost dealing with the problem after it has happened, which is a positive in the way that Deputy Vallois raises. That is where precious legislative time should be spent.

2.13.8 Deputy T.A. Vallois:

The point in me raising this question was that the point in the House of Commons bringing this legislation was for realignment and efficiency in bringing the laws together. Seeming as our forefront is to be more efficient in the future I brought this just purely on the basis of the social policy framework and how disappointed I am that this is not being brought to the forefront more and more with regards to our propositions, *et cetera*, in *Keeping Jersey Special*. Would the Deputy Chief Minister, therefore, undertake to ensure that this is brought to the forefront and used more in relation to propositions, reports, *et cetera*, in order to change cultural and political behaviour?

Senator P.F.C. Ozouf:

I thank the Deputy for doing exactly what she has sought to do, which is to raise awareness of the issue of discrimination, to raise awareness of the fact that there is a changing landscape in terms of discrimination legislation in the United Kingdom, and she has made an important point, which is going to reach the people that are involved in drafting and considering anti-discriminate legislation. I have not discussed this answer with the Minister for Home Affairs, but I will do so and seek to learn from any experiences from the U.K., and I thank the Deputy for raising this important issue.

The Bailiff:

That brings questions on notice to an end. Before we move to questions without notice, as discussed earlier, I think it would be helpful for the Minister for Housing to make his statement concerning the single qualified property classification. There will then be up to 10 minutes questions following that, and then we will move back to questions without notice.

Senator B.E. Shenton:

Before the Minister makes his statement, could I just point out that this morning I passed to the States Greffe a proposition seeking him to revoke the Ministerial decision introducing a single qualified property classification and I would ask him to give his assurance that the old policy will remain until we debate the matter.

The Bailiff:

No doubt you can ask a question about that when he makes a statement. Minister, would you like to make your statement?

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

3. The Minister for Housing - statement concerning the Single Qualified Property Classification

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

Let me say before I make my statement that I have the utter respect for this Assembly and recognise and value that it is supreme over all matters political. I want to make quite clear that any decisions or policies that I have been making have been with the full blessing and co-operation of this Assembly. I wish to explain to this Assembly my decision to introduce a single qualified property class; in particular why I felt I could reasonably make this decision, why I do not consider this change as one which will have a major effect. I would also like to take this opportunity to clear up any remaining uncertainty about what this change actually means. I took this decision after much advice as the Minister for Housing in the course of administering the Housing Law. This includes the ability to grant housing consents and apply conditions, in particular as to in what classes a qualified person can occupy their property. The Housing Law specifically requires me to have regard to minimising any further aggravation of the housing shortage, and I take this responsibility very seriously indeed. Indeed, I remain very concerned about the affordability of housing in Jersey and I fully appreciate that Members are concerned too. The last major change to property classification policy was in 1999 when the Committee of the day - and I see 2 members in the Assembly, Senator Breckon and Deputy Duhamel who were on that Committee - decided that all new flats developed from commercial property would be (a) to (h), whereas previously they had all been (a) to (j). That Committee took that decision without reference to the States in the same way as I have now made this decision. Committees and I have made various property reclassification during and before my 10-year tenure. I am therefore satisfied that there is clear precedent for the decision I have now made. I am acting in the manner of successive Committees. I also make this decision in a clear expectation that this change will not have an effect on the overall level of property prices in Jersey because it is my belief that major changes in policy which affect the everyday lives of the Islanders should be brought to this Assembly. This change is not such a change. As everyone can see from the review of the paper on any evening, the vast majority of property is already (a) to (j), as all houses over 2 years old and over £250,000 in value are already classified as (a) to (j), and until 1999 all flats also were (a) to (j). Our more in-depth analysis shows that 80 per cent of the property market is already (a) to (j). Making the final 20 per cent also (a) to (j) will not create more (j)s, it will just spread the existing (j) cats. more evenly across the market. To place this into context there are under 1,800 (j) cats. in Jersey out of an adult working population of 56,250. To put it another way, there are 35,500 households in Jersey of which 1,800 are (j) cat. households. In short, 3 per cent of the working population are (j) cat. employees and 5 per cent of the households. I simply do not believe that opening to the final 20 per cent of the property market to these small numbers of people will affect prices, and remember out of the 1,800 (j) cat. licences a large percentage of those are nurses and teachers who have concessions and are exempted and can occupy (a) to (h) accommodation as part of a concession. The property market will not affect prices. Simple logic will tell you this. I have considered all the available statistics. I have consulted very much with the Migration Advisory Group, officers of the Population Office, and finally, with the Council of Ministers at their meeting on 14th January. It is therefore a decision informed by a collective and extensive knowledge of the housing market and a long association with related professionals and the wider public. Indeed, we recently consulted on these issues widely. Lo and behold, the latest migration consultation document did not produce one response from any States Member - not one on the Green Paper that went out. Statistics and experience aside, would we not prefer (j)s to occupy a flat if they wished rather than a family house. Indeed, why should we restrict the choice of these very valuable workers who contribute so much to our economy and especially to our health and education services? As to P.25/2005 and the recent consultation on the migration policy, both clearly stated that a single qualified property class was the aim. P.25 received strong support and recent consultation highlighted only support. As I say, no States Member replied to the recent consultation. I view both these as persuasive but not

the foundation for my legal decision, which is made under the Housing Law. As I say, if I felt this decision was a major policy change I would be before you for debate, although I have to say that these proposals have been in the open for all to see and comment on for several years. I thank the Members for the time and attention and I can give an absolute categorical assurance that if any Members would like a comprehensive briefing on the subject... I would also be very happy to pass this on to the Scrutiny for them to look at it and I would be very happy to co-operate completely, as I said, with Scrutiny, and with any Members, to explain to them the very valid reasons why this is an important part of a migration policy.

3.1.1 Senator B.E. Shenton:

Can I ask the Minister whether he is willing to withdraw the Ministerial decision and bring it back as a Report and Proposition, and if not **[Approval]** could he give an assurance that the old policy will stay in place until the proposition has been debated.

Senator T.J. Le Main:

The answer is no, I am not prepared to give any assurance at this moment. I need to make sure that, the issues that are going to be raised today, that I can consider them; I will have to consider them with the Law Officers, and certainly with my office and department. I cannot, at this time today, give any assurances on anything because quite honestly I need to know the issues in regard to what is going to come out of question time today.

3.1.2 Senator B.E. Shenton:

Is the Minister for Housing saying that he will give consent to help out developers even though this Chamber would like the proposition debated?

[12:00]

Senator T.J. Le Main:

That is absolutely wrong. We met developers, my Assistant Minister and officers, and it is quite clear that this policy did affect some of the major developers. In fact, it will assist some of the many local Jersey people that do own (a) to (h) share transfer where they will have a little bit of a wider market now to **[Aside]** ... no, a little bit of a wider market to offer their property. But it is quite clear that the large developers are not happy with this decision and would have preferred to maintain the *status quo*.

3.1.3 Senator A. Breckon:

In the Minister's statement near the end he made reference to a legal decision which is made under the Housing Law. He also says: "The Housing Law specifically requires me to have regard to minimising any further aggravation." Of course the Law comes from 1949. I would ask the Minister what he sees is consistent with that and quoting the decision of a Committee in 1999 which changed the classification on commercial property from (a) to (j) to (a) to (h), which in fact is tightening the housing market, how he sees any of this as being consistent with his role of aggravating the housing shortage and the policy that he has come out with. Can he tell us where the consistency is and where his role is consistent with the 1949 Law?

Senator T.J. Le Main:

The Deputy very well knows, as an ex-member of a previous Housing Committee, that the department's policies are not set in stone. As the markets develop or as issues develop over a period of years then one has to produce policies that are going to be good for the people who live and work and contribute to this Island. The issue is quite clear that, since Senator Breckon and others who have experience on the Housing Committee... that they realise that there has to be the Committee or the Minister with information provided which will not aggravate or inflate the

housing market, who must be able to make decisions on a regular basis so as to meet the needs of the public and also to provide homes for people.

The Bailiff:

I will ask for your future answers to be more concise please.

3.1.4 Senator A. Breckon:

I did ask the Minister under the Housing Law, as it was established in 1949, can he confirm that his role is still to prevent aggravation of the housing market?

Senator T.J. Le Main:

Yes, and the decision that has been made with all the information provided to myself, to the Migration Advisory Group and all other interested professionals that we have consulted with shows quite clearly that this will not aggravate the housing market whatsoever.

3.1.5 Senator S.C. Ferguson:

Just a procedural matter: will the Minister say exactly who he consulted with before he signed this decision and could he explain why he signed a decision which was apparently prepared by the Population Office, which is located in the Chief Minister's Department?

Senator T.J. Le Main:

Firstly, because the Minister for Housing is the person in Population that has to administer the Housing Law until such time that the Housing Laws are wrapped-up and a new Migration policy is in place. So the Minister for Housing is responsible for the existing Housing Law until it is got rid of. The second question I am afraid ...

Senator S.C. Ferguson:

I asked exactly who the Minister consulted with before he signed the decision.

Senator T.J. Le Main:

There was extensive consultation with quantity surveyors, developers, lawyers, estate agents; I believe C.A.B. (Citizens Advice Bureau) were involved. All people that mattered in the accommodation agency were, as far as I am advised, completely and utterly involved in seeking the information we needed.

3.1.6 Deputy J.A. Martin:

I think the Minister has just hit the nail ... the crux of the matter on the head. He is now the Minister who makes Housing Law. Under the new Migration policy it will be Population; (a) to (j) will become a licensed person, a licensed person can be anybody who walks into this Island and is employed. They do not have to go through Housing, they do not have to prove they are a special (j) cat. Now what the House is concerned about - what I am concerned about - will the Housing Minister not accept... I think he may have even been hoodwinked by the Council of Ministers. This is part of P.25. We are told in P.25/2005 that all policy will come back to this House ...

The Bailiff:

Concise question please, Deputy.

Deputy J.A. Martin:

... and I would like him to really reconsider this as part of the whole migration policy. If this bit goes through our licences and entitled are all going to come through the back door because this is a major part of our new Migration policy. Will the Minister not consider rescinding his M.D. (ministerial decision)?

Senator T.J. Le Main:

I am not considering anything at the moment, as I explained, because I need to get and discuss with my department, and the Chief Minister's Department, and maybe the Law Officers, on issues that are going to rise out of the debate today. In my making this decision, P.25 inserted... and the following consultation from P.25: "The States agreed in the short term to the development of migration." Then it went on: "Systems should be carried out within the existing legal framework, the Housing Law." That is what it said, and that is what I have done which has been consistent with decisions made by myself, by previous Housing Committees over the last 10 years that I have been in post and previous years before that. Nothing seriously major about that.

3.1.7 Deputy J.A. Martin:

Would the Minister not admit that under the Migration policy a licensed person will then be able to... does he understand, will be able to occupy (a) to (j) that he is now reclarifying? Does he understand it?

Senator T.J. Le Main:

I understand very well but no-one under the new Migration policy is just going to be able to walk into the Island. They are not going to be able to walk into the Island. A person that is required is essentially employed, and will have to go through the same hoops as they do now. [Aside] They will have to, I can assure you that. The issue is quite clear that there will be, within the Migration policy... companies that will have permanent employees but to fit the post, to fit the actual current position to stop and overturning ... a turnaround all the time on positions that they are finding difficult to fill.

3.1.8 Deputy T.M. Pitman:

Really following on from Deputy Martin; given concerns over the manner in which a single qualified property class has been developed, is the Minister intending, behind the scenes, to try and enlarge his role to a new post of Minister for Housing, Migration and Population?

Senator T.J. Le Main:

Certainly not. I fully intend at the end of my current term as Minister for Housing to relinquish the role and I am sure Members will have probably thought that I had done a long stint - it will be 12 years - and I will not be putting my name forward for Minister for Housing or Population at the end of my current term.

The Bailiff:

That brings the 10 minutes to an end but of course we do have questions without notice.

Deputy G.P. Southern:

How many questions did we get in in that 10 minutes, Sir?

The Bailiff:

Nine.

QUESTIONS

4. Questions to Ministers without notice - The Minister for Housing

4.1 Connétable J. Gallichan of St. Mary:

I am having a little problem with paragraph 9 of the Minister's statement. Perhaps he could clarify for me how this statement that this will not create more (j)s - fine - it will just spread the existing (j) cats. more evenly across the housing market. I am struggling how to understand how that cannot increase competition. That the people who are house hunters in Jersey ... home hunters, I should

say, and who fit into that (a) to (h) category, now see more people looking for the same houses. That must increase competition. It is likely to increase prices rises, in my humble opinion, and I cannot see how ...

The Bailiff:

A brief question, Connétable. I think you have made that ...

The Connétable of St. Mary:

I have another bit to it please. He said this change does not affect the everyday lives of Islanders. I think this change is such a change that does that. The States, we are always told, are still the decision-making body and they are paramount, and I ask him to consider this.

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

Currently, on a recent policy change, we found that (j) cats. were tending to rent houses in a lot of cases and the policy change now includes lease only for short periods. The difficulty that we found that the lease-only... a lot of people were seeking to lease flats and it is flats and apartments that we recruited in some of these conditions. There is no question of extra (j) cats. flooding in the Island. They will just disseminate into a larger market.

The Connétable of St. Mary:

That was not my question. Does the Minister not understand that that means there are more people looking in that restricted market?

Senator T.J. Le Main:

No, the evidence that we have from all the evidence we got from the estate agents and everybody else says that is not the case. But, as I say, I am very, very happy to invite the Connétable of St. Mary and others who have got specific questions like this to come and meet with me and officers so we can go through all the evidence that has been provided to us.

4.2 Deputy G.P. Southern:

Following up from the previous set of questions, the Minister states clearly in his statement that P.25 clearly stated: "A single qualified property class was the aim." I have that proposition here. It consists of 3 parts. The middle part has 6 parts to it. Nowhere on that proposition does it say a single qualified property class was the aim. The Minister is surely misleading the House when he makes that statement, is he not?

Senator T.J. Le Main:

Not at all. It is quite clear that P.25 requested there was going to be 3 different types of issues in regard to licensed, registered and otherwise. It was quite clear in that proposition that the States in 2005 requested the Minister for Housing to go away to simplify the issue of classification and then eventually come back with the issue on the migration policy debate.

4.2.1 Deputy G.P. Southern:

Will the Minister undertake to return to the House with the wording that clearly says, as he states, to introduce a single qualified property class?

Senator T.J. Le Main:

No, I am not prepared at the moment. I have got the proposition before me but what I would like to do ...

Deputy G.P. Southern:

What does it say?

Senator T.J. Le Main:

I am not prepared to waste the time of the House on the say-so of one Member, but I am prepared to invite Members, please, to come and see us at Population so we can give a presentation. I cannot be fairer than that.

4.3 Deputy A.E. Jeune:

Given the extension now of the purchase area would the Minister consider it appropriate that (j) cats. should only be permitted to purchase a property if it is for that (j) cat. holder's occupation, and that purchase can be made on arrival in the Island?

[12:15]

Senator T.J. Le Main:

Those that want to go into flat accommodation... very few, compared to others, purchase. They can lease. Invariably most of them are leasing. It is a fallacy to think the average price of a (j) cat. purchase for the last 3 years have been over £600,000 and the majority do lease at the present time. In fact, we have given a concession for health and education that essential employees - key workers like nurses and teachers - are now able to access rental in the (a) to (h) market and that makes up a considerable amount of the 20 per cent that are the (j) cats.

4.3.1 Deputy A.E. Jeune:

If I can just ask to clarify: if the (j) cat. is purchasing that they should only be able to purchase if they are going to be the occupier?

Senator T.J. Le Main:

I think the Deputy is suggesting that a (j) cat. will purchase and not occupy, is that the ...

The Bailiff:

That seems to be the question, yes.

Senator T.J. Le Main:

We have no evidence about that. A (j) cat. is entitled to purchase and live in that property but they cannot go out and buy (j) cat. properties or other properties in the open market? They get one property for themselves.

4.4 Deputy M. Tadier:

I am coming to the conclusion that this is something for a full debate rather than for question time and hopefully the Minister will indulge us in due course. I have concerns about paragraph 6. The Minister seems to justify the fact of taking this individual decision on what is effectively a very significant change in the Housing Law on the basis that there is already a precedent. But first of all, does the Minister acknowledge that that does not necessarily make it the correct procedure and, moreover, does he realise that the previous decision to which he referred was taken by a Committee rather than by an individual, so it was taken by several States Members and there is a significant difference there?

Senator T.J. Le Main:

I do not disagree with that, but if may say so, that there has been consultation; there has been full opportunity for Members to come back. They are bringing up these issues now, why have they not over the last period of consultation come back with some of these questions? They have not. I would like to clarify a point made by Deputy Jeune. Of course a (j) cat. or anybody can buy share transfer, apart from being able to buy the (j) cat. property in their own name, they can buy a share transfer, anybody can.

4.4.1 Deputy M. Tadier:

I accept the point about consultation, but the Minister will obviously know that Members are obviously busy with their own consultations with constituents and perhaps we can do with more resources ourselves. But the bottom line is, will the Minister bring this back for debate? There is clearly an appetite in the Assembly today to debate this and there will be questions left unanswered. Will the Minister, as was asked by Senator Shenton, bring this back so we can have a full and proper debate and present it in the form of a proposition?

Senator T.J. Le Main:

I do not think the Deputy has been listening to what I have been saying ...

The Bailiff:

I think it is either a yes or no answer to that?

Senator T.J. Le Main:

The answer is no at the moment, as I have responded to Senator Shenton, but I will be working and speaking with Senator Shenton on all these points later.

4.5 Deputy D.J. De Sousa:

Does the Minister not consider that regardless of what he is saying, if you open up a market to a wider group of people that it is going to have an effect on price? The fact that you are going to have more people going for the same properties is going to inflate the price. The overall problem we have in Jersey with house prices is supply and demand. If you are going to increase that demand the supply is not going to be there, it is going to push up the price.

Senator T.J. Le Main:

No, that is not the case. The evidence we have got does not show that at all. The (j) cat. market is only a very small percentage of the market. It is a very small percentage and what it means is that there are some very essential workers in the market place at the moment and I can think of involvement with the church; I can think of sports clubs; I can think of charities.

The Bailiff:

That is not quite the question. The question was ...

Senator T.J. Le Main:

They need to be able to access into a market where it is affordable, the same with nurses. It will not affect it from the information we have got. I invite the Deputy and others, again - I am going to keep repeating this - to come and see us so we can give a full explanation to allay their fears.

4.6 The Deputy of St. Martin:

The Minister makes great play about the housing shortages and bases it very much on the fact he has a waiting list for States properties. He has mentioned this morning about having evidence from estate agents about there are ample houses. Will the Minister inform Members what statistics and information he has regarding the number of vacant houses which are in the public market and will he come back to the House with those figures?

Senator T.J. Le Main:

I am very happy to come back with that, which is publicly-owned. I know that Health are sitting on quite a few empty properties at the moment. As I say, the discussions are taking place between Housing and Health to see whether we can work together on this. But the issue is that Housing have very few... some around Ann Court, but generally it is not in the Housing stock. But I will come back to the Deputy and try and give him that information.

4.7 Deputy S. Pitman:

In relation to a recent case I took to the States Complaints Board regarding a Mrs. X and her 2 children, accompanying report 123, would the Minister inform Members whether or not he is an acquaintance of Mrs. X's former husband?

Senator T.J. Le Main:

No. I knew Mrs. X's former husband as the first wife was one of our tea ladies here, so I knew the lady very well until her tragic death. She was a tea lady in an enormous place, so I know of him and I know that he sent me several emails. Certainly not an acquaintance and I would not know him if I saw him in the street.

4.7.1 Deputy S. Pitman:

During the complaints hearing the Minister read out part of an email that was sent to him by Mrs. X's former husband which casts falsehoods over Mrs. X. Would the Minister indulge me with this email so I can be assured that he has not intentionally influenced the Minister's decision not to grant Mrs. X and her children with housing qualifications because it was my understanding that he has done his utmost to stop Mrs. X from getting her qualifications?

Senator T.J. Le Main:

What a ... absolutely erroneous and I reject that. If I give the email address that I received from this gentleman in Thailand I will give it to the Deputy and if she gets the consent of the person that sent me the email then I am very happy to pass it on. But until such time as I get the consent of the sender, the Deputy seems to think that I am prepared to break the Data Protection Law. **[Laughter]**

4.7.2 Deputy S. Pitman:

Will he seek the consent of the gentleman because I would like some reassurance that there is no influence on the Minister's decision?

Senator T.J. Le Main:

I will give the email address willingly of the person who contacted me from Thailand, and I will give it to the Deputy and I will leave it to her then to seek permission of the sender of that email and if he is prepared to do that, then I am happy. Otherwise the answer is a categorical no.

4.8 The Deputy of St. John:

Does the Minister really believe that he is stumped on first-time buyers (a) to (j) where first-time buyer homes are in the region of £450,000? Does he really believe that his answers this morning are adequate and will he... and I am asking will he please bring this back to the House so we can debate it and if not would he consider standing down?

Senator T.J. Le Main:

I am sitting down, I am just going to get up. The issue is, I just cannot work out from the Deputy of St. John where first-time buyers comes in all of this because this policy change does not affect first-time buyer homes, it does not affect sheltered housing, or over 55s, it is specifically in the (a) to (h) market.

4.8.1 The Deputy of St. John:

Will the Minister accept that it affects the price of property at the lowest levels where the first-time buyers come into the market? That being the case, and everything he has told us this morning about the advice he has taken, is it not a fact that he is friends with a developer - big friends with a developer - who probably gives him advice at where the markets are at any one time?

Senator T.J. Le Main:

I would like to know who this developer is, but I am friends with all the developers because at one stage or another they all contact me, and I am sure they do the same with the Minister for Planning and Environment. **[Laughter]** We have contacts with the developers and whenever the developers want to meet with my Assistant Minister and myself, we meet with officers with the developers. The issue is that ... sorry, I forgot the second ... **[Laughter]**

The Bailiff:

Would you stand down if you do not bring it back to the House?

Senator T.J. Le Main:

I could not stand down, you need me so much. **[Laughter]**

The Bailiff:

That brings questions to the Minister for Housing to an end. We move on to ...

Deputy P.V.F. Le Claire:

May I beg your indulgence? This has caused a lot of questions in the States, it is probably going to cause a lot of time of the States in possibly a proposition, as I understand from Senator Shenton. I wonder if it would be in order to ask a question of Her Majesty's Attorney General on this basis that when I put my work permit proposition, the advice, although I am not allowed to re-issue it, was that I could not introduce a system that would take away somebody's established rights. The Law Officers' opinion was that once somebody had established rights it would be wrongful under the Human Rights Law to withdraw those and I am wondering now that the Minister has announced that these people have established rights if we now stray into the area of removing them, if it would be contradicting the Human Rights Law in that respect?

The Bailiff:

I think that is a question you should ask at a future time. There is at the moment no proposition to remove these rights. Obviously you can pose a question to the Attorney General at the next sitting or during any such debate.

5. Questions to Ministers without notice - The Chief Minister

5.1 The Connétable of St. Mary:

Bearing in mind the answer to the oral question posed by the Deputy of St. John earlier which I seem to recall noted that improvements were needed to the tasking of the Honorary Police, does the Deputy Chief Minister not consider that as the Honorary Police have been providing a valuable and, I would say, vital service for generations, the apparent lack of clarity on the part of the Emergencies Office and how best to maximise their involvement is a matter of major concern?

Senator P.F.C. Ozouf (Deputy Chief Minister - rapporteur)

I was, with the Chief Minister, disappointed to learn of the issues in relation to the Honorary Police and the lack of clarity in relation to their roles and responsibility. I have discussed, as I said, with the Chief Minister... I know he takes that very seriously, and is going to take that up and discuss it at the Emergencies Board. Certainly I would take this opportunity of thanking all those Honorary Police that did take part in the exercise for their valuable contribution, and their contribution in terms of improvement will be taken on board.

5.2 The Deputy of St. Martin:

Three months ago the States approved my amendment to set up a different States Employment Board whereby there would be 2 members of Non-executive and 3 of the Executive. It was a simple amendment to the Law. Will the Minister explain why that particular proposition has not

come back to the States so we can then move forward and have a States Employment Board as intended and what this House voted for?

Senator P.F.C. Ozouf:

I can tell the Deputy that the proposition is in final drafting and if it is possible to sign it off this week, it will be signed-off. It will be lodged certainly within the next week or so.

5.3 Senator S.C. Ferguson:

Given that the Minister for Housing's decision should properly have come as part of the migration policy debate will the Assistant Chief Minister, on behalf of the Chief Minister, give an undertaking that the Council of Ministers will bring a retraction of this decision and include this particular provision as part of the migration policy, the Migration Law, which it should properly be?

[12:30]

Senator P.F.C. Ozouf:

I am discharging the functions for the Chief Minister this week, I do sense the mood of the Assembly that there is a matter of concern here, and I will discuss with the Minister for Housing in the lunchtime adjournment whether or not we can arrange for a briefing or, alternatively, a proposition to be brought to the Assembly. I sense the mood of the Assembly on it and I sense Members want more information, and the opportunity to make a decision and I will discuss it with the Minister for Housing.

5.4 Deputy T.M. Pitman:

I am sorry the Chief Minister himself is not present, but could the Deputy Chief Minister clarify what process is in place for the Chief Minister in his role as chair of the States Employment Board to respond to people who contact him? I have been waiting since 9th February 2009, not just for an answer but for a response. Is that the normal practice?

Senator P.F.C. Ozouf:

I cannot really comment in relation to a specific matter which I am not aware of. Certainly I sit on the States Employment Board. We are representatives of the employer and if it is a disciplinary matter... I do not know what the Deputy is alluding to. I know that the Chief Minister is timely and responsive to Members' inquiries, sometimes it is not appropriate for the member of a States Employment Board to respond to an employee. But I am happy to take up the issue if it is urgent in the Chief Minister's absence.

5.5 Deputy G.P. Southern:

The Minister refused to be drawn earlier on to figures for the structural deficit for 2013, nonetheless does he not accept that large scale cuts in public spending and services, and their associated redundancies, will only ensure increased recession and worsen the deficit if he performs them before 2013?

Senator P.F.C. Ozouf:

I very much hope that the economy will have returned to growth by 2013 and 2014, and therefore any necessary changes in terms of public expenditure will be able to be absorbed within the economy. I would remind the Deputy that we are investing heavily in the economy during the period of the downturn and, as I said earlier, I believe that more people are in work and more people are in education as a result of the efforts that we are making.

5.6 Deputy R.G. Le Hérisier:

Would the Deputy Chief Minister acknowledge that if the Council is to embark on a cost-cutting exercise that the public mood is very much against the massive expansion of the senior echelons of

the civil service? Does he not, for example, think it very ironical that the procurement function almost went down to zero and it is now growing again as an alleged cost-cutting function at a rapid rate of knots with a vast proportion of people at the high management end?

Senator P.F.C. Ozouf:

I am determined to have - and I know the Chief Minister is - an informed and a proper debate about public spending and not to simply run a comprehensive spending review on headlines. I think the Verita report is a good example where a States department needs to have a higher grade and a greater number of senior posts. I agree with the appointment of a Hospital Director in order to not only ensure that there is a safe hospital to implement the Verita recommendations but also to ensure value for money. I think there is an issue of people facing both upwards in terms of strategy and policy and downwards in terms of implementation and it is one of the things that a small community wrestles with.

5.7 Deputy R.G. Le Hérisier:

Would he not agree with the words of the U.K. Prime Minister, Gordon Brown, that the culture of paying top people in the civil service in alliance with the rates paid in the private sector has failed miserably and the public sector has not got the results that that money should have led to?

Senator P.F.C. Ozouf:

Two points, first of all in reference to the earlier point which I did not answer, procurement. Procurement into and improving buying across the States organisation is going to be vital in order to cut States costs joining-up different departments and their contractors in their contractual obligation to buying different things. It is absolutely vital. I do not want the comprehensive spending review to be a witch hunt about different sectors of the public service. I certainly do not think that the image or the impression should go out that we are going to start axing and wielding the axe on civil servants. There are hundreds of well-meaning, hard-working, diligent civil servants providing public services and it is our job to provide the appropriate framework for allocation of scarce States resources in the longer term. This is not just about civil service. This is about improving financial management across the organisation, and helping people to provide and to do their work appropriately.

Deputy R.G. Le Hérisier:

It is the classic Chief Minister's act. He has totally moved the question away from the focus. The very senior echelons of the civil service and its proliferation.

5.8 Deputy P.V.F. Le Claire:

I would like to ask the Deputy Chief Minister if he knows the thoughts of the Minister for Treasury and Resources in relation to the purchase by a Belgian insurance company of Kleinwort Benson and whether or not a concern has been expressed by any other banks in the Island?

Senator P.F.C. Ozouf:

It is a matter for the Minister for Economic Development but I am aware of the issue of the purchase of that bank and I know that it is something that the Financial Services Commission is looking into in relation to the top 500 rule, *et cetera*. It would not really be appropriate for me to comment on that but Ministers are aware of the issue.

5.9 Senator B.E. Shenton:

How does the Minister's cost-cutting mantra fit in with his decision to advertise for a personal assistant to deal with the public politicians and media at a cost to the taxpayer in the region of £38,000 per annum?

Senator P.F.C. Ozouf:

I am not immediately familiar with the post that the Senator is referring to. Perhaps he could give me further information and I can answer the question. If that is in relation to the Minister for Treasury and Resources P.A. (personal assistant) then that is a post that is well-known and Ministers need appropriate administrative assistance. I do not know what he is talking about in terms of which post it is.

Senator B.E. Shenton:

It is the P.A. to the Minister for Treasury and Resources.

Senator P.F.C. Ozouf:

I think the Senator will well understand that Ministers need the appropriate administrative support to discharge their functions appropriately.

5.10 Senator J.L. Perchard:

The Deputy Chief Minister sits on the States Employment Board and, as such, is able to answer this question, I believe, as well as the chairman of the Board, the absent Chief Minister. My question is about the length of suspensions that some States employees experience, suspensions running into many years, many running into their fourth year. Does he agree that this is unacceptable on behalf of the States as an employer and certainly unacceptable that any of our employees should have to experience or endure such length of suspensions? We have been told on previous occasions that the length of suspensions are usually due to a judicial process taking place in parallel. Does the Assistant Minister not think it is time that the obvious conflict that our Attorney General has to endure when running a judicial process and advising the Minister needs to be addressed by the States Employment Board taking independent legal advice when considering disciplinary matters against an employee of the States?

Senator P.F.C. Ozouf:

I can agree with the Senator in 2 respects. Firstly, it is important that the States Employment Board gets proper advice, which it does so in relation to suspensions and exclusions in relation to people that have been carrying out criminal activities and that their conduct is something which would normally fall within their contractual obligations and that another employer would need to do it. It is something that the States Employment Board has considered and remains vigilant about the issue of suspensions and exclusions. I would say that there are a small number, fortunately, of exclusions and suspensions that are of concern and in relation to the particular exclusion of the consultant in relation to the hospital, which I know is of concern and one of the issues that has been raised by the Senator, that is going to be subject and is subject to a review by the States Employment Board, and lessons will be learnt if there have been difficulties in that.

5.11 Deputy D.J. De Sousa:

Following on from the same line as Deputy Le Hérisier and Senator Shenton; can the Deputy Chief Minister notify the House in due course of all the new posts for civil servants that have been created within States departments in the past 12-13 months?

Senator P.F.C. Ozouf:

I am happy to attempt to do that, but again I do not want to engage in a vast amount of research when stuff is already available or information is already available to Members. I do not agree with the point that Deputy Le Hérisier made about the growing amount of civil servants in Jersey compared to the U.K. The public sector in the U.K. has grown exponentially, billions of pounds of taxpayers' money has been spent with the intention of improving services which has not always worked. I am determined to learn from the comprehensive spending review and do ours in a more thoughtful way.

5.11.1 Deputy D.J. De Sousa:

Following on from this morning's debate on the radio, when the Minister is looking for so many millions of pounds in cuts how can he justify increasing civil servant pay?

Senator P.F.C. Ozouf:

Civil servant posts are not simply pen-pushing bureaucrats that obviously... not the stereotype of people one would believe. Civil servants carry out all sorts of functions and it is this Assembly that agrees manpower levels in terms of what the financial arrangements for different departments are. Most of the money in last year's Business Plan went in health services. That is not an improvement in terms of the amount of civil servants but frontline nurses and something that this Assembly wrestles with in the Business Plan debate.

5.12 Deputy T.A. Vallois:

The *Keeping Jersey Special 2008* report mentions an analogy of the 3-legged stool in respect of policy that is taking into account environmental, economic and social issues. Would the Minister not agree that our 3-legged stool is rather lopsided at present?

Senator P.F.C. Ozouf:

I find it quite interesting that we are extremely critical of what we do in Jersey and the success that we have had. We seem to almost talk ourselves into decline. Jersey has been phenomenally successful in recent years both economically and has the wherewithal in order to invest in environment and social policy too. I think we are very hard on ourselves. We set very high standards but I certainly do not think that anything is broken in terms of Jersey. Certainly there are improvements to be made and an ongoing balance of environmental and social objectives, but it is all underpinned by the availability of resources.

5.12.1 Deputy T.A. Vallois:

I was not mentioning that Jersey was broken at all. I was just making a point that in the *Keeping Jersey Special* report it says: "Keeping Jersey special we have a 3-legged stool analogy" and I was just purely pointing out the level playing field across all 3 areas, and would the Minister not agree that we could do better in 2 of those 3 areas?

Senator P.F.C. Ozouf:

I think we can always do better and we need to constantly improve in terms of social policy and environment.

5.13 Deputy S. Pitman:

With reference to the comprehensive spending review, will the Minister assure that those who undertake the review will consult people working on frontline services as to the impact that these cuts will have on services?

Senator P.F.C. Ozouf:

The comprehensive spending review is not only a matter for Ministers and their chief officers, it is a matter for all the staff of the departments and every Member of this Assembly, and that is why we will be engaging in as much widespread consultation, discussion, ideas in a positive way in order to get the best ideas of how to put limited resources to services in the future. I believe that savings can be made. The targets that we are setting are not unrealistic compared to other places but we need to engage with Members in order to find the best solutions.

The Bailiff:

I am afraid that brings questions to the Chief Minister to an end. There are no matters under J, there is a further statement, I do not know whether in view of the hour ...

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

Before that there are 2 points which may be helpful to Members. Deputy Pitman, do I understand that you will be deferring the debate on your proposition, the Strategy for dealing with young offenders?

Deputy T.M. Pitman:

Having discussed it with Senator Le Marquand, I will put it back to April if that is acceptable.

The Bailiff:

It is your decision, so you are deferring that. Deputy Southern, do I understand that you have a proposal in relation to projet 208?

Deputy G.P. Southern:

I believe we have got a way forward, an alternative to that, and therefore I wish to withdraw the proposition.

The Bailiff:

So you are withdrawing projet 208, so that I hope helps Members on the matters still to be debated. The adjournment is proposed so we will reconvene at 2.15 p.m.

[12:45]

LUNCHEON ADJOURNMENT

[14:16]

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

6. The Minister for Health and Social Services - statement concerning the Verita report

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

Yesterday I published the independent report by Verita into circumstances surrounding the tragic death of Elizabeth Rourke, as I promised I would in July 2009. Verita have conducted a thorough and detailed investigation and have built-up a clear picture of events. This is based on evidence taken from over 66 formal interviews and a review of all relevant notes and records. I would like to thank Verita for the work they have done. Verita have found that at the time of the incident which was in October 2006 - over 3 years ago - there was longstanding organisational weakness, particularly in the areas of governance. They concluded that these weaknesses may have contributed to Mrs. Rourke's death. Although Verita's terms of reference did not include a consideration of Mr. John Day's exclusion they did examine the criticisms made against him in relation to his actions on 17th October 2006. They did not agree with these criticisms. The report made a total of 29 recommendations, many of which concur with a finding of the hospital's own interim investigation. Of these a significant number have already been implemented or are currently being progressed, for example, we have already delivered improvements and processes associated with recruitment of locum medical staff. While progress has been made there is still much to do. It is essential that we succeed in creating a culture of openness in which staff feel they can raise concerns without fear of repercussions or public judgment. This ability to learn is a sign of a strong organisation. This is evidenced by the staff's response to the independent investigation. Staff at all levels, including doctors, nurses and managers, have been open and honest. In the words of Verita: "Everyone has behaved impeccably and the investigation process has been free from interference." While the report acknowledges that there are difficulties associated with delivering comprehensive healthcare on an Island isolated both geographically and organisationally, the report also points out that the hospital is a much-loved and valued institution. Every year we carry out around 11,000 operations and our patients rate our hospital more highly

than the U.K. average in an independent survey. It is absolutely right that Islanders have confidence in the hospital and the service it provides. It is a safe environment but safe does not mean it is completely risk-free. As Verita have emphatically stated, even the world's leading institutions are not without incident. Surgery is, by its very nature, a risky activity. It is now time to move forward and meet the challenges ahead. This will not be easy. There are no quick fixes but I know that the dedication, skill and commitment of all my staff will be equal to this task. Since the beginning of 2010 Professor Aidan Halligan, former Deputy Chief Medical Officer at the Department of Health and the Director of Education at University College Hospital, has been working with my staff to consider patient safety. As a Minister I am committed to taking the department forward and have asked Verita to return to Jersey in 6 months' time to report on our progress. Finally, I have never forgotten that at the heart of this incident is the loss of a much-loved wife, mother, friend and colleague. I would like to offer my sincere condolences to her family and friends, and acknowledge the dignity and courage that they have shown throughout.

6.1.1 Deputy T.M. Pitman:

I am certainly not a Member who has wanted to make such a tragedy a political football, nevertheless we have heard so many denials about a culture of cover-up existing and other failings, will the Minister now confirm that in due course - and I accept it is difficult what she can say - will someone finally be held accountable and face disciplinary action?

The Deputy of Trinity:

There are 29 recommendations and, as I have said, I am committed to working with ... some of those recommendations are already in place or in process of being placed. A disciplinary for whatever is ... we need to move on from that. We need to learn by what has happened and take that step and take it from there.

Deputy T.M. Pitman:

I do not feel the Minister has really answered the question. Will someone be held accountable? It is just a yes or no surely.

The Deputy of Trinity:

If the evidence had said that then it would have been so but disciplinary is not a way forward. We all must learn from it.

6.1.2 Senator S.C. Ferguson:

Given that this report exonerates Mr. Day, what disciplinary action will be taken against the other remaining members of the senior management team who were party to the totally unnecessary suspension?

The Deputy of Trinity:

It is very difficult to comment on that process because there is another investigation being done now by the States Employment Board which looks at the process of that exclusion back in 2006 and it would not be appropriate for me to comment because the report is not out and I do not know anymore than that.

6.1.3 Senator S.C. Ferguson:

Will the report be made public because there is a degree of public interest here?

The Deputy of Trinity:

The report was commissioned by the States Employment Board and it is a question which should be put to the chair of the States Employment Board.

6.1.4 The Deputy of St. John:

Firstly, could I offer my condolences to Mr. Rourke and his family for the loss and the ongoing inquest that is now to follow. Moving on, others have been hurt by this and I am going to refer to Mr. John Day having been suspended for 3 years. Will the Minister please confirm that his position has now been resolved and that he will be reinstated or otherwise without delay?

The Deputy of Trinity:

I can confirm that the acting Chief Executive Officer and Mr. Day have met this morning. Other than that, because it is employee/employer confidentiality, it is very difficult at this time to say any more.

6.1.5 Deputy P.V.F. Le Claire:

Having been chastised on a number of occasions for speaking out about a culture of fear and the culture within the hospital itself having been described by myself and surgeons that have spoken to me as one of repressive, does the Minister have plans to make sure that there is not necessarily disciplinary action but accountability for these issues and, at the same time, give us her opinion as to why she believes this report has done the job, given that Verita, who put together the report, were unable, despite several requests, to interview the doctor who performed the operation? In the words of Verita, it would have been far better if they had been able to speak to her. Does she not now concede that a Committee of Inquiry in this regard would have delivered that very important piece of work?

The Deputy of Trinity:

The current of openness and accountability is very important in any organisation and, as I said, it shows sign of a strength organisation. People must be able to speak out without fear of any repercussions but also, not be frightened to speak out because it is only by doing that, that the issues and problems are looked at and that anything that does come out of it is only for the better to make patient safety at the heart of all the care that we give at the hospital. Regarding why the Verita team were unable to meet with Dr. Moyano, that is something that was asked of the Verita team yesterday. All I can say, is they did try but she is, I understand, still ongoing investigations with the G.M.C. (General Medical Council) which will happen later on this year.

6.1.6 Deputy P.V.F. Le Claire:

I appreciate the Minister for Health and Social Services is in a difficult position and I do thank her for her answer but could I, with the most gentle way, press her to concede that a Committee of Inquiry would have compelled that lady to attend?

The Deputy of Trinity:

At the time it was well debated here and I am still of the same view. We have had a police investigation, we have had a Royal Court case, and a 9-month detailed investigation by Verita and there are still some questions to ask. That is when the G.M.C. will come into its own. I know the G.M.C. have already got a copy and it is for them to take that next step, which is, I agree, a very important step.

6.1.7 The Deputy of St. Martin:

I draw Members' attention to the answer given to written question number 13 - unlucky for some - that tells how much money this has really cost apart from the human suffering, but also the cost to the taxpayer, £137,000 just for legal fees alone without the £500,000 to Verita, *et cetera*. Can I draw the Minister's attention to paragraph 5, it says: "While progress has been made there is still much to do. It is essential that we succeed in creating a culture of openness in which the staff feel they can raise concerns without repercussions of public judgment." Can the Minister advise Members how this is going to be achieved if some of the key players are still in that position, could she elaborate please? I mean to say the key players of the senior management who have been severely criticised for their actions.

[14:30]

The Deputy of Trinity:

There are a great number of issues that they do raise in this report and it is not only within the management team, it is with organisational and different levels. As you know they do come under 8 separate headings. It is very easy to put blame but that does not, at the end of the day, achieve anything. What it achieves is the most important thing, is that we look at the recommendations and work on them to make sure that the hospital is a safe place. There are recommendations and I have, with Verita and with the departments, set a very tight timetable that they should come back in 6 months' time to see who will action, and how far we have progressed for those recommendations because that is vital.

6.1.8 The Deputy of St. Martin:

Could I just ask again when the lessons that were learnt that maybe the Minister will learn from the lessons or the failures with the Kathy Bull Report where the key players again who were criticised were then asked to put it back into the right situation. Can we ensure we do not have a repetition of that fiasco?

The Deputy of Trinity:

I hope not. I would like to think the hospital is already moving forward. I am in the process of appointing at the end of the month the new Chief Executive Officer and from that, as in one of the recommendations, that we should have a Hospital Director to divide at operational and strategic levels, which is quite right, and that should have been done a long time ago. So from the appointment of the Chief Executive Officer at the end of the month, whoever he or she is, will be involved in the appointment of a Hospital Director, a Medical Director and also a Director of Social Services. So, you can see that things are in place. I am determined and I have said I am committed to make sure that this hospital ...

The Bailiff:

I think, Minister, you have said that before and I want as many Members as possible to be able to ask questions.

Deputy M. Tadier:

My question has already been asked by the previous speaker.

6.1.9 Deputy R.G. Le Hérisier:

Building on Deputy Hill's question, does the Minister not acknowledge that in the Verita report there was much talk about cosiness, about conflicts of interest in small places, about the fact that people's loyalties get strained in the situation? Does she not acknowledge that there is little purpose in having paper adherence to 26-29 recommendations? What we need is radical organisational change [**Approbation**] and that has not been reflected in the answer she is giving. Nobody is seeking blame but we are seeking radical change to introduce real checks and balances that have hitherto not existed.

The Deputy of Trinity:

I would like to think that is what I am committed to doing as well, and I think the top management will be changing but this is, I think, where one of the strengths is going to be from, as I mentioned. Professor Aidan Halligan, who is already beginning some work: that will be one of his roles when he does come over.

6.1.10 Deputy M.R. Higgins:

Given the management failures and blame culture that permeated in the hospital, can the Minister advise the Assembly whether the former chief officer who allegedly resigned for personal reasons

was given any enhanced payment when he left the States employment other than the normal notice period payments?

The Deputy of Trinity:

That is very much a contractual agreement and something I cannot comment on.

Deputy M.R. Higgins:

I am not asking for the amount, I am just asking whether he received any payment in excess of the normal notice period.

The Deputy of Trinity:

My answer is still the same. It is a contractual agreement between that person and the States Employment Board.

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

It is really trying to get clarity from the Minister on previous questions, and she has mentioned a few times moving forward and looking at the recommendations, but what exactly is she going to do to change the culture at the hospital? What will she be implementing, forgetting what the recommendations are from Verita; what does she want and what will she do?

The Deputy of Trinity:

What do I want? I want a hospital that I think the Island is proud of. As a patient, it is an area across Health and Social Services that puts patients at the heart of everything that we do and that it is a safe environment. What will I do? The first thing I will do is... these recommendations are important. I know they may seem in bits and whatever, but they do get down to the nitty-gritty of hospital life and it is important that in the next couple of weeks that these recommendations and these... they will be itemised on who is responsible for doing what and what action and what timescale. Some of these recommendations have been put in place; regarding locums... has been much tighter and it is still progressing to make sure that the hospital continues to be a safe place.

PUBLIC BUSINESS

7. Draft Planning and Building (Amendment No. 5) (Jersey) Law (P.189/2009)

The Bailiff:

That brings questions to the Minister to a close. There are no more matters under K so we come to Public Business. The first matter of Public Business is the Draft Planning and Building (Amendment No. 5) (Jersey) Law - projet 189 - lodged by the Minister for Planning and Environment. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Planning and Building (Amendment No. 5) (Jersey) Law 201-. A Law to amend further the Planning and Building (Jersey) Law 2002. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

I bring this proposed amendment of the Planning and Building Law to enable States Members to become more involved in the process of establishing planning policy for the Island. Members may recall from previous debates on matters relating to the Island Plan and changes to it, the former Bailiff ruled that the existing Law does not legally enable any amendment to a proposition from the Minister for Planning and Environment to review or revise the Island Plan by other States Members. His ruling stated that to allow this without undergoing the similar procedures for publication and consultation that the Minister is required to go through in bringing forward any

review or revision of the Island Plan would undermine the planning process. In essence, therefore, the proposed amendment seeks to allow States Members to bring forward amendments to any review or revision of the Island Plan. In bringing this forward, however, it is important that the scrutiny and transparency required of the Minister for Planning and Environment in developing new planning policy is applicable to those amendments brought by other Members where it is appropriate to do so. This will ensure that the planning process is not undermined. I am therefore proposing an amendment to the principal Law which will firstly enable amendments of any draft Island Plan or a review of part of it brought by the Minister for Planning and Environment by other Members. Secondly, establish the process by which any amendment to a draft Island Plan or a review of part of it must be considered, which sets out the timescales for the lodging of the draft Island Plan and for the amendments to it. It will also establish the process for further consultation on any new amendments or amendments to amendments where the substance of these amendments is either new or of such significance as to warrant further consultation. This will ensure that the planning process is not undermined. There will be resource implications of this proposed amendment. These will be generated by the potential requirement for further rounds of consultation in respect of new and substantive amendments to the draft Island Plan brought by States Members once a draft Island Plan is lodged by the Minister for Planning and Environment. The extent and nature of this cannot be foreseen and the requirement will need to be managed within the resources available to the Minister for Planning and Environment to meet his statutory plan-making responsibilities. It is however possible that the extensive consultation procedures built into the current plan-making process may serve to reduce or limit the number and substance of amendments brought by States Members in response to the Minister's lodged draft Island Plan. States Members are thus encouraged to fully engage with the consultation and public inquiry stages of the Island Plan review. I would remind Members that the deadline for consultation on the draft Island Plan is presently 31st March this year. I would urge all Members to give the draft plan their closest attention now with a view to making formal comments on it by the end of March. This will not only ensure that matters of concern are subject to the impartial and independent scrutiny of the planning inspector appointed to undertake the forthcoming public inquiry but it will also provide greater opportunity for their early resolution where it is possible. It is hoped that with the approval of the States and subject to the approval of Her Majesty's Privy Council this Law amendment could take effect in 2010 to enable the ongoing review of the Island Plan to be considered by the States under these new provisions. I commend the proposed further amendment of the Planning and Environment Law to the Assembly.

The Bailiff:

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

7.1.1 Deputy M. Tadier:

It is really just a query and when I make an inquiry like this one is always left open to the charge of not having brought an amendment, but it is really just for information purposes. It is looking at Article 5, page 12, where it is inserted, that it is 4A(2) and (3), about the minimum lodging time for amendments. Just looking at it, I am quite concerned that there is only a 4-week period which is the same for normal propositions. So while the Island Plan can be lodged a minimum of 12 weeks before, any amendments to it have to be lodged 8 weeks before. As I have said, that gives you 4 weeks which for such a hefty document and to get one's head around it with all the other paperwork that we get is, I think ... I would like to hear the Minister's response from that. Similarly, with the 2 weeks in between to amend a further amendment. It would have seemed more logical to me if we had a figure of 6 weeks for an amendment and 4 weeks for any amendments to that amendment.

7.1.2 Deputy R.G. Le Hérissier:

I panicked slightly when I first read this because I thought we were going to have a never-ending series of amendments which would go on for ever and the House would transform itself into a 53-person Planning Committee, as it is a 53-person Selection and Appointment Committee. What worries me is this is to deal with the draft, but there is a feeling, not that the draft carries on for ever but the ambiguous nature of the Island Plan carries on for ever, and as anybody who knows - and I am sure the Planning Panel know only too well, as does the Minister - one often finds oneself at the panel where there are different sections of it that are, for example, in contradiction to each other. I am not suggesting for a moment that the Minister, for example, tosses a coin and decides which side he will come on. But there is considerable ambiguity and the plan gladly sails on having allegedly being fixed and there is this feeling that somehow the Minister is applying a science in the way he deals with the plan but, of course, he is applying high art to the way he or his panel deal with it. So the plan sails on and the ambiguities get more and more ambiguous. I wonder if the Minister could talk about whether there is a need for other than a formal re-evaluation of the plan, which we are already doing because the last one did not stagger through to the full 10 years. Is there a need for some kind of process which says: "Look, it is getting really fuzzy in this area or we have ended up with the proverbial in a twist" so to speak, and we really need to sort out what we believe this part of the plan stands for because there is an awful amount of ambiguity which people are very skilled at sometimes exploiting, which at other times confuses them. The second issue, which is slightly tangential but is this issue of we are told when there is a serious matter, once the plan is allegedly out of draft, there is an assumption that there is a hierarchy of decision-making that the Minister takes the most serious or monumental issues, so to speak, and that the Planning Panel slaves away in the trenches dealing with sign applications. What I would like to know and know more clearly from the Minister - as I do look for a sign - is how is this division of labour arrived at? It seems incredibly arbitrary, quite frankly, and I am not suggesting for a moment it depends on what side of the bed he wakes up on. But I wonder if he could elaborate.

7.1.3 Deputy T.A. Vallois:

Just referring to in particular page 6 where it states there will be resource implications but it does not state exactly how much that will be. Also the fact that if there are more amendments and there will be further rounds of consultation that obviously officers' time will be taken up even further. I am just wondering whether the Minister could comment on whether he has any joined-up thinking with the Chief Minister's Department with regards to the way that the Strategic Plan is held and how that has caused problem in the past. Also whether there are any other ways of doing this so that everyone is involved because I think this could be going the same way as the Strategic Plan is going, and I do not believe that is the best way to do government.

[14:45]

7.1.4 The Deputy of St. John:

Can I congratulate the Minister on bringing this forward because I think it is the right way forward **[Approbation]** given that I have spent an awful lot of time on this with a working party in St. John looking through the Island Plan on what we would like the Island Plan to look at, and to put our amendments into the Minister in due time prior to the period elapsing. I think having had meetings with the Minister and his officers, and many others, I think he has opened-up this for us to be able to bring our amendments and I must congratulate him in doing this the way he has.

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

I too must congratulate that having gone through the previous planning process while on Planning and observing and putting some input into various aspects it is a very important document, although it is not a legal one and is a living document, nevertheless its importance is without doubt. The area that I am particularly concerned with, and which we have had discussion on, is on crime impact assessments. A bit like the environmental ones and the traffic ones, except for this one is coming

into fruition as part of a national U.K. influence headed by the Prime Minister's Office and the A.C.P.O. (Association of Chief Police Officers). We are actually slightly ahead of them inasmuch as that they will be bringing this out very shortly in their process form, but of course ours is about a year or so ahead of them and it will be nice to make sure that we have the proper wording and the proper set-up. We have had discussions on it with the Planning officers who recognise that if they do not get it right I shall be putting ...

The Bailiff:

Sorry, I am not entirely clear what this has to do with the principles?

Deputy J.B. Fox:

This is the principles in relation to the amendments and draft amendments that will be coming in and what I am trying to do is just identify with the Minister for Planning and Environment that this one really needs to be examined before and not wait for an amendment. At this moment in time I know discussions are being had with the police, *et cetera*, but nobody has come back to me to say that they are progressing it. All I am doing, in among the principles, is instead of us coming later on to have a series of amendments is be forewarned and forearmed that this is a particularly important one for designing-out crime as opposed to waiting for it to happen at a later stage, which is often too late.

7.1.6 Senator J.L. Perchard:

I will not join the congratulations to the Minister otherwise he will need planning permission for his new big head. But I do think it is absolutely right that the Minister does bring the draft document to the States and that we, as Members, take ownership as well as he. It is a huge responsibility that the Minister for Planning and Environment has and it is only right that the whole House joins in with approving the draft. That said, will he, if Members wish to bring an amendment, avail a specialist officer from his department to Members to assist them in the technicalities of amending the document if they so wish and would he make sure that the department is properly briefed and encourages solid, well thought out, well-researched amendments, and that his department participates fully with Members who may wish to amend the original draft.

The Bailiff:

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

7.1.7 Senator F.E. Cohen:

Thank you to all those Members who have spoken. In turn, Deputy Tadier raised the question of the lodging periods. The lodging periods are extended simply because we need to allow sufficient time for the Minister to consult and it can be if there are substantial or substantive amendments that they will require a complete round of consultation. So, I am sorry the periods are longer than otherwise but this is the minimum we felt that we could reasonably cope with. Deputy Le Hérissier raised the question of the Island Plan being a continuing document and going on forever. He was worried about contradictions contained within the Island Plan. The Island Plan, and interpretation of the Island Plan, are always subjective matters and there will always be differences of opinion and some will consider the wording to be ambiguous. That is because every planning application is different and the assessment of every planning application can also be different. The Deputy was also worried about the split of decision making between the panel and the Minister. It is a quirk of the system in Jersey that the planning powers are vested in one person, the Minister. Those powers are delegated by the Minister to the Planning Application Panel and to officers. Indeed to those outside it may appear curious that some decisions are made by the Minister, some are made by the panel, and some are made by officers but I can assure the Deputy and Members that the chairman of the Planning Applications Panel takes this matter seriously and he and I between us work out who is going to determine applications and indeed have done so recently over a particularly large and contentious application. So, I am afraid I cannot offer any scientific approach, but the

approach is that designed in the Law and we make the best we can of it. Deputy Vallois raised the question of resource implications. To a great extent the resource implications are in the hands of Members. If Members are able to bring all of their amendments to the Island Plan at an early stage before the Island Plan draft goes to the inspector, it will be very much less expensive than if we are required to go through 2 or more rounds of assessment by a professional inspector, as that is a very expensive operation, but I cannot give any precise figures because it depends on the number of amendments lodged by Members, the number of amendments to amendments lodged by Members and how substantial those amendments or amendments to amendments are. The Deputy of St. John was very kind in his comments and I thank him very much for those comments and I have indeed made a particular point of saying that I would like the Parishes to play an active role in the Island Plan process and to drive forward their Parish needs with vigour within the Island Plan Review process and thereafter once hopefully the Island Plan is approved by this House. Deputy Fox noted that it is a living document and indeed it is a living document and the moment it is finished in reality the new Island Plan Review, at least in theory, begins. He raised the issue of crime impact assessments and the fact that we are out of kilter with some of the work being carried on outside the Island. I can only suggest that as Deputy Fox knows far more about this matter than I, or indeed anyone else in the Planning Department, that he leads us on this matter and guides us into how we can ensure that the Island Plan draft does design-out crime and I look to him for assistance in this area. Senator Perchard raised the matter of whether I would make available officers to States Members to enable the wording of their amendments to be more precise and more meaningful. Yes, of course I will. If Members would contact me I will direct them towards the most appropriate officer. I hope I have covered all the points and with that I commend this to the House.

The Bailiff:

All those in favour of adopting the principles kindly show. Those against? The principles are adopted. The Deputy of St. John, this matter falls within your Scrutiny Panel. Do you wish to have it referred to your panel? Very well then. In terms of the individual articles, Minister, do you wish to propose them *en bloc*?

Senator F.E. Cohen:

En bloc please, Sir.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on any of the individual Articles?

Deputy M. Tadier:

Could I just ask for the Articles to be taken separately, or at least Article 5 to be taken separately. Thank you.

The Bailiff:

Do you want to have a separate vote on Article 5? Yes, certainly. All those in favour of adopting Articles 1 to 4 kindly show. Those against? Articles 1 to 4 are adopted. In terms of Article 5?

Deputy M. Tadier:

If I could ask for the appel.

The Bailiff:

Yes, the appel is called for in relation to Article 5, so I invite Members to return to their seats and the Greffier will open the voting on Article 5.

POUR: 43		CONTRE: 2		ABSTAIN: 0
Senator P.F. Routier		Deputy M. Tadier (B)		

Senator P.F.C. Ozouf		Deputy T.A. Vallois (S)		
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

Very well. That leaves Article 6. All those in favour of adopting Article 6 kindly show. Those against? Article 6 is adopted. Do you propose the Bill in Third Reading, Minister?

Senator F.E. Cohen:

Yes, Sir.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak in Third Reading? All those in favour of adopting the Bill in Third Reading kindly show. All those against? The Bill is adopted in Third Reading.

8. Draft Employment of States of Jersey Employees (Amendment No. 4) (Jersey) Regulations 200- (P.198/2009)

The Bailiff:

We come next to the Draft Employment of States of Jersey Employees (Amendment No. 4) (Jersey) Regulations - Projet 198 - lodged by the Chief Minister. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Employment of States of Jersey Employees (Amendment No. 4) (Jersey) Regulations 200-. The States, in pursuance of Article 42 of the Employment of States of Jersey Employees (Jersey) Law 2005, have made the following Regulations.

Senator P.F.C. Ozouf:

Sir, may I ask Deputy Le Fondré to be rapporteur for this item?

8.1. Deputy J.A.N. Le Fondré of St. Lawrence (Assistant Minister, Chief Minister's Department - rapporteur):

It is a very straight forward matter. This is to allow politically eligible States employees who wish to stand for election to have the option of taking accrued annual leave or time off in lieu as part of the time between nomination day and either the date of resignation, assuming they are successful, or their return to work. The principles were debated in the States in a proposition brought by Deputy Trevor Pitman. We all supported it, or those of us who were present, 45 to nil, and these Regulations enact that proposition and I would like to move the principle.

The Bailiff:

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

8.1.1 Deputy T.M. Pitman:

Well, the rare chance to agree with Senator Ozouf and Deputy Le Fondré. I obviously think this is an excellent initiative. I would like to commend the Chief Minister, who is obviously not here, for bringing it, particularly the person who made it all possible who is truly a giant among men. Most importantly it rectifies a situation that was both grossly unjust but more importantly to me, non-human rights compliant; a fact my lawyer back in 2008 made quite clear that could be demonstrated through the courts. If only I possessed that key essential of justice in Jersey i.e. having £50,000 disposable income to pursue the matter through the courts. The essence of this is in 2008; several more States employees of real quality, admittedly perhaps not as great quality as Deputy Green or as good looking as Deputy Green, would have stood and offered themselves for election but for these flawed Regulations. It can surely only be a good thing to go along these lines if we are genuinely committed to equality on a level playing field with those in the private sector. As such, I thank the Chief Minister and the rapporteur for bringing it forward and would simply add that perhaps the Chief Minister or his Deputy could then go back and look at the related issue of the wholly illegal breaking of existing contracts, which is the current situation suffered by both Deputy Green and myself and will obviously need to be put right for anyone else who wishes to stand.

8.1.2 Deputy A.E. Jeune:

In respect of the time accrued permitted, does the States, as an employer, have a limit to how much time can be accrued before being taken?

8.1.3 Deputy G.P. Southern:

I may as well attempt to answer that previous question. It would depend on the nature of the job and the hours worked and the hours built-up. For example, youth workers often spend the entire weekends on duty and it rapidly builds up time off in lieu. It can be quite substantial.

[15:00]

Really this is again just to congratulate the Deputy Chief Minister, which is always a pleasure when he gets things right, but for bringing something to the States which puts into practice what we thought we had agreed quite some time ago. In principle we had agreed that States employees should be able to stand and conditions must be arranged to enable them to stand without imperilling either their bank balance, their job, or their lives. That was clearly our intention and we managed somehow to get it wrong in the practice and what happened was the Human Resources Department officers made judgments on the hoof which were mistaken and made it very difficult for many States employees to be able to stand. We appear to be putting that right now. As I say, there are still some issues outstanding that need putting right. Let us hope we do not go off the boil on this, but generally congratulations for doing something that should have been done a long time ago.

The Bailiff:

Does any other Member wish to speak on the principles? Very well, I call upon the rapporteur to reply.

8.1.4 Deputy J.A.N. Le Fondré:

I will just note the comments of the previous speaker and the first speaker, and thank you for their support obviously on the matter. In relation to Deputy Jeune, I do not know immediately, but I will endeavour to find out. I would like to move the principles.

The Bailiff:

All those in favour of adopting the principles kindly show. Those against? The principles are adopted. Senator Ferguson, do you wish this matter to be referred to your Scrutiny Panel?

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

No, thank you, Sir.

The Bailiff:

Do you propose Articles 1 and 2?

Deputy J.A.N. Le Fondré:

Yes, Sir, *en bloc*.

The Bailiff:

Are the Articles seconded? **[Seconded]** Does any Member wish to speak on either Articles 1 or 2? All those in favour of adopting Articles 1 and 2 kindly show. Those against? They are adopted. Do you propose the Bill in Third Reading? Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Bill in Third Reading please show. Those against? The Bill is adopted in Third Reading.

9. Draft Public Holidays and Bank Holidays (Jersey) Act 200- (P.204/2009)

The Bailiff:

Then projet 201 having been deferred, the next matter is projet 204, Draft Public Holidays and Bank Holidays (Jersey) Act lodged by the Chief Minister. I will ask the Greffier to read the Act.

The Greffier of the States:

Draft Public Holidays and Bank Holidays (Jersey) Act 200-. The States, in pursuance of Article 2 of the Public Holidays and Bank Holidays (Jersey) Law 1951, have made the following Act.

9.1 Senator P.F.C. Ozouf (Deputy Chief Minister - rapporteur):

When Liberation Day falls on a Sunday it is not by law observed as a public holiday or a bank holiday. In 2010, as Members will have observed, it falls on a Sunday and will not therefore be observed as a public holiday. 2010 sees the 65th anniversary of the liberation of the Island from German occupation and the Chief Minister, supported by the States Employment Board and the Council of Ministers, believes that this significant milestone should be marked by designating Monday, 10th May as a public holiday. This will enable Islanders to enjoy a weekend of celebrations accordingly. The cost of a public holiday to the States of Jersey is approximately £1.5 million but I would say to Members that for most years 9th May is observed as a public holiday and States employees are given a day's paid leave and that is charged to States Departments, therefore it could be argued that it is simply a missed opportunity of saving £1.5 million that we are not going to enjoy by having 10th May as a holiday. Employees are still receiving a total of 9 public holidays in the year. I also should say to Members that the States of Guernsey has already agreed to put 10th May as a public holiday and I move the principles.

The Bailiff:

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

9.1.1 The Deputy of St. Martin:

I do not think I can support this. I feel that 9th May is our Liberation Day and I think by moving it over to another day, albeit as an extension of the long weekend, I feel hard to accept it, but also it is the way in which it is produced here saying it is only going to cost people in the public sector £1.5 million. There is also a cost to people in the private sector. Maybe the Minister might like to advise Members how much that is going to cost, but I will leave that for the Minister.

9.1.2 Senator J.L. Perchard:

I will not be supporting this proposition and I know the easy option is of course that we should but the cost is significant to the Island. As the Minister says it is £1.5 million to the States public sector alone. The private sector will endure a great deal more expense than that. The Minister also mentioned that Guernsey have chosen to take Monday, 10th May as a public holiday. Of course, correct me if I am wrong, but I think 10th May is Liberation Day in Guernsey. No, it is 8th May, is it? The other way around. Okay. Well, there we go. Guernsey, as we know, do not always get it right. **[Laughter]** I just feel the cost is too great. Liberation Day is a day that I celebrate. It is a day that means a lot to my family and I think Liberation Day in Jersey is 9th May. We can dress it up, call it 10th May or 1st June, but it is 9th May and festivities, parties and celebrations can happen on 9th May. It does not have to be 10th May.

9.1.3 Deputy A.E. Jeune:

Like some of the previous speakers the people who were here on Liberation Day you can tell them what you like but it will be 9th May no matter what we do and I would ask, is it intended that Liberation Day celebrations will now be held on 10th May as opposed to 9th May?

9.1.4 The Deputy of St. John:

Like others I have concerns. We are told by the Minister for Treasury and Resources time and time again we have to tighten our belts. A few weeks ago we put another holiday in place, Boxing Day. We moved it, costing us £1 million-odd on that occasion but costing considerable more to the businesses in this Island on that occasion. We are still in the middle of a recession and whether the U.K. Government say they are not in a recession any longer, our Statistics Unit have not given us that information that we are not in a recession and I have concerns that we are still going to be

spending another £1.5 million in this area, but what is that costing the business houses who are paying the taxes? What is that costing this Island? I know historically the people who were here on 9th May, my parents, *et cetera*, and maybe Senator Le Main in a very junior form, these people remember 9th May - 8th May Guernsey, 9th May Jersey. I think we have to respect those people who were here; 9th May was the day that we were liberated, not 10th May. Public holiday: as far as I am concerned, we have to start cutting our cloth accordingly and it is time for the Minister for Treasury and Resources, whichever hat he is wearing today, to realise that if there is not any money within the pot and we are talking about savings of £50 million over the next couple of years, he has to start off ... let us not create a bigger hole than we already have because if he adds this one to the one we have just had at Christmas that is £3 million that we know of, apart from what industry have lost. So, therefore unless you can convince me otherwise I cannot support this.

9.1.5 Deputy P.V.F. Le Claire:

I do not know where this is all coming from; the Ministry of Practical Jokes or something. I remember hearing a lot of comments around the Boxing Day debacle and we had a practical joke among my friends and I that we would create a States of Jersey calendar and put all the wrong dates on the wrong ... have Mother's Day on Valentine's Day to save on flowers. We need to remember: my dad was here during the occupation and for him anyway, as with some people who were here during the occupation, he does not want to celebrate with the majority of people or a great deal of the people in these celebrations. He recognises it is a great day in Jersey. He is happy with that, but I think people as they get older they get bothered by change and they do not like change and I think that this is such an important day for the people of Jersey that were here the last thing that we need to do is to change that. I know for one I will be getting it in the ear from my dad from now until 9th May and 10th May about what a stupid decision it is and I just think it is time that we recognise that if it falls on a Sunday let us do it because we want to do it. There is plenty of voluntary spirit in Jersey to get something up and running on a Sunday. If there are issues about overtime, *et cetera*, then just put it to one side. Let us leave Liberation Day on 9th May. Let us not try and rewrite history.

The Bailiff:

I am not entering into this debate at all as to whether there should be a bank holiday on the Monday, but just to make it clear, the official Liberation Day celebrations will continue to take place on Sunday, 9th May, no matter what this Assembly ... these have already been put in place so the special State sitting, the ceremony in Liberation Square and so forth will take place on Sunday, 9th May, no matter what the Assembly decides today.

Deputy P.V.F. Le Claire:

A great relief. Thank you, Sir.

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

I will be brief because I agree with most of the people that have spoken before. Liberation Day is 9th May. Boxing Day is 26th December. It is not difficult. I would like to ask the Minister, is it a contractual arrangement with our staff that they have 9 bank holidays, or is it 8 bank holidays? Because that will make a difference to how I vote.

9.1.7 Deputy A.T. Dupré of St. Clement:

It is very much along what Deputy Green just said. I just wondered whether the civil servants will expect to have the Monday off in lieu anyway, and would it be the same cost?

9.1.8 Connétable L. Norman of St. Clement:

Just briefly, this is not about civil servants or public employees, this is about celebrating the most important day in Jersey's modern history and I have detected no public demand for this additional holiday, no public appetite for this additional public holiday. As I say, the most important day in

Jersey's modern history. To create an additional holiday as an excuse around that is to cheapen Liberation Day and that is the last thing we want. The Constables have had meetings about how we are going to celebrate these days with our parishioners and one thing that we are very keen about and we want to ensure is these celebrations that we create or we organise are for the people who were here or were associated with war time Jersey, and when you think about it those people for whom it is going to be most meaningful, who were here at the beginning, those who were born at the end of the occupation will not remember very much, those who were at the beginning will start to remember. These people are going to be in their 70s or 80s or longer. Now, quite honestly, they do not need an additional holiday because most of those are retired anyway and they want to celebrate with us in their own way, whatever they want to do, on 9th May. To give an additional bank holiday just for everyone else, not on; 9th May is 9th May.

9.1.9 The Connétable of St. Mary:

Basically I will not repeat what the Constable of St. Clement has just said because I agree with everything he said. I have talked to a large number of the people in my Parish who are the regular celebrators - the people who were here - and I have talked to some of the younger people too because apart from what the Constable has just said Liberation Day is also about involving the youngsters and bringing them up to understand what liberation and the occupation really meant. But without fail they were telling me: "9th May is Liberation Day, do not cheapen it, do not devalue it. That is the date that we want to be celebrating it on." When I went out to speak to some more on Saturday, there was a headline in the media - and I cannot remember which media it was - but some of the parishioners I spoke to had misunderstood and told me that the decision had been made and my life was absolute misery for the next hour while I told them that, no, it was going to happen today and it was not a foregone conclusion but if it had happened I would have been strung-up I think in St. Mary on Saturday, so I am sorry, but I will not be supporting this proposition.

[15:15]

9.1.10 Deputy M. Tadier:

I was listening outside from my comfort break and I was flabbergasted to hear what I did. I thought this proposition would simply go through on the nod. It is not something I can disagree with the Council of Ministers on in this instance. I have heard some very specious arguments being bandied around. The last one from the good Constable of St. Clement, and usually I have a lot of time for his persuasive abilities, but to suggest that Liberation Day, as I believe he did or certainly how I interpreted it, is that it is for the people who were here at the time, so for my parents, for example, or their parents as well. So, are we saying that once all the people from that generation are gone, are we going to cancel Liberation Day? Because that seems to be the logical conclusion. In fact, Liberation Day is not simply for one generation; it is to be remembered always and we know the expression: "Lest we forget" and I think Liberation Day is 9th May, just like 25th December is Christmas Day and I believe we have already been through that debate about Boxing Day. But the point is it is not a celebration if you do not get the extra day off. Fine, nobody is saying that Liberation Day, like the church services, cannot take place or the memorials cannot take place on the Sunday, but the point is that one should be entitled to an extra day in order to celebrate, otherwise it is just like any other week where you do your 5 days a week work. It is like any other week because usually that is what happens in most weeks. So, I think we are actually devaluing Liberation Day if we are saying that we cannot even do what we do on most occasions and get an extra day off for people who would be otherwise forced to work, whether they are from Jersey or not. Remember that it is perhaps quite pertinent that locals were not the only people to suffer during the occupation; there were also Polish and Eastern Europeans who were brought to Jersey as slave workers. Now, I am not going to carry that analogy too far, but it is ironic if we are saying to these people that they cannot get an extra day off work when they are also the ones who should be celebrating. So, this is completely a non-brainer. To say that it is wasting extra money ... we pay

for a holiday on a normal year anyway which I believe has already been pointed out in the Minister's comments and this is no different. So, if we are to celebrate and to value Liberation Day that is what it is all about. If we are to value the people of the Island, ultimately to whom Liberation Day belongs, we need to give them this bank holiday and certainly if we cannot do that we are in a terrible state.

9.1.11 The Connétable of Grouville:

At this stage if I may pull rank, I was here on the first Liberation Day and Liberation Day will always be 9th May. It will not be 10th May, it will not be any other day. What we are talking about now is not the fact that we are celebrating Liberation Day, it is another day off, a bank holiday, and it is not going to make any difference to me whether I have that day off and I do not think it makes any difference to anybody else. Liberation Day is 9th May. It is not 10th May, so let us just leave it. We do not want another holiday. At this stage of our lives we cannot afford another holiday at £1.5 million a time. Let us leave it alone. Let us celebrate our Liberation Day as it is. I know that the Bailiff has planned events for the Monday afternoon, but as somebody earlier said, most of the people now are retired who will be invited to that so it is not going to make any difference to them or us. So, I say I cannot support the motion and I shall be voting against it.

9.1.12 Senator B.E. Shenton:

I agree with just about every other speaker except for Deputy Tadier that 9th May is Liberation Day and I believe this proposition sums up what is going wrong with the Island. We are losing our identity and we are losing our roots. This is Jersey and the Jersey people will always celebrate Liberation Day on 9th May. So, I would be interested from the Minister to know how we have come to this position. Who asked for the extra day knowing that we are in recession, knowing that we have a budget deficit looming? Who pushed this forward that with everything going on in the world, let us have another day off? Because it does not matter about the private sector, let us make sure the public sector is looked after because that is how it comes across and it does not paint a very good picture for the public sector and their apparent self-interest.

9.1.13 Deputy G.P. Southern:

I too was quite amazed sitting in the computer room by the arguments coming forward. I could hardly believe my ears and I ended up shouting at the radio like my granny. As my granny used to say about work, she said: "If it was that good, if it was all it was cracked-up to be the rich would have kept it for themselves" so I propose that we place a new meaning on the word of liberation and let us liberate people from work on that Monday. I know the Constables can get themselves into a twist on many a proposition that they wish to oppose, but I honestly have never heard such an argument that in order to place myself against giving workers a holiday out there and ask them by the way: "Who wants a holiday? Who could do with a Monday off?" I think you would find there is only one answer you would get if you asked people. They would want it and they would want it to celebrate liberation. It is simple. Yes, I know Liberation Day is Monday, 9th May but how we celebrate [**Interruption**] ... Sunday is 9th May, whatever day it is, but in order to celebrate it we traditionally take a day off to celebrate it. So, let us do that. I have never heard such a convoluted argument in order to place so many Constables against something because it is watering-down the value of a magic 9. It makes no sense at all. Let us push this through. I cannot believe there is an argument. This can only be a very peculiar, in the finest sense of the word, Jersey argument that somehow we are devaluing Liberation if we take a Monday off. I do not believe it. Let us support this.

9.1.14 Senator P.F. Routier:

When I first saw this proposition I took a deep breath and thought: "Oh, what am I going to do?" because being Assistant to the Chief Minister it would be anticipated, I suppose, that I would be supporting it but I have to say that when I saw it I thought: "Oh, no, not again. We are going to

make the same mistake as we made with Boxing Day” because that was a mistake, the decisions that were made at that stage and I voted against that decision at that time to have additional time for that. But when it was coming up to this debate I thought: “Well, perhaps there are some celebrations, some plans, events which are going to happen on the Monday which I do not know about” so I was thinking: “All well and good, there is going to be some announcement made. There is going to be a Royal Visit, there is going to be something going on which I am out of the loop of so I do not know what is happening” but I have not heard anything about any plans for any particular celebrations so I am inclined at this stage to not vote with the proposition because I believe that Liberation Day is 9th May and that is it. I have nothing more to say.

9.1.15 The Connétable of St. Brelade:

I recall saying during the debate over the Boxing Day holiday that we dabble with public holiday dates at our peril and that was certainly proved to be the case then. I think it is nice to be philanthropic in times of plenty but we are not in that situation at present, so I think we need to reflect on the extra expenditure. There are of course consequences to declaring a public holiday in terms of not only shops where people will have to work anyway, but also things like buses and we saw that during the Christmas period and it is very difficult to decide, from my point of view, should one run buses or not? Are the shops going to be open or not? It is quite difficult to make a clear decision. So, making a holiday I would urge Members to consider the consequences when making the decision. I say for myself that I cannot support it.

9.1.16 Deputy T.A. Vallois:

It is more of a practical nature talking about the valuation of Liberation Day because I think we are all aware of how valuable it is to our society, but it is more the £1.5 million. I would just like the Minister to clarify if it is already budgeted for and if it is then if this proposition was rejected, and by the sounds of things it may be, exactly what is going to happen with the money?

9.1.17 Deputy K.C. Lewis:

I agree entirely that Liberation Day will be on a Sunday and as has been touched upon before, many shops will have to open on the Sunday in the Weighbridge area to service the large crowds that will be there, but we have our liberation on the Sunday and then back to work on the Monday. I do not see a problem with that. The Constable of Grouville remembers liberation but the Constable of Grouville also remembers pterodactyls but definitely [**Members: Oh!**] liberation on a Sunday, back to work on a Monday.

9.1.18 Deputy J.A. Martin:

Just briefly. I was not sure which way I was going to go, but what I would like to ask the Chief Minister, after hearing most of the Ministers and even his Assistant Minister talk, who has he consulted with here and where is the pressure? Or is this: “Well, I did try everyone and everyone voted against me” proposition? “And I am playing the good guy” it sounds like to me. But will he not come out with a lot of money in his pocket with the other hat on? I am very suspicious about this and I am not sure which way I am going to go. Last year it fell on a Saturday. It was very confusing. Some shops opened. Although we celebrated on a Saturday I remember ... I am sure it has fallen on a Sunday while I have been here and it has always been celebrated and never, ever got an extra day. So, I really would like to know where this proposition and the backing for it has come from because even the stand-in Chief Minister does not seem to have much in this House today.

9.1.19 The Deputy of St. Mary:

It is a pleasure to follow Deputy Martin because there we have some kind of an explanation of why this might be coming to the House. I am very puzzled by it and the first point I want to make, and it is a question really for the Minister, is that there seems to be a bit of a problem around this public holiday thing. We have been here before as people have said and the report is fantastically brief.

There is no mention of how this was arrived at, or what consultation took place. We have heard that businesses will possibly suffer. We do not have any idea of the costs. We do not know what the contractual arrangements are. As somebody else mentioned, 8 days or 9 days. The Constable of Grouville talked about another day off but it says here that normally there is a day off for Liberation Day, so that is another factor. It just seems that it would have been helpful to have had just a little bit more flesh on the bones and then we would not have had to debate this so long. One thing that does need to be thrown in is that it is the 65th anniversary. That might have some kind of bearing on this. It is a bigger number. It is not the run-of-the-mill and maybe that lends weight to the arguments of some people that the extra day does make it more of a bash, more of a holiday, and I really do not accept the argument that that changes the fact that 9th May is 9th May. Of course it does not. It just means that you have an extra day to do whatever you want with. One little comment on Senator Routier's comment about, were there other events? I know that Music in Action are running a music festival for liberation as they did last year. It is probably bigger than it was last year. I do not know what days the events are, so a few questions there for the Minister.

9.1.20 Deputy J.B. Fox:

Liberation Day is a very special day, not just for the people who were there during the liberation. The times I have been out there the youngsters have thoroughly enjoyed the day off and they have thoroughly enjoyed all the events and we get to see more of our historic Island where the various bunkers, *et cetera*, are opened up and the people there are explaining what it is all about and it is fantastic. So, let us have another one. As far as the £1.5 million, if the Minister for Treasury and Resources has a problem with it, he had a problem with my £1 million for the benefit of Bellozanne and the residents with the smell, perhaps he could put it towards that and that would balance his books up with a little bit over.

9.1.21 Deputy S. Power of St. Brelade:

I must say, having listened to my good colleague, Deputy Tadier, I have to say that I must be on a different planet to Deputy Tadier because I have a completely opposite view to the sentiments that he expressed and it is this. I heard Deputy Green speak passionately last year about keeping Boxing Day as it was and I heard a very good speech just a few minutes ago from Senator Shenton. If you were to say to a self-respecting Frenchman that you were going to move Bastille Day from the 14th, or you were to say to an American that you would move 4th July from 4th July, or indeed, if you were to say to a self-respecting Irishman that you would move St. Patrick's Day from 17th March then you would probably have civil unrest.

[15:30]

I just have this observation to make as coming from John Bull's other Island, when we peel away layers of Jersey heritage, Jersey culture, and Jersey history we do it at our peril and at risk and I do not think we should entertain this proposition where it wants to move 9th May to 10th May, even though on the particular reasons for it this time. So, I say, do not tinker with dates, keep 9th May to 9th May and let us move on and get rid of this proposition.

9.1.22 Senator A. Breckon:

Just a few words. I remember not many years ago the Chamber of Commerce wanted to scrap Liberation Day as a holiday and they were very vociferous about that and of course at the time there was regular discussion about it, but of course it did remain a holiday and from the States point of view the former Bailiff, through the panel at the time of which Members of this House including myself were Members, had to decide what we were going to do and that was why the States sittings came about regardless of what day of the week it is and there was some discussion with the Parishes as well because there were various things going on. There was conflict between times and other things and things came together with Liberation Square, the actual place itself, and it all came together. I think it is special in that any area and country has something that is different to others

that it wishes to celebrate and importantly share with others and I think that is where we are on the day itself. I can understand the dilemma here but perhaps in a moment of gladness or even madness the Chief Minister or the Council of Ministers wished to extend the festivities to the following day, being as it was a Sunday. I have some sympathy with that but I also would like to express a note of caution to some Members. As we were in some confusion over 26th December some contracts and agreements have in there that if a bank or statutory holiday falls on a Saturday or Sunday people would get an additional day instead of. Now, if we made the Monday a holiday they could get the Monday and another day, so the cost is not quite as we see it and it is disappointing really. I do not see the consultation exercise. I mean, I think everybody in general would vote for time off in celebrations for particular occasions, especially this one, but I do not feel personally that enough detail is there that has made the case. It may seem as if we are a bit in the bad books here in perhaps voting down the general working population having an extra day off. It is like: "Oh, we cannot afford this" and: "We do not want to do this" so we are being a bit miserable about it all but I do not think that is the case. I think the case has not been made in the proposal and first I looked at it and I thought: "It does not seem so bad" and then when I thought about it, I thought it is perhaps more complicated than it is and others have expressed the view that it is a special day. I do not think anybody disagrees with that but I think the disagreement is what do we do on Monday, 10th May and I think that is where the division is and I would stay with the *status quo*.

Senator S.C. Ferguson:

If you could just confirm, Sir, that we are talking about the normal Liberation Day celebrations that will all be held on the Sunday.

The Bailiff:

Yes, that is correct.

Senator S.C. Ferguson:

Because the only reason for any sort of holiday, it seemed to me, was that if there was to be a Royal Visit then the celebrations would be on the Monday and this might all make sense but ...

The Bailiff:

There will be no Royal Visit. Can I just add this though that because it is the 65th I do think it needs to be marked in some additional way and there is a proposal to hold some function for older people who were here during the occupation or fought during the occupation on the Monday afternoon, but that is not a material consideration I think for today because it will only relate to those who are not working. That is not to indicate it would be one way or the other, it is simply to inform Members. All the normal celebrations will be held on the Sunday. There is a possibility of one additional function, because it is the 65th, on the Monday afternoon.

9.1.23 Senator S.C. Ferguson:

Thank you very much, Sir, I think that makes it very clear that as Deputy Power has said, you fiddle with Independence Day in the U.S. (United States) and the *Quatorze Juillet* in France at your peril. The Deputy also forgot to mention Washington's birthday, which is celebrated. Anyway, I really do not see any point in this and I shall not be supporting it.

The Bailiff:

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

9.1.24 Senator P.F.C. Ozouf:

I think it is about 10.30 a.m. in Washington and I am beginning to feel, or hope, that in fact I was with the Chief Minister. [Laughter] I hope that he is praying, Sir. [Laughter] So, if I may say, your predecessor asked how long Liberation Day should be celebrated for and he said simply for

ever. I think all Members of the Assembly agree with that. This is not about changing in any way the symbolism and the importance of 9th May and indeed your consultative panel discussed with you over the luncheon adjournment plans for Liberation Day this year which will be on the Sunday. You have already mentioned, and I will not mention it again, but there are some events or one event planned for 10th May because it is a special event, and I hope every Liberation Day is special, but the 65th is special. I think this is, I must say to Members, an issue that the Chief Minister, following the example of Guernsey, believed that public employees and indeed all Islanders were entitled or should enjoy the same number of bank holidays in 2010, notwithstanding the fact that the Liberation Day fell on a Sunday. I have to say that it is going to be a curious state of affairs I think if Jersey does not reflect, not Liberation Day, but reflect the fact that it is a maintenance of the number of public holidays in Jersey but not in Guernsey. I have to say it is some years since Liberation Day, as I understand it, fell on a Sunday. Last time around it was a leap year and so it jumped on the Sunday and we did not have that issue. That is why it has not been something in the immediate past. Clearly a great deal has evolved over the last 14 or 15 years in terms of Liberation Day and it is now an established important holiday. I have to say that many Members have said that one should not interfere with public holidays from a statutory basis and I know that from the experience of the debate on Boxing Day. Most places, as I understand it, have an automatic legislative instrument which automatically moves a public holiday that falls on a Saturday or Sunday to the Monday; certainly that is the case in the United Kingdom. I am also pretty sure that it is the case for Independence Day in a number of countries across Europe. It is certainly the case for *Buß- und Betttag* days in Germany and in a number of countries and I think including the U.S.A. (United States of America). It would not even come to the Legislative Assemblies to do this. Clearly it is a matter for Members. It is an issue of, I think, maintenance of the amount of public holidays that public sector workers have and all workers have in the Island. I think it would be a curious decision not to do that, but it is clearly a matter for Members as to whether or not they want to enact the standard procedure in other places or to have a special arrangement for Jersey whereby where a public holiday falls, which is the current arrangement, it just comes before the Assembly for a determination. It is not about spending money. It is not about saving money. It is about a *status quo* in terms of public holidays and employees' entitlement to it. I am in the hands of Members. I am rapporteur for the Chief Minister. This was discussed at the States Employment Board and it was discussed at the Council of Ministers and we did follow the example that was set by Guernsey. I urge Members to support it. I think it is going to be a curious message to send out. This is not about Liberation Day, it is about the maintenance of public holidays, but it is a matter for Members.

The Deputy of St. Martin:

I did ask how much it was going to cost the private sector. We were told how much it would cost the public. We do not know how much it is going to cost the private sector.

Senator P.F.C. Ozouf:

On the basis that there is the same number of bank holidays and public holidays in 2010 that there would be in 2009 or 2008 in relation to designating this there would be no saving for the public sector; there would be no additional cost.

Deputy A.K.F. Green:

I wonder if the Minister could tell us what happened last year when the bank holiday fell on a Saturday. Did we move it to the Monday?

Senator P.F.C. Ozouf:

As the Deputy knows we did not and neither did Guernsey and that is something that again would be automatic in other countries' legislation and that is why it is before the Assembly. The 65th was

deemed to be special and I hope Members think it is special enough to give our community an extra holiday.

Senator J.L. Perchard:

If I can just ask a clarification from the Minister on something that he said. Twice during his summing up he referred to our unique special day as a bank holiday. May I remind the Minister it is not a bank holiday. This is Liberation Day; 9th May is Liberation Day.

The Bailiff:

That was most certainly not a clarification, Senator Perchard, that was a second speech so please ... **[Laughter]** All I can say is Members who repeatedly disguise second speeches as points of clarification will eventually not be allowed by the Chair to ask for a point of clarification.

Deputy M. Tadier:

I do have a point of clarification, I believe. I cannot remember off the top of my head, what happens with 1st May? Does that get moved to a Monday, or not?

Senator P.F.C. Ozouf:

I repeat, unlike arrangements in other places we do not have an automatic moving of a public holiday or bank holiday in Jersey. Maybe that is something that has been suggested that we do do, but it currently is not the case. Most other countries do.

Deputy M. Tadier:

So, to clarify, for a communist holiday we get an extra day off, but for our own Liberation Day we do not. Is that correct, Sir?

Senator P.F.C. Ozouf:

I do not think the Deputy should be making the point.

The Bailiff:

On a point of clarification, is the first Monday in May not our holiday? Yes. The appel was called for in relation to the proposition of the Chief Minister. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 22		CONTRE: 27		ABSTAIN: 0
Senator P.F.C. Ozouf		Senator P.F. Routier		
Senator T.J. Le Main		Senator B.E. Shenton		
Senator F.E. Cohen		Senator J.L. Perchard		
Connétable of St. Ouen		Senator A. Breckon		
Connétable of St. Helier		Senator S.C. Ferguson		
Deputy R.C. Duhamel (S)		Senator A.J.D. Maclean		
Deputy R.G. Le Hérisier (S)		Senator B.I. Le Marquand		
Deputy J.B. Fox (H)		Connétable of Trinity		
Deputy J.A. Martin (H)		Connétable of Grouville		
Deputy G.P. Southern (H)		Connétable of St. Brelade		
Deputy J.A.N. Le Fondré (L)		Connétable of St. John		
Deputy of Trinity		Connétable of St. Saviour		
Deputy S. Pitman (H)		Connétable of St. Clement		
Deputy K.C. Lewis (S)		Connétable of St. Peter		
Deputy M. Tadier (B)		Connétable of St. Lawrence		
Deputy of St. Mary		Connétable of St. Mary		
Deputy T.M. Pitman (H)		Deputy of St. Martin		
Deputy A.T. Dupré (C)		Deputy of St. Ouen		
Deputy E.J. Noel (L)		Deputy of Grouville		

Deputy T.A. Vallois (S)		Deputy of St. Peter		
Deputy M.R. Higgins (H)		Deputy J.A. Hilton (H)		
Deputy D. De Sousa (H)		Deputy P.V.F. Le Claire (H)		
		Deputy S.S.P.A. Power (B)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		

10. Appointments made by the States: revised procedures (P.205/2009)

The Bailiff:

We come next to projet 205 - Appointments made by the States: revised procedures - lodged by the Privileges and Procedures Committee. I will ask the Greffier to read the proposition. May we have some silence please.

The Greffier of the States:

The States are asked to decide whether they are of opinion: (a) to agree that a revised procedure should be introduced in relation to certain appointments currently made by the States as referred to in paragraph (b) below and that, under the revised procedures, instead of the appointment being made through the lodging “au Greffe” and debate of a proposition; the Minister, body or member responsible for the selection of the nominee for the position or positions concerned would be required, before the appointment was confirmed, to present a report to the States in relation to the proposed nomination including the name and brief biographical details of the nominee, a brief description of the nature of the duties of the position and details of the selection process followed to select the person nominated and the appointment could not then be confirmed until at least 2 weeks after the date of presentation of the report to the Assembly; (b) to agree that: (i) the positions listed in Appendix 1, in relation to which amendments to legislation are required, should be made subject to the new procedure and to request those responsible for the appointments, in consultation with the Privileges and Procedures Committee, to take the necessary steps to bring forward for approval the necessary legislation to give effect to the proposal; (ii) the positions listed in Appendix 2, in relation to which amendments to the constitutions of external bodies are required, should be made subject to the new procedure and to request the Ministers responsible for the appointments to initiate the necessary steps for appropriate amendments to be made to those constitutions; (iii) the positions listed in Appendix 3, where the requirement for the appointment to be made by the States arises solely from a States decision, should be made subject to the new procedure and to agree that the respective decisions of the States listed in Appendix 3 should be amended accordingly to apply the new procedure.

[15:45]

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

There are currently a very large number of appointments that need to be made by the States and concerns about the process have often been raised by States Members. Since the establishment of the Jersey Appointments Commission, which is involved in many of these appointments, these concerns have been accentuated. The Commission has established codes which require a very rigorous selection process and these are normally adhered to even for appointments which do not require the direct involvement of the Commission. The role of the States in considering nominations for appointments made following the rigorous process set out by the Appointments Commission is unclear. It is not satisfactory for a States decision to appear to merely rubber stamp an appointment, but Members may feel that there is little realistic alternative to approving nominations where there has been a full assessment and interview process undertaken. Should it transpire that Members do have any concerns about the nominations proposed it is also clear that a

States debate, often in public, is not the most appropriate way to address these concerns and to quote Deputy Le Hérisier's comments during one debate: "We have never thought a 53-person Recruitment and Appointments Panel was the way to handle personnel issues." P.P.C. (Privileges and Procedures Committee) believes that many appointments could be handled differently and if this proposition is adopted in future the Minister, body or person responsible for making the appointment concerned would, rather than lodging a proposition for debate, present a report to the States setting out the details of the proposed nomination. It is proposed that the report would contain specific details about the nominee, together with a summary of the duties of the position concerned and details of the process that had been followed to make the selection. The minimum notice period given to States Members would not be affected as the report would have to be presented to the States for at least 2 weeks before the appointment could be confirmed, which is the same period as the current lodging period for any proposition relating to an appointment. The proposed system would in fact mirror the current process under Standing Order 168 relating to property transactions which has been in place since the beginning of 2006. In the majority of cases it is likely that Members will be content with the nomination to put forward but the 2-week period will allow Members time to raise any concerns with the Minister or body concerned and, as happens with property transactions; and allow Members to even lodge a proposition if necessary seeking a debate on the nominations. In practice the 2-week period will also allow Members to raise any concerns with the person making the nomination in a private way in the first instance which will avoid some of the difficulties and embarrassment that has arisen during debates on appointments in the Assembly. Although the proposed new system is in theory a relatively simple change to procedures it is unfortunately relatively difficult to implement. There are 3 main types of States appointments: those resulting from legislation, those which are embodied in the constitution of various bodies, and those which come out of a States decision. There are comprehensive lists of these in the appendices to the report accompanying this proposition. These will therefore need to be addressed as appropriate by changes in the legislation, changes in the internal constitution, or in the case of the third category, simply adopting this proposition which will effectively amend the earlier States decision. Not every appointment will be made by the proposed new procedure as P.P.C. believes there are certain positions where this would be inappropriate and where States approval through a proposition should continue. Details of these appointments are also contained in the report but, for example, the post of Comptroller and Auditor General and Greffier of the States are 2 key posts for States Members where it is only right that the Assembly as a whole should ratify the proposed appointments. Both post holders report directly to the Assembly and it is appropriate that Members should collectively have the opportunity to express their approval of the nominations proposed. P.P.C. recognises that this matter may not be able to be given a high priority in the law drafting programme and it may be some time before the changes can be fully implemented. Nevertheless P.P.C. considers this a necessary enhancement to the appointments process and I move the proposition.

The Bailiff:

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

10.1.1 Senator A. Breckon:

Just to say that I welcome this because it has been embarrassing on occasions when people have put their names forward and it has finished up having some uncomfortable debates on the floor of this House. Now, if any of us were to stand against each other for a post from this House then for me that is a different situation because we are probably big enough and daft enough to take whatever is coming so we say what we want to say, we are questioned on things and then Members decide. I do not think it is quite the same for those members of the public who might be willing to give their time and effort, usually freely, in the same situation because I do not think it is fair to them to become part of a public debate when they have no opportunity to reply. It is a pity that Deputy Le Hérisier is not here because he has mentioned that. Having said that, if we are going to move

away from a process that brings it to this House then it would be, I think, what the chairman of the Privileges and Procedures Committee said, it would be very similar now to some of the transactions that go through for leases and properties where things are brought to our attention and then I think there is 15 days in which a Member can challenge that decision and, if need be, ask for it to be halted while they do another thing. But then if there are positions available then they must be openly advertised so that as many people as possible across the community do get the opportunity if they want to to consider themselves or somebody putting them forward so they can apply because I think there was a period we went through where we used to get what became known as the usual suspects. Every time something was formed there was a group of so many people who became the members of that for whatever reason because they were known for other things and I think, hopefully, we have moved away from that, and having said that I believe there are still lots of people out there in the community who would give their time and effort but they do not necessarily want any exposure at all in this House. I think for me this is a sensible way forward because it does not take it away entirely from this House but then what we must be supplied with is a paper that demonstrates the process. Yes, positions were advertised. When and how they were advertised and if there were 6 posts for a various group, whatever it is, if there were 30 expressions of interest, then that would be useful to know as well. So, providing there is that transparency, I think this is a sensible way forward. It does leave this House in a position to question these appointments but not perhaps in the way we have done in the past and I think that is a good thing because I have seen situations where somebody was persuaded to stand for something, sometimes a little bit reluctantly, and they finished up perhaps getting maligned in this House in an open debate. There have been other occasions where we have gone into camera to discuss the merits of someone. I think this is a sensible way forward, Sir, and I would congratulate P.P.C. on this piece of work because I think it is well done and it is timely and it is the right way forward.

10.1.2 Senator P.F. Routier:

Very briefly. I think this is a long overdue proposition. I think we have all experienced over the years the times when we have had to debate this sort of thing, to my mind unnecessarily. I think it will widen the scope for people to come forward who have been reluctant in the past because they have not wanted their name bandied around in the Chamber and criticised and felt that they had not wanted to put themselves through that. As the previous speaker has said, there is the safeguard that this Assembly will still have the ability to take a view on it during the period after the names have come forward. I do welcome this and I fully support it.

10.1.3 The Deputy of St. Martin:

I am all for simplicity. I see no problem with it, except maybe an answer to a couple of questions I would like to pose. I did a check on these. There are 23 right across, 19 are not in camera and 4 are in camera. What I would ask the chairman is when these do come back will we have consistency right across the board? I personally am not in favour of any appointments being in camera. I have always believed everything should be open and above board. So the question is when the amendments are brought forward, if indeed they are, that there will be consistency that none will be in camera, and also the fact of who will be employers. For instance, something which is concentrating my mind of recent time is the appointment of the Chief Officer of Police and one sees here that the States have to debate an appointment because the law says that he has to be appointed, dismissed, and the suspension must be by the States and it must be in camera. All I am looking for is a simplistic approach. I would hope that all appointments will be open and there will be nothing in camera and indeed it will be the Ministers appointing and maybe the House, who it has to be, to give the final consent. I am looking for simplicity and I hope that will come from this particular proposition.

10.1.4 The Deputy of St. Mary:

There is just one point really, to ask the chairman to confirm that in her report there is mention that when the reports about appointments come to the House - are laid - that there will be details of the nominee, details of the position, what it involves and what the workload is and so on, and the process of appointment, including the advertising and so on. That has been asked for under the old process many times with extremely different results, depending on which Minister is doing it or who is responsible. I do not quite know what the variable factors are that determine whether we get a decent report or whether we get one so full of holes you could not use it as a sieve. So I would just ask the chairman to confirm that those reports will be specified when we get to that stage, that there will be possibly a template that makes sure that we get the information that we need in order to either question an appointment privately or accept it. But we do need the information because appointments are important. We are appointing people to all these bodies and it is self-evident that it is important. So I would like to have reassurance on that point.

10.1.5 Deputy R.G. Le Hérisier:

As mentioned, I have pushed for this for a long time and I would like to congratulate P.P.C. on coming up with a very workable solution based on the property transaction solution. I was going to make the point similar to the Deputy of St. Mary that there is the need for an informational template so that the information is consistent but I am not sure we need to know people's C.V.s (curriculum vitae) in massive detail and where they went to primary school and so forth, interesting though that is. The last point I would make is Deputy Hill mentioned the Police Chief. Indeed, there needs to be much more radical reform because not only the notion that we appoint him but the notion that his Minister is also his chief discipliner is absolutely untenable and I am sure that will probably, hopefully, be the next phase of reform.

10.1.6 The Connétable of St. Brelade:

Briefly, I would like to commend all those members of the public who put their names forward for these positions because without them we would be at a great loss and any procedures which the Committee are taking to ease the path of their passage into these offices I think should be supported and I urge Members to support the proposition.

The Bailiff:

I call upon the Chairman to reply.

10.1.7 The Connétable of St. Mary:

Firstly, I would like to welcome generally those people who have welcomed this proposal and I particularly welcome Senator Breckon's comments which I think only bear out the feeling behind the P.P.C.'s decision to pursue this. Of course, as he said, there may be a case here where more people become available, more people feel that they can commit to some sort of appointment, not having to run the gauntlet of Members during a public debate, because, of course, for any position, they can only consider the people who do apply and that is why sometimes we have had this smaller pool. So I think that is a good concern. I echo the concern about transparency and if I can deal with the Deputy of St. Mary's concerns at the same time. It is quite clear the report must be robust, it must contain the details that we have suggested. It is up to the House to say if a report is not robust it will be challenged and I think once reports have been challenged a couple of times people will get the message. I particularly mention to the Deputy of St. Mary that recently P.P.C. has shown models in the propositions that it has put forward which have generally been adopted and where propositions have come forward with less than adequate reports these have been robustly challenged in the Assembly. I feel that we are going the right way but certainly it would not be tremendously difficult to show a model, I agree. The Deputy of St. Martin, as regards the in camera situation, I cannot give a complete undertaking on that. There may well be reasons why an in camera debate would be necessary if it did come to the House but that really would be something to be dealt with at the time of the legislation change that would be required.

[16:00]

Deputy Le Hérissier mentioned far-reaching changes that needed to be made to some laws. He mentioned the Police Chief's appointment. If that is the case then that will be the time when this change is put through, I would imagine, to consolidate the law drafting time involved. So I think that we will get to the situation that the House requires because, of course, changes to legislation will come to the Assembly for debate. Having said that, Sir, I commend the proposition to the vote.

The Greffier of the States (in the Chair):

The appel is called for. Members are in their designated seats. The Greffier will open the voting.

POUR: 34		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Connétable of St. Helier				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérissier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy A.K.F. Green (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

11. Climate Change: Copenhagen Conference - petition (P.206/2009)

The Greffier of the States (in the Chair):

We come now to the proposition in the name of the Deputy of St. Mary, Climate Change: Copenhagen Conference - petition. I will ask the Greffier to read the proposition.

The Assistant Greffier of the States:

The States are asked to decide whether they are of opinion to receive the petition concerning the Copenhagen Conference in December 2009 and to request the Council of Ministers, following publication of the results of the Copenhagen Conference, to give detailed consideration to these results and report back to the States within 6 months of the adoption of this proposition on how they intend to respond, their report to include detailed proposals and timescales.

11.1 The Deputy of St. Mary:

I think this is an important proposition and I am proud to be bringing it. I think it signals quite a change and the acceptance of it by the Council of Ministers and by the Minister for Planning and Environment signals quite a big change of direction for the Island in fact. I want to begin by drawing Members' attention to the petition itself and what inspired it. I think the people who organised the petition, which was J-C.A.N. (Jersey Climate Action Network), and the people who signed it did so out of a mixture of feelings, and I have identified 2; there are probably others. One was fear. There is quite a current of real fear and anxiety around this issue. Obviously in the poorer countries where it is already hitting home and people are suffering drought and so on as a result of climate change then the fear is self-evident, the anxiety, but also in Jersey, and here I myself feel this anxiety all the time when I think about my children and the sort of world that they are going to be living in if we fail to take sufficient action. So I think that is one driver behind why people signed this petition. The other is hope. They have not signed it because they think that the States is a lost cause or that climate change is a lost cause. They have signed it in hope. They have been accosted by members of J-C.A.N. and have said: "Okay, I will sign this. I think something should be done about climate change; the States should lead on this." I am so glad that the Council of Ministers and the Minister for Planning and Environment have accepted this proposition with positive comments and have recommended that the States back this proposition. Of course that is not a guarantee that the States will in fact back the proposition but it is certainly an advantage. I hope that the House will respond to those feelings that have driven the signatories and the people who took the trouble to organise the petition. What the petition has asked for is, and I will read it: "We, the undersigned, petition the States of Jersey as follows. Following publication of the targets agreed at the Copenhagen Conference, the Council of Ministers should give detailed consideration to these targets and report back to the States within six months of the closing date of the Conference on how they intend to respond, their report to include detailed proposals and timescales." What happened at Copenhagen, as Members are no doubt aware, there were not any targets, which some commentators saw as a reason to bang the drum of despair and say the conference has failed utterly and we are all doomed, but in fact there are other ways of reading the fact that no targets were agreed. There are technical political reasons why in fact the targets were pulled at the last minute and it has a lot to do with power politics and China, but I will not go into that in detail. In fact it might be a blessing in disguise that there are not any targets and that there was not a binding deal, and the reason for that is that what was on the table was, in the view of many, quite unsatisfactory, was not radical enough, the measures that were proposed to achieve carbon emissions reductions just would not work, and so it may be that by having an extra year we will end up in a better place. In the light of what was agreed, nations can get on with the business of tackling climate change and possibly arrive at a more radical consensus at the end of this year. So, there were no targets and I had anticipated this, and certainly J-C.A.N. had anticipated this and we agreed that the proposition would not mention targets but results because there was a good likelihood of the targets falling down by the wayside. I think Members must get round the notion that Copenhagen was a failure. It suited some in the media, many in the media, to have headlines like: "Ministers return empty-handed" if they wanted to have a go at Gordon Brown and Miliband, or Merkel in Germany, papers on the other side would have a go at her and say: "What a failure, what a failure." But in fact if we look at the actual accord - I have it here, I certainly will not read it - it is quite a short document and there are real results in that accord which we should all be aware of and which are quite heartening and quite startling. Firstly, there is an agreement for the first time across all 194 nations that the scientific view is that the increase in global temperature

should be below 2 degrees Celsius and that consensus around the science is new. We now all agree - all the governments agree - that we have to keep below 2 degrees Celsius. I will come back to the number 2 but the consensus is something that is new. The second thing that they agreed by signing up to the accord was that, and I quote: "Deep cuts in global emissions are required according to science." Again, that is another step. Not only is there real science and we all agree but we are mandated, we have to do something about it in the form of deep cuts. The third thing that came out in a general way was the statement that peaking of global and national emissions should happen as soon as possible. So it is not a matter of we will do something when we can get round to it; it was a matter of the peak, we must get to the top of the global emissions and start cutting them year on year as a global society and as nations we must do this as soon as possible. That third commitment is also new and it is also very important. I just would labour the point that this is a massive shift in governments across the world; there is now a universal agreement on the science. The only disagreement was about the 2 degrees and there was a strong contingent, 100 countries, who said it should be 1.5 degrees and I will touch on that direction later. In other words, the 2 degrees is a minimum target and we should be aiming for a lower global increase in temperature. Even that, the 2 degrees, will be reviewed in 2015 because the countries that wanted 1.5 degrees made such a fuss, and rightly so as some of them will simply disappear under some scenarios. So I would urge Members to not underestimate the scale and importance of this shift. Moving on to specific proposals, what did Copenhagen make countries do? Well, there were specific proposals around forestation and deforestation and money for the poor, pitiful amounts according to those who should benefit from it but nevertheless there were commitments made. I will focus on the most important result of Copenhagen for Jersey and that is that there was a mechanism set up whereby countries would make a statement by the end of January, 31st January, to the U.N.F.C.C.C. (United Nations Framework Convention on Climate Change), the coordinating body for all these negotiations, about what their target for reduction would be by 2020 and they would have to state the base year. The deadline was 31st January so with some trepidation I went on Google and went to the U.N.F.C.C.C. site yesterday, 1st February, to see whether any countries had sent in their pledges and I must say I was pleasantly surprised. I really was quite anxious that countries would see this as another thing to do and: "We will do it a bit later and we will not meet the deadline, it is only the U.N." and so on. But in fact 55 countries whose carbon emissions from energy use are over three-quarters of global emissions, so it is 55 big players, have already sent in their pledges. Just to give a flavour of the sort of thing, because this is a kind of guideline of where countries are - the direction of travel - the E.U. which of course includes the United Kingdom but also all the other countries in the E.U. who are developed, so it excludes the very poor new members: "As part of a global and comprehensive agreement for the period beyond 2012, the E.U. reiterates its conditional offer to move to a 30 per cent reduction by 2020 compared to 1990." So, not compared to now but compared to 1990. That is a big commitment. It is a conditional commitment on other people also moving, which will probably happen at the end of this year. Japan, 25 per cent reduction, which is premised on the establishment of a fair and effective international framework in which all major economies participate, again on a 1990 baseline. It carries on: Norway, 40 per cent on 1990; the Russian Federation is 15 to 25 per cent, and I cannot read it because it is in Russian; and so it goes. The U.S.A., depressingly, 17 per cent on a 2005 baseline, so they are not even going back to 1990, but even with the U.S.A. there is hope in this document. For the first time we read about legislation in the U.S.A. about climate change in the range of 17 per cent in conformity with anticipated U.S. energy and climate legislation. These targets are not airy-fairy paper targets: "We tell the U.N. this is what we aim to do and then we do not do them"; they are going to be verified and monitored and that is part of the accord which may be one reason why China does not figure on here yet but they are under pressure because the 55 have already moved. So I think that shows that the Copenhagen accord was not just a lot of hot air: the science has been agreed, the direction has been agreed, and we now have pledges written and verifiable and they will be verified year by year. So the Council in Ministers, in responding, does have a clear direction of travel. I will make a few comments on what I personally feel is required to

fill in what the Council of Ministers have promised and then some remarks on their comments because I feel that we, as a body, as the Assembly, do have to press them just a little bit. I think that when they do write their reports, and it is going to be as part of the environment report, they do need to state a clear, unambiguous rationale for the people of Jersey and for us to explain why this is such an important issue and why we have to take action. The reason I say that is that there is an information gap, there is a belief gap, there are people who still, on the blogs, are writing away saying: "It is not real, it is just a fantasy, it is just somebody has made it all up."

[16:15]

It is not made up and it is real and people do have to understand that and part of that understanding is the Council of Ministers itself making that claim very publicly and allowing it to be challenged and debated. When they do say that it is clear and unambiguous and we have to act they should mention a few things. One is the risk to Jersey and it is a government's duty to be proactive and protect its citizens from risk. I am just going to pick 2 examples of our future from *Turning Point - the ECO-ACTIVE guide to the science and impacts of climate change in Jersey*, which Planning and Environment produced. One is potato blight where they show that because of the changing weather patterns, the increase in humidity and temperatures, potato blight is quite likely to become far more of a problem even than it is now, and that, of course, has cultural implications as well as agricultural implications. The second is Goose Green Marsh and areas like it in Jersey which are below maximum sea level and when that rises there will be problems, there will be extra expenditure, and therein lies the risk. The second thing they have got to lay on the line and be really quite upfront about is our position in the wider world and the fact that we have to take part in this global effort which I have just outlined to you. This is not just a matter of our reputation, although it is a matter of our reputation, of what will others think when they come here to do business or they come here as tourists or they negotiate with us or in the British-Irish Council and they say: "What are you doing?" and we say: "Not a lot", which is obviously unacceptable. It is not just that, although it is that, and it is not just about being in line with what other people are doing, although if we are too far out of line then there will be a price to pay, but I think it is about real solidarity. In this regard, and I think this is a point that is often almost sidestepped in the discussion, certainly in Jersey I have not seen it mentioned much, this is from a statement from 242 organisations working on climate debt and they are all from the global south, 242 civil society groups, a statement made in June 2009 and I quote: "A wealthy minority of the world's countries, corporations and people ... are the principal cause of climate change." So what they are saying is that there is a historic responsibility here and that is part of why there should be an unambiguous call to action to our people here in Jersey. "The developed countries, representing less than one-fifth of the world's population, have emitted almost three-quarters of all historical emissions. Their excessive historical and current emissions occupy the atmosphere and are the main cause of current and committed future warming." So, it is in a sense our fault and it is up to us to really get stuck in and do what we can to put things right. The other aspect to solidarity ...

The Greffier of the States (in the Chair):

Sorry, Deputy, the Assembly is not quorate. I will have to ask Members to be summoned. Very well, I think we are now quorate. You may continue.

The Deputy of St. Mary:

This is not as riveting as whether we should take an extra day's holiday but I think it is as important because it affects all our lives and it affects our future. That is a bit pompous but there you go. About solidarity, there is another aspect to it. It is not just as a community we have a historic responsibility because we are part of the rich developed world. There is another aspect. Many local people give their time in work parties or as individuals to help out, particularly in Africa, the poorer people in the world and it would be strange indeed if we did not give recognition to that fact.

Here I will remind Members of the debate at Copenhagen around 1.5 degrees. I am sure you saw all this in the papers. There was a very strong, vociferous and in fact not even a minority, more than half the countries there banded together and said 1.5 has to be the global limit on the global temperature. That 100, by the way, includes the 43 members of the Alliance of Small Island States. Well, what are we if we are not a small island state? We are not yet sitting at Copenhagen as a party but maybe, if the Chief Minister and his Ministers have their way, one day we might be to enhance our international profile. The members of the small island states are all behind this 1.5 degrees and 45 lesser developed countries, including most of Sub-Saharan Africa and that is where our people go to help: Uganda, Kenya, Zambia and so on. It would be odd if we were to help with one hand and then not use this opportunity of really nailing our colours to the mast and saying: "We are going to help tackle climate change." So that is the first thing, to lay it out to the public, really in quite strong terms, about the nature of the challenge and how important it is and what the risks are. Then, secondly, the science and the implications to all policy areas. When you are looking at an 80 per cent cut by 2050 that is a big cut: 80 per cent. That is only one-fifth left of our current emissions. So this has to be a thing that affects all policy areas, and I noted what the Minister for Treasury and Resources said earlier about the environment being embedded in all our activities and indeed this is an aspect which has to be embedded in everything we do. It cannot be an add-on; it must be part of the thinking in everything. Then the question is how do we do this? How do we insert climate change and the need to reduce carbon emissions so that it is automatically part of policy, and that will have to be part of this report? There are some issues which I would just like to flag-up for the Ministers because if they lose these, if they miss them out, they have not really delivered. The first one is, of course, funding. We have a stimulus package and I have asked whether creating resilience in the face of climate change and peak oil is on the menu with the stimulus package and I must say I have been disappointed with the answers. It is not an overt criterion that we are going to make sure that in future we are more resistant to the effects of moving into a low carbon economy, that we have greater resilience in this regard. So there is an issue there of a sort of reluctance to commit to this as a funding issue. The second thing is 'invest to save.' We did hear good words on 'invest to save' this morning, a few words, but that principle of how we get money, spend it now to gain later in terms of saved emissions and saved fuel costs, that has to be grasped as part of the overall package. The second issue is front-loading. This is as soon as possible, and I have to stress that. It is not something that can go on the back burner and sit there for a couple of years. It is the sooner we get those emissions cut, the sooner we start on the downward path, the better. The third issue is tidal power. This is mentioned in the Minister for Planning and Environment's comments and I just fear that we might see this as some kind of Jersey panacea. We have got tidal power so we can carry on our lifestyle, consuming and whatever as before. Tidal power does not meet the 'as soon as possible' criterion, with the best of respect to the chairman of the tidal power group who is looking at me. It is a fair way off. We are just about, I think, resolving the legal issues, then there are the technical issues, then there are goodness knows what. I think it is a fair way away. So, in order to cut our carbon emissions, that is one for later. It is something we must do, we must go there, but please let us not use that as our fig leaf. The fourth issue is carbon intensity and the whole issue of gas versus electricity which we have gone over in scrutiny quite a bit. The issue there is that nuclear power is low carbon. This is going to be the subject of a study, unless the study has hit the buffers, I do not know. We certainly looked at this in scrutiny and I attended various presentations and there is a real issue about whether Jersey's electricity consumption can be counted as low carbon. I certainly do not believe that it can because the European grid, as a whole, is where we get our electricity from. It does not come as a little electron straight into your toaster. It does not work like that. It works that the entire European grid has to be averaged, and that includes dirty coal from Romania and goodness knows what. So we do have not again to duck that issue. The Council of Ministers have got to be upfront about it and not use that as a fig leaf either. So, big changes and it is likely that the 30 per cent - the E.U. cut which we would probably be part of, probably aspire to the E.U. cut by 2020 - is too conservative, as I have pointed out. So these big changes will have implications for our lifestyle, for our

consumption, for the nature of our community, and so we are going to have to take people with us. That brings me to the whole issue of engaging with the public and how we make this report public in a way that encourages a response, encourages challenge and debate, but also the process of arriving at the reports from P. and E. (Planning and Environment) I believe should be participative and I hope that the Minister agrees that that is so and possibly, I would float an idea in his direction, makes use of one of his think tanks to do some preparatory work and engage with the public on both the big picture - how do you insert carbon reductions into the whole process of government - right down to the details of ideas that people might have to get there, to get to the emissions reduction scenario, to get to a low carbon society, and the possible benefits of this. I am asking P. and E. and the Council of Ministers, and I have gone on a bit but I think it is legitimate because it is not a matter of them saying: "Yes, we will do that", because the problem is that the track record is not brilliant on this. In fact, climate change is like a secret in the halls of government so far. Now, I will justify that statement by referring Members to the Ministerial decision which ratified Kyoto, and this was done by Jersey in 2007 which was some years after Kyoto was brought into being. I will just read a little bit of this Ministerial decision: "To support the U.K.'s request for ratification of the Kyoto Protocol to be extended to Jersey." Note the U.K. requested Jersey to get on and ratify. We did not go to them and say: "It is time we ratified this." The Minister was asked to support the U.K.'s request. "To request the Chief Minister consider the U.K.'s request and make the necessary steps to request extension of the U.K.'s compliance with Kyoto to Jersey." The reason for this decision was given as: "To date Jersey has maintained the position that, while supportive of the Kyoto protocol, it did not wish to have it extended on the Island's behalf [latest correspondence, 12th August 2005] as it was unable to comply with obligations within the protocol." Remember, Kyoto was far, far more gentle reductions than what we are now talking about and yet Jersey took years to sign up to it. We said we could not do it and when we did do it we did it because the U.K. asked us to. I think there is an indication there that we have some way to go and I pray that the Council of Ministers in their comments, their positive remarks, have turned a new leaf. At the end of this Ministerial decision, signed 12th April 2006 but it actually happened in 2007, the final clause is that: "The reduction of emissions shall be as determined by the Government of Jersey in conjunction with Her Majesty's Government to be what Jersey can reasonably deliver."

[16:30]

I think it is fairly lukewarm commitment. So when I read in the comments of the Council of Ministers on this proposition where they say that they acknowledge the measures being taken by all countries to address climate change and reaffirms its commitment, the Council of Ministers commitment, to taking substantive action to combat climate change on behalf of Jersey and then it says we became a signatory to Kyoto in March 2007, the track record is not good, it is very poor, and that is one reason why the public out there do not know much about it, are not particularly committed to this cause, and yet they have to be. There is another indicator of the amazing blindness of the apparatus here about climate change which is that when the Strategic Plan came out earlier in 2009 there was not a single mention of climate change or peak oil in that document. Then when the Island Plan came out I looked in vain in the index for climate change, carbon, CO₂ and carbon emissions. So, how deep is this commitment? I just pray and I just hope that the States send a very strong message that these comments that we have had from the Minister for P. and E. and from the Council of Ministers mean what they say. There is doubt but I hope that we can be wholehearted about this. There is politically, I believe, no price to pay by people sitting here to go with this and to support this proposition because I think people have moved there already, people have got on the bus without any prompting, there are more people on the bus, 10 per cent a year increases without any real marketing at all. There are surveys which show that people are moving towards a quality of life perspective rather than a consumption perspective for their whole life, and I could back that up but I will not because time is getting on. The other side of this, of course, is

that if we do not, if we fail to send a strong message to the Council of Ministers and say: “Yes, we really support this”, there is a large price to be paid for failing, for not paying attention to this issue. So I do urge all Members to support the petitioners in their feelings when they put this petition to us and I urge Members to support the proposition.

The Greffier of the States (in the Chair):

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

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

Being one of the signatories of the petition, I am happy to support this proposition. As has been mentioned already today, the 3-legged stool analogy of environmental, social and economic benefits do slot together and I feel that this proposition will help redress this lopsided stool by strengthening the environmental leg. Of course, we have to remember what is ideal and what is practical at the end of the day. I would like to remind Members that by strengthening the environmental leg there are, of course, links to the betterment that can be had in health which will have implications on the social and other economic legs. I would just like to thank the Ministers in what they have done in being so supportive of this proposition, and those are my comments there.

11.1.2 Senator S.C. Ferguson:

The Deputy of St. Mary made a compelling case for examining the evidence regarding cycle helmets. It is equally important that we examine the evidence for adding this petition to the must dos for the executive. Does the evidence support the claims being made by the Deputy? Central to this petition is the I.P.C.C. (Intergovernmental Panel on Climate Change) *Fourth Assessment Report* published in 2007. Can we rely on that report? Can we rely on any of the I.P.C.C. reports? Theoretically it sounds good: “The I.P.C.C. is the leading body for the assessment of climate change, established to provide the world with a clear scientific view on the current state of climate change and its potential environmental and socio-economic consequences.” So far so good. “The I.P.C.C. embodies a unique opportunity to provide rigorous and balanced scientific information to decision makers. By endorsing the I.P.C.C. reports, governments acknowledge the authority of their scientific content. The work of the organisation is therefore policy relevant and yet policy neutral, never policy prescriptive”, and we worry about civil servant speak. The chairman of the I.P.C.C. says the report is based on peer-reviewed literature but the guidelines go on to say: “The authors will work on the basis of peer-reviewed and internationally available literature, including manuscripts that can be made available for I.P.C.C. review and selected non-peer-reviewed literature.” So that is the get-out-of-jail-free card for the crass mistakes that have been made in the *Fourth Report*. The rules go on to say that they will feature disparate views and identify them, together with relevant arguments. Well, disparate views were not allowed in the reports. The quality of the non-peer-reviewed literature? One of the pieces of non-peer-reviewed literature was *Mountaineering Weekly*. I find that very difficult to cope with. Can we rely on the *Fourth Report*? A simple search on the last report - anyone can do it, it is on the website - reveals that they quote 16 reports by the World Wildlife Fund, 8 by Greenpeace, one from a magazine called *Leisure* and one from a magazine called *Events and Marketing*, in addition to the one from *Mountaineering Weekly*. The World Wildlife Fund and Greenpeace are advocacy institutions, not known for their publications in peer-reviewed journals, nor for their objectivity, and who on earth peer reviews an article in *Mountaineering Weekly*? Nevertheless they have made a solid contribution to the *Fourth Report*. Take coral reefs. In one section of this Nobel Prize winning report, climate change is linked to coral reef degradation. The sole source for this claim? A Greenpeace report titled *Pacific in Peril*. The evidence and actual observation completely disprove this, as in the recent peer-reviewed paper by Exeter University. This latest research adds weight to the argument that reducing levels of fishing is a viable way of protecting the world’s most delicate aquatic ecosystems and it is a lot cheaper. When the I.P.C.C. advises world leaders that climate change is very likely to produce significant impacts on selected marine fish and shellfish (Baker 2005) it does

not call attention to the fact that the sole authority on which this statement rests is a World Wildlife Fund workshop project report. But this is just a minor grumble. Consider the tale of the Amazon rainforest. In *Nature*, 1999, there was a paper by 12 distinguished authors called *Large Scale Impoverishment of Amazonian Forests by Logging and Fire*. The original quotation was: "Logging companies in Amazonia kill or damage 10 to 40 per cent of the living biomass of forests through the harvest process." This got transmuted into a paper by Rowell and Moore, *Global Review of Forest Fires*, World Wildlife Fund, and it became: "Up to 40 per cent of the Brazilian forest is extremely sensitive to small reductions in the amount of rainfall." Um ...yes? Then we get to the I.P.C.C. report which becomes: "Up to 40 per cent of the Amazonian forests could react drastically to even a slight reduction in precipitation." Chinese whispers anyone? Considered the climate bible by governments around the world, the I.P.C.C. report is meant to be a scientific analysis of the most authoritative research. It is unravelling. Given the shaky foundations of the report and the lack of scientific process, it is not surprising that we have had Glacieregate. The reports about the melting glaciers have arisen from just such shoddy science as I have described, despite the fact that in 2004 a U.K. government-funded survey - I will have to apologise for my pronunciation - *Sagarmatha: Impacts of Deglaciation on the Water Resources of the Himalaya* by Rees and Collins, this report investigated the alarmist claims and found the claims to be unsupported by the evidence. Leading glaciologists expressed their concerns to the I.P.C.C. but these were ignored. In fact, the Chairman of the I.P.C.C. did not admit the error until forced to by the media, I think it was the *Times*. On the other hand, one of the lead authors confessed that they knew it had not been peer reviewed but they included it to impact policymakers and spur them to concrete action. But the stars of the global warming scam must be the scientists at the Climate Research Unit at the University of East Anglia. I have read the emails and I have looked at the documents. The leading lights of the I.P.C.C. reports were incompetent programmers, they tampered with the evidence, they bullied journal editors and the BBC. They refused to comply with F.O.I. (freedom of information) requests, preferring to destroy the data, and in fact they have totally misled the public and it is possible that they could well be the subject of fraud investigations. In fact, the doubts about the evidence are such that the university has commissioned an independent review, the Commons Select Committee on the Environment is investigating this, and the genuine scientific evidence by no means supports the theories. The science is by no means settled. After all, that is what the Inquisition said to Galileo. What is not generally known is that the University of Pennsylvania is also investigating one of the leading lights of the I.P.C.C. report. One of the tenured professors at the university, famous for his "hide the decline" email and his recommendations to suppress the medieval warming period, has received large grants from U.S. agencies and, again, this is being investigated and the Commonwealth of Pennsylvania will be investigating as well. Then you can add to this NASA-Gate, the recent release of emails by N.A.S.A. (National Aeronautics and Space Administration) under the United States freedom of information. These show that N.A.S.A. and the National Data Center were also fiddling the data. Up until 1990 there were more than 6,000 temperature reading sites worldwide but incredibly they have now been reduced to about 1,500. Interestingly the sites removed were mainly at high latitude, in rural areas or at high altitude but these did have some weird effects. Let us take Bolivia. The temperature recording unit there has been beavering away quite happily recording temperatures, even though it has disappeared off the N.A.S.A. map. But what does N.A.S.A. do? It interpolates the reading for Bolivia from the 2 nearest sites within 1,200 miles. One happens to be on the Pacific coast and the other one in the Amazon rainforest but Bolivia is a mainly mountainous country in the high Andes.

[16:45]

Anyone see a problem with that? Bolivia is now a warm spot on the charts. Or take Canada. There is now only one temperature record in Canada, north of the Arctic Circle; one, and last time I looked, Canada was a big country. Members will remember that the Deputy of St. Mary questioned me as to who the chairman of the I.P.C.C. was about a year ago in the incinerator debate. I think

pretty well everyone knows who he is now if you read the mainstream press. He has been a very busy little man. As well as writing a salacious novel, his list of directorships is substantial, including the appointment as an adviser to the Chicago Carbon Exchange. All these organisations will benefit from his campaign to return us - not him you note, us - to an agrarian lifestyle. Could that be a conflict of interest? He is also Chairman of T.E.R.I. (Tata Energy Research Institute). There is a European branch of this which has been filing incorrect accounts with the Charity Commissioners, with its income and expenses greatly understated. I suppose I should not be surprised. I tried to find a copy of the I.P.C.C. accounts on their website or a copy of the World Meteorological Organisation accounts on their website. I found some wonderful reports on the proposed financial governance, mention of a 3.6 million dollar fraud, but no accounts. You will note that I have not mentioned the genuine evidence about the annual rise of about 1 to 2 millimetres in sea levels, lack of increase in hurricanes and floods, the fall in temperatures over the last 12 years, the beneficial effect of CO₂ on the Amazon rainforest, the nonsense about ocean acidification, the growing glaciers, the thriving polar bears, *et cetera*. I am not going to go into the detail of this. Quite a lot of it is in Hansard from the incinerator debate. I do have peer-reviewed documentation regarding this which I can make available to those who wish it. The I.P.C.C. process and the scientists involved are now discredited. In fact, even proponents of A.G.W. (anthropogenic global warming) are calling for a clearout of those responsible for this fandango. I would say to Members we cannot make any plans that will jeopardise our economic future on the basis of suspect science. The most intelligent thing we can do now is to do nothing regarding global warming. There are important environmental steps which we should be doing and which we are doing. We are curbing our pollution by carbon particulates (witness the new incinerator), we are insulating our houses and we are recycling. We are protecting our local environment. For example, the La Moye W.I. (Women's Institute) has adopted a section of the railway walk. Sensible, practical. We are encouraging consumers to buy local, environmentally-friendly as well as supporting local industry. These are entirely rational and sensible steps. Fortunately, we have not enough land space for windmills. As M.I.T.'s (Massachusetts Institute of Technology) Thomas Lee says: "The experience of the 1970s and 1980s [for those who are too young, that was the period when the price of fossil fuel went up significantly with the formation of O.P.E.C. (Organization of Petroleum Exporting Countries)] taught us that if a technology is commercially viable then government support is not needed and if a technology is not commercially viable no amount of government support will make it so." So that deals with windmills. The I.P.C.C. say that we should reduce our dependence on fossil fuels. No problem there but they have missed the point. If an energy source becomes too expensive then substitutes will be found. In economics it is called the law of substitution. The free market always wins. In the debate on impôts duty I pointed out that our fuel duty has risen by nearly 300 per cent over 12 years, a rate of just over 9 per cent a year. This is a pretty substantial carbon tax. But our fuel consumption has fallen by 5 per cent and the number of cars on the roads has risen by 45 per cent. So my conclusion is that this is probably because we are investing in more fuel efficient vehicles and using them less, which is very environmentally friendly while paying a pretty hefty carbon tax. I made some rough calculations. I have oil central heating and I drive a car and I reckon that I already pay about £800 a year in duty on these, and this does not include the additional cost to my electricity because of the subsidies levied on French windmills. We need to do environmental things because they are sensible, not because they are dictated by fraudulent scientists who do not lead by example. This is a well intentioned petition, signed up to by 1,059 verified people, but they have been grossly deceived by the I.P.C.C. and by scientists of no integrity. Frankly, I know how the little boy in the Hans Christian Andersen tale felt: the emperor has no clothes. Fortunately for this House I am wearing clothes. **[Laughter]** The petition asks if the plan for action, based on the decisions reached at the Copenhagen conference ... For a start, Copenhagen is not a legally-binding agreement, and no one is particularly signing up to anything, except Gordon Brown, and he is funding the U.K. overseas climate change contribution by taking the money from the overseas development fund. I wonder if Deputy Gorst would mind if we moved his funding into giving aid for climate change to the

governments of the countries where his commission already does a good job. I have read the comments of the Council of Ministers. Unfortunately, the only scientist on the Council of Ministers is the Chief Minister, and I venture to suppose that this is not at the top of his agenda. Mind you, it would be a good thing if one of them took the time to consider what they are signing up to, before they land us with an appalling amount of unnecessary additional expenditure, particularly in this day of structural deficits. I remind Members that around a thousand people validly signed the petition. What about the other 90,000 in the Island? The number of *ad hominem* attacks on people who have ventured to express a sceptical opinion has been appalling. Take the chairman of the I.C.C.C. report, when referring to a sceptical paper: "It is voodoo science." Take Ellen Goodman of the *Boston Globe* on 9th February 2007, writing: "Sceptics are as bad as holocaust deniers." Consider the environmental activists' treatment of sceptics. Is it any wonder more sceptical people are reluctant to stick their heads above the parapet? The Council of Ministers is so yesterday, like their BlackBerries. It is not carbon dioxide emissions which is the problem, it is carbon particulates, the sort of stuff we are belching forth from the old incinerator and which will be eliminated from the new one. Mind you, if carbon dioxide was as poisonous as the U.S. Environmental Protection Agency says it is, then I would think we will all need to be carried out on stretchers by 5.30 p.m. this evening. If the comments on this petition stated that the Council of Ministers will be continuing with a policy to protect the environment, that would have been enough. But to talk about combating climate change and reducing carbon emissions, when the science on which the proposals regarding these were based, has been so discredited, is incredible, if not reckless. Lord Lawson has established a foundation to look objectively at the science. Can the Council of Ministers not take a leaf out of his book and say that we should not be stampeded into actions which are expensive, and which will reduce us to an agrarian economy, if not to penury. The U.K. Government's chief scientist, who is not exactly a sceptic, Sir John Beddington, said last week: "The impact of global warming has been exaggerated by some scientists, and there is an urgent need for more honest disclosure of the uncertainty of predictions about the rate of climate change." We can note the petition, but it is not something on which we should act. As Hippocrates said: "There are occasions when the wisest thing is to do nothing", and frankly, this is a gigantic gravy train. What are the reasons for it? Well, the U.N. saw it as a golden opportunity to set up an independent revenue stream; the small countries saw it as a great source of finance; the chairman of the I.C.C.C. saw it as a way to support his lifestyle; the greens see it as a way to dictate your lifestyle; and the politicians have seen it as a wonderful wheeze to collect more taxes, taxes which are highly regressive. What is most important is that, following the Prime Minister of the U.K.'s example is a recipe for ruining our economy. It is time for us to be common sense politicians and say: "Enough. We will not ruin our economy by these extreme measures." The comments by the Minister for Planning and Environment are equally dumbfounding. But make no mistake, I like the Minister, but his comments bear little relation to the real world, real science, or solid evidence. I think if I were him, I would probably quietly shred them and hope nobody has read them. What planet is he on? Not mine. New scientific reports are coming off the press at a high rate. At last, reports which do not agree with Al Gore and the I.C.C.C. are being published in peer review journals, and the message is very clear: carbon dioxide is good for plants, especially the Amazon rain forest; carbon dioxide levels lag, and do not correlate with temperature; sea levels are only rising about 1 to 2 millimetres a year; the catastrophe theories are a splendid wheeze to extract money from taxpayers. This petition, and the comments by the Council of Ministers *et al*, are based on the I.C.C.C.'s fourth assessment and the recommendations contained therein. The economic impact is unquantified, and we are already paying what amounts to a significant carbon tax. Given that the critical points in the report are being disproved by hard evidence, and the scientists involved are currently under investigation for their dubious activities, I suggest that this Assembly should pause before following the Gadarene swine in their rush to economic disaster. I ask Members to note the petition, and to reject the proposition.

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

A short pause of breath after that wonderful speech from the Deputy from St. Brelade. I hope I can do as well. Sorry, Senator, I beg your pardon; I demoted her. **[Interruption]** Those of us who were alive in the late sixties and early seventies and who watched a small amount of television, could not help to be profoundly touched by the pictures of Earthrise. For years and years, communities have been at war with each other, territory had to be squabbled about and fought over, belonging to your country was the be-all and end-all, and trying to subdue others was the way we showed our strength. But I think for me, and indeed a lot of others, seeing those early pictures on television of the one earth, brought it home. It said to us, for the first time, that there were wider boundaries, and there were wider communities, to which we all belong.

[17:00]

I think for me, climate change, as we have heard, is provoking a lot of hot gossip and debate, about whether this particular scientist was right or wrong, or whether the timescale that has been predicted is 2 years out, or 20 years out, or 1,000 years out. But really, for me it does not really matter. The key issue about supporting this petition brought by the J-C.A.N., and indeed, if it had not been them, it would probably have been some other group of interested Islanders, I think for me it underlines what I think we are all trying to express, but we have not found a way to do it, as yet. That is our support for, not mankind to be seen as apart from nature, but for mankind to be seen as a part of nature. There is a subtle difference. So where I am is with an environmental hat on, I think most of this climate change business is about the world developing a global conscience, and it is a global conscience, which means that, for the first time, across the world, we are going to devote some of our energies to finding better ways to live, fairer ways to share resources, and certainly, not to be as wasteful in the absolute sense. So for me, climate change is about a move, a worldwide move, towards the wise use of resources, and I think on those grounds alone, it must be supported. I think it is premature at this stage to say too much about what the Council of Ministers will be coming forward with, with the assistance or lead of the Department for Planning and Environment, as to how we wish to respond as an island community that is quite able to deliver, as we have heard in other instances, well above its fighting weight on many issues. I am quite excited at the challenges that delivering our part in the global picture of things, to make this planet fit to live on for the next... well, for ever, if at all possible. If Jersey and I and others can find some way of playing some small part to deliver this global dream, then I think I will be able to rest happy that I have made a small contribution. So it is not a case of squabbling about who is right, who is wrong, it is a case of seeing the bigger picture, and it is something that Jersey, I feel, does not do very well at the best of times, and most times we miss it entirely. The Deputy of St. Mary raised a few other issues about whether or not tidal power is as big as it should be; whether or not the funding was going to be made available; whether or not we should be investing to save; or whether or not we should be acting tomorrow, or whether or not the week after would be insufficient time to make the contribution. He also mentioned the sub-arguments about gas versus electricity and all the other minor things, which miss the bigger picture. This is about the bigger picture. I support the Jersey Climate Action Network in pressing the Deputy of St. Mary to bring this petition to the attention of the States. It has the support of the Council of Ministers, it has the support of myself as Assistant Minister for the Environment, and indeed, I hope, from the Minister for Planning and Environment himself as well. I think in those terms, it should be supported without further ado by the rest of us.

11.1.4 Deputy P.V.F. Le Claire:

I do understand where Senator Ferguson is coming from, but I do not necessarily agree with her proposal that we reject this today. I think that there has been a robust argument, and there continues to be a robust argument, about what is the third great extinction, that this planet is undergoing at this time. While we as lay people represent the ordinary people in Jersey as their government, we must take cognisance of the information that is placed before us by scientists and by the media, wherever we can. It is not good enough that we just listen dismissively to some of

the speeches, because we find the topic boring. It is not necessarily boring. We are here to represent people who find this topic extremely important in our community, who have found for a long time that it has been placed for too long on the back-burner. Seven thousand people stood side by side on the sands of Jersey in October to demonstrate a remarkable commitment to the environment. If we cannot stand side by side with a proposition that has the support of the Council of Ministers, to not do very much at all, which does not cost anything at all in practice, then I do not know where we are. I was going to say: "Okay, we can all go home, because the Women's Institute have adopted a section of the Jersey railway walk, and that is the job done, we do not have to worry about it." But I do not want to do that. I think it is important that the community takes responsibility for certain sections: "Think globally, act locally", was one of the slogans that was around when my cousin, who was the former environmental adviser to the States, Gerard Le Claire, before he died in the United Nations helicopter crash, was quite adamant of reminding me upon. Also, his love of his favourite place on the Island, next to the Ramsar site of the incinerator. So all these issues are close to heart. Now, I do not know what Members will make of me, politically, because I am not really that well educated, as most Members know, but I have here - it is not my fault - but most people will agree that there is a certain political leaning, depending upon which newspaper you read. Now I have here a copy of the *Guardian*. I do not normally read that. I like the *Independent*, I like the *Telegraph*, I even like the *Jersey Evening Post* on occasions. I think that they are one of the more environmentally responsible organisations. In the newspaper of 8th December, which is not long ago, covering the Copenhagen topic, they printed the front page of over 50 international newspapers that were supporting this issue. In doing this article, among other things, they covered such things as the floods in England, which have separated communities, that were astounding to people. They talked about the decline of tigers, from an animal perspective, and they also went on, interestingly, to talk about the need in the future to address passenger taxes to reduce carbon dioxide emissions, but still allowing for extensions to third runways at Heathrow, *et cetera*, at the expense of regional airports. So they talk about things like that. They also talk about what really was driving this argument at the moment about the difference in opinion from the scientific quarter, which is based upon some of the information and the email leaks that went on, and I can share this with Members if they wish, later on, I am not going to take up time reading it out too much. But they talked about the fact that, for the first time, the Met. Office was going to release data from over 1,900 measurement stations around the world that have been gathering information for over 180 years, that all show a warming trend. Now I know, having listened, while I was away on a conference with Deputy Duhamel... we went to Gibraltar with Deputy Fox, and it was the Commonwealth Parliamentary Association on Climate Change. Interestingly there, one of their advisers to the climate argument is very well respected, and he did speak about previous changes in the global system that went much higher in terms of temperature. But when we think about how long we have been here, we need to think about how long we have been able to communicate *en masse*, and legislate and govern *en masse* for the betterment of the planet. It is a very, very short period of time indeed, even though we have got one of the oldest legislatures in the world, we have only been here a fraction of time. What was interesting in this newspaper - which I find tackles some of the arguments that were made at length by Senator Ferguson - is the other side of the arguments, where the climate denial industry, as it is spoken about here in the comments from George Monbiot, is out to dupe the public he says, and it is working. He talks about instances, he says: "Even if you were to exclude every line of evidence that could be possibly disputed - the proxy records, the computer models, the complex science of clouds and ocean currents - the evidence of manmade global warming would still be unequivocal. You can see it in the measured temperature record, which goes back to 1850; in the shrinkage of glaciers and the thinning of sea ice; in the response of wild animals and plants and the rapidly changing crop zones. No other explanation for these shifts makes sense. Solar cycles have been out of synch with the temperature record for 40 years. The Milankovic cycle, which describes variations in the earth's orbit, does not explain it either. But the warming trend is closely correlated with the accumulation of heat-trapping gases in the atmosphere" which can be repeated in the laboratory. I am not going

to read it verbatim, but I think there are some important challenges to Senator Ferguson's arguments, for us to support Deputy Wimberley's proposition today. Four cases are mentioned about the climate denial industry, and I will just mention them very briefly. The first case study reveals how a coalition of U.S. coal companies sought to persuade people that the science is uncertain. It listed the 2 social groups it was trying to reach: "Target 1" ... I do not know where Members feel they lie, but here are the targets: "Target 1: older, less educated males." Possibly, that is me, I would imagine, I am getting older. "Target 2: younger lower income women, and the methods by which it would reach them." One of its findings was that members of the public feel more confident expressing opinions on others' motivations and tactics, than they do expressing opinions on scientific issues. It went on to give a second example of a handful of climate change deniers with a qualification in climate science that have been paid lavishly by companies that supported oil. The third example shows how a list was published by the Heartland Institute, sponsored by oil company Exxon, of 500 scientists whose research was held up to say it was not happening. Twenty months later, after many of them had shouted out angrily that they wanted their names removed, those scientists' names still remained on the list. In the climate cover-up book which they talk about in this newspaper, the last example they give, and this is where I am going to conclude, the last example they give is that people behind these campaigns know that their claims are untrue. One of the biggest was run by the Global Climate Coalition, which represented Exxon-Mobil, Shell, BP, and the American Petroleum Institute, and several big motor manufacturers. "The fourth example shows how, during the Bush presidency, White House officials worked with oil companies to remove regulators they did not like and doctor official documents about climate change." So I rest my case against the case of Senator Ferguson. I do not know if the argument is sound about sea level rises or floods or hell and damnation, but what I do know is that the quality of the environment is far more important to the electorate than it has ever been in our history. We have, within our living memory, lived through one of the most catastrophic disasters known to man, probably, with a bit of luck, ever known to man: Chernobyl. We used power, it came back to visit a terrible vengeance upon us. We used power from nuclear industry which was to mitigate some of the side effects from the coal power industry, but in reality, the coal power industry is still very much at play. I will not get into the arguments now - I will finish - I will not get into the arguments now about whether Jersey has a high carbon content use of energy. But what it does have, it has a high desire among its electorate to support real change towards real improvement in our environment. To be honest, I am a little bit disappointed that such a change, which every other country in the world recognises as having significant economic impacts, has been dismissed by the Council of Ministers as having none. Because it is coming anyway, in 2 other documents. Deputy Wimberley's proposition today has been adopted by the Council of Ministers because it is stuff that they were going to cover under the auspices of something else they were doing anyway. It is not something else that they were doing anyway, this is something completely different. This is about getting behind ... It is a shame the Assembly is practically empty, but there we are. It is a shame that we do not recognise that if we want to be an independent, self-governing jurisdiction that puts forward our legislation and has the support of the electorate, we have got to put a far greater emphasis on our environment.

[17:15]

It is no good us just going abroad and saying: "We are well-financed, we are well-regulated, we have got anti-money laundering laws, and who pollutes our Island like nobody's business", and we sign up to things willy-nilly because it is all thought upon U.K. treaties, that we have no actual calculation methods to hold against or be accountable to. Kyoto has demonstrated the questions I asked. Guess who signed up to it? But we have got no real figures, it is does not really matter, it is all bagged-in with the U.K. anyway, so what does it matter? We have got to do much more. So, I support Deputy Wimberley, but I call upon Members, if I can, to stop having the climate change

arguments, and let us start having an environmental argument, and let us get behind the environment.

Deputy A.E. Jeune:

Sir, may I ask a point of clarity of the last speaker? The last speaker referred to the front pages of 50 international newspapers. Is he suggesting this reflected 50 governments, and if not, how many countries do the 50 international papers refer to?

Deputy P.V.F. Le Claire:

I am happy to talk with the Deputy later, but this newspaper article which I was referring to states that: "Yesterday [and this was 8th December] more than 50 newspapers worldwide made a unique call for action on climate change by printing a common editorial." I am happy to share that editorial with her. I am not suggesting it covers 50 nations' support for anything, I was referring to it merely as a source of information that a politician who is elected to this Assembly can garner information from, to dismiss arguments that have been put to the contrary in this Assembly by other people that have read from other places. Maybe we should inquire where those sources came from.

Senator S.C. Ferguson:

Perhaps I could clarify that I can support all my arguments with peer-reviewed documents.

11.1.5 Deputy M. Tadier:

I was reminded earlier, when the good Senator Ferguson was speaking, about the song: "The Windmills of your Mind", and I think it was because she was talking about windmills. I do not know if it was because the arguments were going round and round, or simply because she was saying that it is all in the scientists' minds, but it was perhaps a combination of the 2. I am not a scientist and I do not claim to be, but I do have a lot more time for philosophy and we can often apply philosophical principles in the Chamber when we apply analytical thinking. Now, as a member of the younger generation, somebody who may have to live with some of the consequences of climate change, it is of particular sensitivity to me, and I am sure Members of the States with children will also be concerned in the same way. The 2 principles I would like to look at is, first of all, that which is called "Pascal's wager" in theology. The argument goes, basically, that if you are just slightly uncertain about the existence of God, and by extension, the existence of heaven and hell, it is better to err to the side of caution, on the basis that if you are going to spend a very long time in purgatory, or an indefinite amount of time in hell, then you want to be very certain before you commit to one way or the other that it does not exist. That is seen as one argument. Of course, I would not say that is a good argument in the context of theology, but I would say that is how many members of the public feel when it comes to global warming. It is better to be safe than sorry, and because we are not all scientists, we have to rely on what we hear, and if the worst case scenario for climate change is true, then we do not want to be taking any risks with our future for something which is so drastic. But of course, in many ways we are already beyond that. We know that the proof is out there. Interestingly, Senator Ferguson was talking about these fraudulent scientists, but that leads me on to the second philosophical principle, that of Occam's Razor. When one is presented with a dilemma, so you have got 2 conflicting conclusions and you are not necessarily sure which one is the correct one, you go for the most plausible option, you go for the one which is the most likely. I must say that, from the people who I know, and some members of the public here today, who have researched the issues, they are scientists, they are doctors, and they follow the issues very clearly, and they have all come out, and these are members of J-C.A.N. who have signed the petition, have come to the conclusion that global warming is happening - that climate change, I should call it, is happening - and that it is induced by human activity. When I am faced with the possibility of these people misleading me, or other scientists who may be being lobbied by the oil companies, I just ask myself the question, who am I most likely to trust? Is it somebody, a local person who has no actual vested interests in giving me lies, or is it somebody

who may be receiving funding or working for an oil company? I certainly know who I would believe, and that is why I would first of all congratulate the Deputy for St. Mary for presenting the petition, but also the group, J-C.A.N., for their good work.

Senator S.C. Ferguson:

I resent the implication that I might be working for the oil companies.

The Bailiff

I must confess, I did not read that implication into it.

Deputy M. Tadier:

That certainly was not an implication. I simply think that the Senator is being taken in by arguments of those who are perhaps working for the companies or being lobbied, without ... doing that unwittingly, so she would not know that she is doing that. I would like to just comment very quickly on this idea which was touched on by Deputy Duhamel about resource distribution and redistribution. This is essentially something that we have to get to grips with as global citizens, and certainly also in Jersey. It is not simply about redistribution of wealth, as we hear about often in this Chamber, and that is obviously a political divide, that can happen around that, about how much wealth, and how wealth should be redistributed. It is about resources, it is also about land, how do we use land, how we are going to have to use land differently in the future to meet the needs as they change? Certainly, there are indications that we are going to have to, in the very near future, start putting more resources into agriculture, and I was quite worried to hear the Senator's comments disparaging some kind of agrarian lifestyle. In fact, that may be a reality, whether one wants it or not. I think it is important to say at this point that the distribution of resources in such a way is not incompatible with the free market; I think in fact, the 2 go hand in hand. But what it is incompatible with is ... the free market and the distribution of resources are incompatible with capitalism. This is the essential problem: we have resources being monopolised by individuals, and that simply cannot be allowed to go on, and something will have to change. So I think the message that we can take when we support this, hopefully universally, or almost universally, is that we are all in this together, and we cannot behave, as some have criticised the U.S. for doing, when they do not sign up to the likes of Kyoto. We cannot act like first class passengers on a plane that is about to crash, we cannot think that we are better than other countries and that the rules do not apply to us, because in fact, we are all in this together. So I think we do have to commend the Deputy of St. Mary and the people who signed this petition. I do declare an interest, I signed the petition myself, so I would ask that all Members do support this.

Deputy J.A.N. Le Fondré:

Sir, can I seek a point of clarification from yourself? I am trying to understand exactly what we are accepting. The proposition is to receive the petition, but it is to: "Following publication of the results of the Copenhagen conference" and I would have thought this proposition is dependent upon the publication of the results, and therefore, according to comments on page 2 from the Minister for Planning and Environment, it says: "It is disappointing that legally binding targets could not be agreed by the parties." That is under the Copenhagen conference referred to, and I have to say, although I was not following it very closely, my understanding of the Copenhagen conference is, it resulted in not very much. Therefore, if the targets were not published, are we not dependent upon something that has not been agreed yet?

The Bailiff:

As I understand, there were results from the Copenhagen conference, they simply were not the original targets that people had had in mind. There are results, and it is those results which the Minister is being asked to have regard to. Does any other Member wish to speak?

11.1.6 Senator P.F. Routier:

Very briefly. I have read the proposition, I have read the comments from the Minister for Planning and Environment, and I am prepared to support this proposition, and I look forward to hearing Deputy Wimberley's summing up before we go home.

The Bailiff:

Does any other Member wish to speak?

11.1.7 The Deputy of St. John:

Yes, I think it would be remiss if the chairman of the Scrutiny Panel for the Environment did not speak, and I will be supporting this, on the condition that I think all has been said, and that we are accepting something that was quite right, a petition, and on the condition that the Deputy of St. Mary should keep his summing up as short as possible.

11.1.8 Deputy A.E. Jeune:

I am not really sure what the proposer really expects those of us in Jersey to do. We do not have heavy industry, we get our power from France - nuclear. We are getting on with the new incinerator at last, and the sooner we get that up and running the better. Yes, we could plant more trees, we could stop construction, do not build any more houses, stop car use, do not have any tractors. What happens to our farming? And yes, control population. The issues of global warming are not proven, and this appears to just create more bureaucracy.

The Bailiff:

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

11.1.9 The Deputy of St. Mary:

I am being put in a very difficult position. I was just writing the last note to Deputy Jeune's intervention there. I feel that ... I think someone else is going to propose the adjournment ... no, there are serious issues, that have specially been raised by Senator Ferguson - often referred to as Deputy, but she is Senator Ferguson - and, you know, I suppose I could just go: "Oh well, forget it, you know, let us not bother." But I think ... and she was not the only one who raised proper issues, so I think it is just foolish to try and do it in a minute.

Deputy M. Tadier:

Can I officially propose ...

Senator B.E. Shenton:

He has sat down. Can I call for the appel?

The Bailiff

I think not. Is somebody proposing the adjournment?

Deputy P.V.F. Le Claire:

Is it procedurally possible that we would end up back here today, and somebody else starts speaking? In which case, could he not start his speech now, and conclude it tomorrow?

The Bailiff

No, I have called upon the Deputy to reply, so I would not allow anyone else to speak tomorrow morning. Very well, the adjournment is proposed. All those in favour of the adjournment? Members show? Those against? The adjournment is agreed. Very well. There is one matter which is on Members' desks which I should draw to their attention: Energy from waste plant and Ramsar, review of planning process (S.R.1/2010) Response of the Minister for Transport and Technical Services. That has been presented to Members. Very well, the adjournment is proposed, the Assembly will adjourn until 9.30 a.m. tomorrow morning.

ADJOURNMENT
[17:28]