

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 20th APRIL 2010

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[9:35]

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

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

The Bailiff:

I am able to inform Members that Deputy Tadier has resigned from the Privileges and Procedures Committee.

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

If I might, I would like at this time simply to thank Deputy Tadier for the contributions he has made to the committee's extensive work programme. I would like, if it is possible, to deal with filling the vacancy that arises at the next sitting to enable me to have time to discuss this with my committee and I would like to invite any Member who would wish to be considered to contact me by the end of this week. Thank you.

PETITIONS

The Bailiff:

The Connétable of St. Clement will present a petition on behalf of the residents of St. Clement regarding the removal of Samarès Nursery from the draft Island Plan.

2. Connétable L. Norman of St. Clement:

Yes, I have the honour to present this petition which has been signed by more than 1,300 St. Clementais and friends of St. Clement which, as you say, asks the Planning and Environment Minister to remove Samarès Nursery from the draft Island Plan as a potential development site.

The Bailiff:

Very well, we hand it in and no doubt refer it to the Minister. Thank you, Connétable.

QUESTIONS

3. Written Questions

3.1 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE STAFFING OF HER DEPARTMENT:

Question

To help and assist the Comprehensive Spending Review, would the Minister provide an organisation chart of her department identifying every post, the post holder's duties and responsibilities, the salary grade and whether the post is currently filled or vacant and, if possible, if any of these post holders are suspended?

Answer

The Deputy's request for the detailed information listed would take a massive amount of time to collate and present in a meaningful format.

Far from attempting "to help and assist the Comprehensive Spending Review", answering such questions would involve a vast amount of additional, time-consuming and unnecessary work which

would take attention away from the work of reviewing efficiency and the effect of potential cuts or transfers of functions.

Unfortunately the Deputy did not attend the recent CSR workshop where he would have had the opportunity to understand the true nature of the CSR process and the Council of Ministers' determined objective to reduce States expenditure over the coming years.

Most of the information the Deputy is asking for is included in the annex to the Business Plan and in my department's Business Plan for 2010 which are available to all States Members

With regards to the number of post-holders suspended, I refer the Deputy to the detailed answer to Question 5174 asked of the Chief Minister by the Deputy of St Martin.

I believe that the Comprehensive Spending Review has all of the necessary information on which to undertake an informed analysis and identify opportunities to cut spending and make efficiencies. I also believe that if the Deputy reads and analyses the Business Plans he will also have sufficient information on which to base his judgements.

Therefore on the advice of the Chief Minister, I do not intend to undertake further work in responding to this question.

3.2 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF TO THE MINISTER FOR SOCIAL SECURITY REGARDING THE STAFFING OF HIS DEPARTMENT:

Question

To help and assist the Comprehensive Spending Review, would the Minister provide an organisation chart of his department identifying every post, the post holder's duties and responsibilities, the salary grade and whether the post is currently filled or vacant and, if possible, if any of these post holders are suspended?

Answer

The Deputy's request for the detailed information listed above has not only been directed to the Social Security Minister but also to the Chief Minister and the Ministers for Treasury and Resources, Planning and Environment and Health and Social Services. Taken together these departments employ some 2960 staff out of a total of 6000. The Deputy is asking for information to be provided on each one of these posts. That would take a massive amount of time to collate and present in a meaningful format.

Far from attempting "to help and assist the Comprehensive Spending Review", answering such questions would involve additional, time-consuming and unnecessary work which would take attention away from the work of reviewing efficiency and the effect of potential cuts or transfers of functions.

Unfortunately the Deputy did not attend the recent CSR workshop where he would have had the opportunity to understand the true nature of the CSR process and the Council of Ministers' determined objective to reduce States expenditure over the coming years.

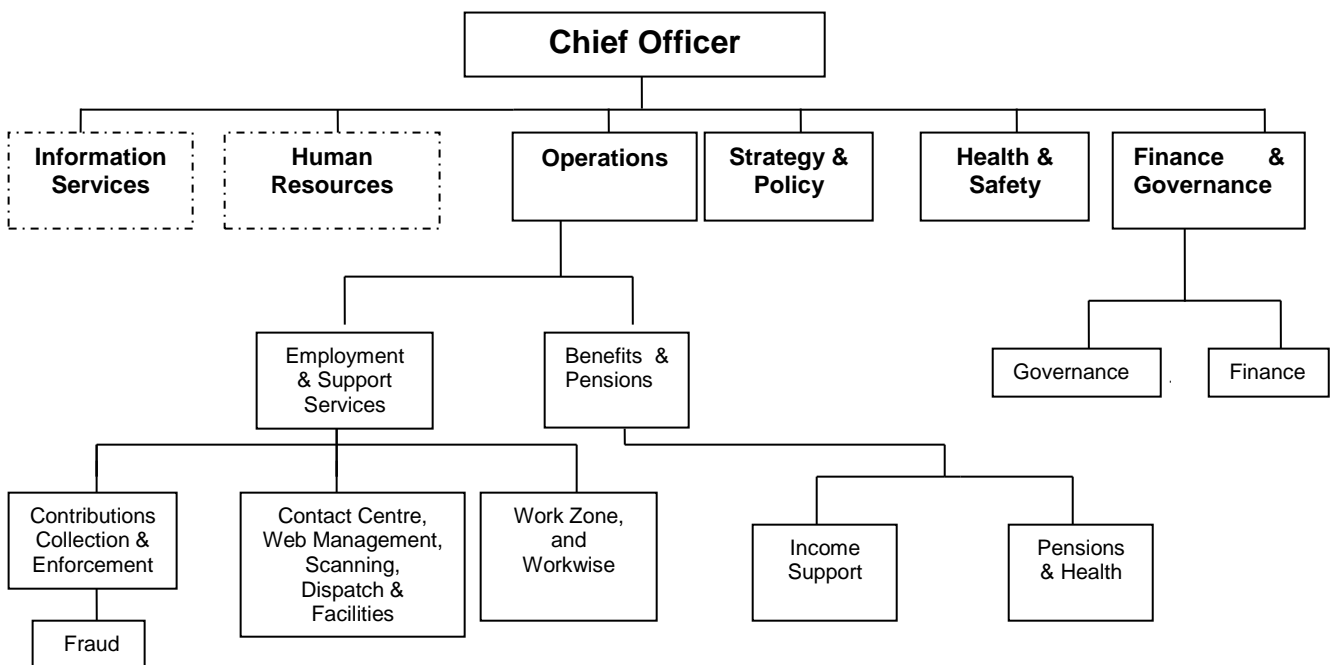
The Social Security Department Business Plan for 2010 provides full information on States tax-funded posts. In addition, a further 91 posts are employed to administer the collection of Social Security contributions, the processing and payment of contributory benefits and pensions and the

administration of the Social Security and Health Insurance Funds. The organisation chart is shown at the end of this answer.

With regard to the number of post-holders suspended, I refer the Deputy to the detailed answer the Chief Minister gave earlier this year to Question 5174 asked by the Deputy of St Martin.

I am satisfied that the Comprehensive Spending Review has all of the necessary information on which to undertake an informed analysis and identify opportunities to cut spending and make efficiencies. I also believe that if the Deputy reads and analyses the Business Plans he will also have sufficient information on which to base his judgements.

Department organisation chart



3.3 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE STAFFING OF HIS DEPARTMENT:

Question

To help and assist the Comprehensive Spending Review, would the Minister provide an organisation chart of his department identifying every post, the post holder’s duties and responsibilities, the salary grade and whether the post is currently filled or vacant and, if possible, if any of these post holders are suspended?

Answer

The Deputy’s request for the detailed information listed above has not only been directed to the Treasury and Resources Minister but also to the Chief Minister, Social Security, Planning and Environment and Health and Social Services. Taken together these departments employ some 2960 staff out of a total of 6000. The Deputy is asking for information to be provided on each one of

these posts. That would take a massive amount of time to collate and present in a meaningful format.

Far from attempting “to help and assist the Comprehensive Spending Review”, answering such questions would involve a vast amount of additional, time-consuming and unnecessary work which would take attention away from the work of reviewing efficiency and the effect of potential cuts or transfers of functions.

Most of the information the Deputy is asking for is included the annex to the Business Plan and in each department’s Business Plan for 2010. In these he will find an organisation chart, a breakdown of staffing by division with a description of the work of that division. They also contain the departmental budget and work programmes which set out performance indicators and targets.

The Treasury departmental Business Plan includes an organisation chart but the Deputy will be aware that the Treasury is currently undergoing restructuring and I will endeavour to make available the organisational structure once finalised

With regards to the number of post-holders suspended, I refer the Deputy to the detailed answer the Chief Minister gave earlier this year to Question 5174 asked by the Deputy of St Martin.

I am satisfied that the Comprehensive Spending Review has all of the necessary information on which to undertake an informed analysis and identify opportunities to cut spending and make efficiencies. I also believe that if the Deputy reads and analyses the Business plans he will also have sufficient information on which to base his judgements.

Unfortunately the Deputy did not attend the recent CSR workshop where he would have had the opportunity to understand the true nature of the CSR process and the Council of Ministers’ determined objective to reduce States expenditure over the coming years.

3.4 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF TO THE CHIEF MINISTER REGARDING THE STAFFING OF HIS DEPARTMENT:

Question

To help and assist the Comprehensive Spending Review, would the Chief Minister provide an organisation chart of his department identifying every post, the post holder’s duties and responsibilities, the salary grade and whether the post is currently filled or vacant and, if possible, if any of these post holders are suspended?

Answer

The Deputy’s request for the detailed information listed above has not only been directed to the Chief Minister but also to the Ministers for Treasury and Resources, Social Security, Planning and Environment and Health and Social Security. Taken together these departments employ some 2960 staff out of a total of 6000. The Deputy is asking for information to be provided on each one of these posts. That would take a massive amount of time to collate and present in a meaningful format.

Far from attempting “to help and assist the Comprehensive Spending Review”, answering such questions would involve a vast amount of additional, time-consuming and unnecessary work which would take attention away from the work of reviewing efficiency and the effect of potential cuts or transfers of functions.

Unfortunately the Deputy did not attend the recent CSR workshop where he would have had the opportunity to understand the true nature of the CSR process and the Council of Ministers' determined objective to reduce States expenditure over the coming years.

Most of the information the Deputy is asking for is included the Annex to the Business Plan, which has been sent to each States Member, and in each department's Business Plan for 2010 which is published on the States website (gov.je). In the latter he will find an organisation chart, a breakdown of staffing by Division with a description of the work of that Division. They also contain the departmental budget and work programmes which set out performance indicators and targets.

With regards to the number of post-holders suspended, I refer the Deputy to the detailed answers I gave earlier this year to Questions 5162 and 5174 asked by the Deputy of St Martin.

I am satisfied that the Comprehensive Spending Review has all of the necessary information on which to undertake an informed analysis and identify opportunities to cut spending and make efficiencies. I also believe that if the Deputy reads and analyses the Business plans he will also have sufficient information on which to base his judgements.

I therefore do not intend to undertake further work and have advised the other Ministers to take the same approach.

3.5 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF TO THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE STAFFING OF HER DEPARTMENT:

Question

To help and assist the Comprehensive Spending Review, would the Minister provide an organisation chart of his department identifying every post, the post holder's duties and responsibilities, the salary grade and whether the post is currently filled or vacant and, if possible, if any of these post holders are suspended?

Answer

The Deputy's request for the detailed information listed above has not only been directed to the Minister for Planning and Environment but also to the Chief Minister and the Ministers for Treasury and Resources, Social Security and Health and Social Services. Taken together these departments employ some 2960 staff out of a total of some 6000 States' staff. The Deputy is asking for information to be provided on each one of these posts. That would take a massive amount of time to collate and present in a meaningful format. Such an exercise would take attention away from the work of reviewing efficiency and the effect of potential cuts or transfers of functions.

I understand that the Deputy did not attend the recent CSR workshop where he would have had the opportunity to understand the true nature of the CSR process and the Council of Ministers' determined objective to reduce States expenditure over the coming years.

Most of the relevant information the Deputy is asking for is included in the Planning and Environment Department's Business Plan for 2010. The Plan includes an organisation chart and a breakdown of staffing by division with a description of the work of that Division. It also contains the departmental budget and work programmes which set out performance indicators and targets.

With regards to the number of post-holders suspended I refer the Deputy to the detailed answers I believe the Chief Minister addressed this issue earlier this year in response to Question 5174 asked by the Deputy of St Martin.

The Comprehensive Spending Review has all of the necessary information on which to undertake an informed analysis and identify opportunities to cut spending and make efficiencies. If the Deputy reads and analyses the Business plan he should have sufficient information on which to base his judgements.

3.6 THE DEPUTY OF ST. JOHN OF TO THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING A VISIT TO ST. MALO/DINARD ON 16TH MARCH 2010:

Question

Will the Minister confirm whether the Fisheries Department/Planning and Environment chartered an Aviation Beauport aircraft to take officers to St Malo/Dinard on 16th March 2010 and, if so will he -

- (a) advise why the Fisheries vessel was not used and outline the weather/sea state for 15th and 16th March 2010;
- (b) advise why the visit did not take place on a date when Condor were sailing;
- (c) give details of the reasons for the meeting and who attended?

Would the Minister give a detailed breakdown of the total cost of the trip including meals, transport and all other costs and does the Minister consider that value for money was achieved?

Answer

I can confirm that an aircraft was chartered from Aviation Beauport to take 4 officers and 3 representatives from the Jersey fishing industry to two meetings at Chambre de Commerce in St Malo on 16th March and 17th March 2010. It was intended that 4 representatives of the Fishing Industry would have been available but unfortunately one representative had to withdraw shortly before the travel date. The group were met at the airport by their French counterparts and taken back following the conclusion of their meeting on 17th March.

The meetings were with representatives of the French National and Regional Governments and the French fishing industry. The first meeting – which started at 14.00 16 March and re-convened at 09.00 17th March - was the Joint Advisory Committee for the Granville Bay Treaty. The second meeting was the Joint Management Committee of the Granville Bay Treaty which ran from 14.00 to 16.30 17th March. The French Fishing industry hosted the delegates on the evening of 16th March.

The Joint Advisory Committee meeting was one of the three regular meetings required each year under the International Granville Bay Treaty. Two of these meetings occur in France and one in Jersey. Attendance is required by Jersey Fisheries officers and Jersey fishing industry representatives and the meetings have to be evenly spaced throughout the year. The fishing industry representatives attend the group on a strictly voluntary basis and take time out from their occupation for the meetings.

The Joint Management Committee meeting was one of the two meetings required each year under the International Granville Bay Treaty. Attendance is required by Jersey Fisheries officers, who with Senior French Administrators, are tasked with making joint recommendations to their respective governments.

Turning now to the individual points raised

(a) *Advise why the Fisheries vessel was not used and outline the weather/sea state for 15th and 16th March 2010;*

The fisheries protection vessel was not used on this occasion for the following reasons:

(i) The fisheries vessel has only 5 seats and should not be relied upon to transport larger groups particularly if inclement weather is prevalent. When planning these meetings at this time of year and in advance, it is not advisable to predict sea state conditions, which if adverse, would prevent travel to this meeting that is an obligation of the Treaty.

(ii) In order to access the appropriate part of St Malo harbour given the state of the tides on 16th March a departure time of 05.30 would be required. Obviously there would be some time required prior to this to prepare the vessel and indeed crew. Added to this the weather cannot be guaranteed particularly in March so the window when passage is safe is much smaller with a 15m vessel than with commercial operators. Following this early start the Officers and Fishing Industry representatives then had to attend meetings and the civic reception until late in the evening. This does not facilitate proper negotiations particularly when these take place in a foreign language

The sea state for the 15th and 16th March was slight becoming moderate on both days.

(b) *Advise why the visit did not take place on a date when Condor were sailing;*

The dates for the meetings were set at the last Granville Bay Treaty meeting in October 2009. By setting the dates of the meetings well in advance it ensures the availability of all parties when co-ordination is essential. Officers from different disciplines and tiers of government in France attend the meeting some of whom are involved with French Foreign Affairs. Their attendance is mandatory and their time needs to be booked well in advance as they spend substantial amount of time abroad.

Using Condor for these meetings would have meant travelling to France on Monday 15th March and returning first thing on 18th March with the Officers and fishing industry representatives dedicating 3 full days to the meeting and eating into a 4th day rather than the 2 that were taken. This time has a cost not only for Officers but also for the Fishing industry representatives – who are skippers of boats - who attend in a voluntary capacity. Added to this the crews of the fishing industry representatives have to wait until their skippers return before taking to sea.

Using scheduled flights for the trip would have required travelling via Guernsey on 16th March but returning on 18th March due to departure times of the flights and arriving back in Jersey late in the afternoon of 18th March.

When schedules were made available every attempt at getting the most cost effective option was made well in advance of the trip to get the best possible prices. The Department will always use the cheapest commercial option available while also considering work time away from Jersey.

(c) *Give details of the reasons for the meeting and who attended?*

As indicated above the meetings were with representatives of the French National and Regional Governments and the French fishing industry. The first meeting on 16th March and continued on 17th March was of the Joint Advisory Committee for the Granville Bay Treaty. This meeting is at heart between the respective fishing industry representatives in order to discuss issues of mutual concern and seek solutions to any conflicts that may have arisen or might well arise in the future. Civil Servants from France and Jersey attend in an advisory capacity and to fully understand any issues that might arise. The second meeting on 17th March was the Joint Management Committee of the Granville Bay Treaty. This is essentially the respective Civil servants crystallising and putting into action the conclusions of the discussions between the industries.

The Joint Advisory Committee meeting was one of the three regular meetings required each year under the International Granville Bay Treaty. Attendance by Department representatives and fishing industry representatives is mandatory and is set out in the Treaty. Two of these meetings occur in France and one in Jersey. Attendance is required by Jersey Fisheries officers and Jersey fishing industry representatives and the meetings have to be evenly spaced throughout the year.

Costs of the Visit

The charter plane in question was a Piper PA31 Navajo and carried 8 persons. The cost of the trip, including meals, transport and accommodation was £2621.43. The Jersey contingent to the meeting were away for 2 working days

The comparative cost of the trip if scheduled flights were used would have been £3116 with all of the contingent being away for 3 full working days. The cost of an extra night accommodation with meals would also have been incurred.

The comparative cost of the trip utilising scheduled ferry crossings would have been £2277 with all of the contingent being away for 3 full working days along with some time lost on the morning of 18th March. The cost of two extra nights accommodation with meals would also have been incurred.

A summary of the comparative costs is included at the end of this answer

In assessing the efficiency of any such trip the potential for lost working time carries significant weight. This is particularly the case for the fishing industry representatives who attend these essential meetings on a voluntary basis but without whom the Treaty would soon come under strain. Consequently whilst using Condor may be the least expensive option in cash terms the loss of production of 4 Officers and 4 fishing industry representatives and their crews for at least a full working day significantly outweighs the difference in the costs.

Every effort is made when attending any of the required meetings to obtain the most appropriate arrangements. If Condor are running frequently then they will be used and in some circumstances – where the trip is the shorter distance to Granville for example and tides etc are appropriate – then the fisheries vessel will be used.

The Granville Bay Treaty is immensely valuable to the Jersey Fishing Industry which is valued at £6.6M per annum. Without the Treaty the good relationship with the French concerning fishing and marine conservation in our jointly fished waters would be jeopardised and this could well lead to a situation where Jersey fisheries would not be allowed to fish outside Jersey's territorial waters. The cost of servicing this international treaty annually is £6,400, which is only 0.09% of the fishery

value. We are exploring as part of CSR a charge for Granville Bay permits which will recoup these costs.

Comparative Costs

As Done	Via Condor	Scheduled Flights
Charter Flights	Ferry Fares	Air Fare
Total: £2110	Total: £360	Total: £1776
Hotel	Hotel	Hotel
Date/s: 16/3	Date/s: 16/3,17/3,18/3	Date/s: (16/3, 17/3)
Duration: 1 x Night)	Duration: (3 x Nights)	Duration: (2 x nights)
Total: £467	Total: £1401	Total: £934
@£58.00 per person per night	@£58.00 per person per night	@£58.00 per person per night
Lunch	Lunch	Lunch
Date/s 16/3	Date/s: 15/3, 16/3	Date:(16/3,18/3)
Total £44	Total: £196	Total: £196
(Officers only)	@£11 per person per day	@£11 per person per day
	Evening Meal	Evening meal
	Date/s: 15/3,17/3	Date/s: 17/3
	Total: £320	Total: £160
	@£20 per person per night	@20 per person per night
		Transport to airport Date/s: 18/3
		Total: £50
Total:	Total:	Total:

£2621

£2277

£3116

+ Cost of non-productive Officer time of 15/3 and 18/3 and fishing industry representatives time	+Cost of Officer time for all of 18/3 and fishing industry representatives time.
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3.7 THE DEPUTY OF ST. JOHN OF TO THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING PLANNING CHARGES:

Question

Does the Minister maintain a comparison of planning charges in Jersey against those charged in Guernsey, the Isle of Man, local authorities in England and Scotland and also Rennes, France, in view of the recent visit to that city and, if so, would he provide details for Members?

Can the Minister advise members when charges first came into being and the purpose of raising the charges?

Answer

No regular comparison of planning charges is made with other jurisdictions, as it has little relevance to the local situation. Government policy in Jersey regarding the proportion of the costs of delivering planning services that should be paid by the users, as opposed to the State or local authority, is different to the other jurisdictions and is generally a much higher proportion. However, it is understood that some local planning authorities in the UK achieve 100% cost recovery. In Jersey, applicants meet approximately 63% of the costs of the service.

Furthermore, the way the fee-scales are constructed differs in each jurisdiction, and direct comparison is difficult. For example, where in Jersey the planning fee for commercial developments is calculated on a square metre basis, other jurisdictions tend to ‘band’ the calculation. For instance, the user pays £x for a building up to 20m², £y between 20m² and 50m² up to £z for a building over 250 m², and for each additional 250 m² or part thereof.

Comparison of fees for certain types of development, in the jurisdictions referred to in the question, are shown in the table below. There are no fees for submitting planning applications in France, where the total costs of the service are met by the local authority.

	Jersey	Guernsey	Isle of Man	England	Scotland
	2010 fees	2009 fees	2009 fees	2010 fees	2007 fees
Construct a new dwelling	610	475	188	335	290
Extend a dwelling (over 20 m ²)	203	160	149	150	145
Change of use of land or building	306	265	58	335	290
Glasshouses over 465 m ²	203	320	109	1,870	1,645

In April 1994 the, then, Island Development Committee(IDC) lodged P.54/1994 regarding the introduction of charges for planning and building control purposes. On 24th May 1994 the States agreed:

- a) “to approve in principle the introduction of charges for planning and building control purposes and charge the IDC to promote the necessary legislation;
- b) to agree in principle that additional revenue expenditure in an amount to be agreed with the Finance and Economics Committee should be used by the IDC for environmental purposes, to be funded from income derived from planning charges.”

The report accompanying P.54/1994 described in more detail the type of environmental purposes for which the funds would be used. They were:

Architectural conservation – listed buildings

Urban Improvement Areas – EPIAs

Conservation Areas

Sites of Special Interest – grants

Roadside walls and banques

Countryside management and interpretation

Nature conservation

Environmental interpretation

Policies and standards

Environmental Impact assessments.

In October 1995, the Planning and Environment Committee lodged the *projet du loi* to amend the Island Planning Law and the Public Health (Control of Buildings Law), which the States adopted, and when the amended law came into force, the Committee made the necessary Orders.

Charges for planning and building applications came into force on 1st January 1997, and were linked to a formal Code of Practice relating to performance.

There was a fundamental change in how fee income would be used from 2003. On 21st November 2002, the States adopted the Planning and Environment Committee’s proposition (P.203/2002) and approved, with effect from January 2003, a “user-pays” strategy so that income from fees should be used to fund the cost of services provided by the Committee. The States had shared the Committees’ concern that the major increase in application numbers (54%) over seven years, with no commensurate increase in staff, had reduced performance to unacceptable levels. The fee income was to be used to employ additional professional and administrative staff in both development control and building control. As a result, significant increases in fees were introduced in February 2003.

Further fee increases (over and above cost of living increases) were introduced in 2009 and 2010 to meet the cost of providing the planning and building control services and to achieve further service improvements, notably in application turn-around times.

3.8 SENATOR J.L. PERCHARD OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE POTENTIAL BENEFIT OF A SHARED FINANCIAL REGULATORY AUTHORITY WITH GUERNSEY:

Question

What savings, if any, could be made if Jersey and Guernsey shared a financial regulatory authority and will the Minister undertake to hold talks to this effect as early as conveniently possible with the Guernsey authorities?

Answer

At a joint meeting of 10th November 2009, the Minister for Economic Development met with the Guernsey Minister for Commerce and Employment, together with Officers, to discuss ways in which the two Bailiwicks could increase their working co-operation.

One of the areas discussed at that meeting was pan-Island competition and regulation and initial talks have shown that due to the nature of the Financial Services industries in both islands any shared regulatory authority would be difficult to establish

However a focus area could be where new initiatives such as a Financial Services Ombudsman or a Pensions Regulator are being considered by both islands.

A further joint Political and Officer meeting is due to take place in Guernsey in mid-May and this item will once again be on the agenda.

3.9 SENATOR J.L. PERCHARD OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE POTENTIAL BENEFIT OF A SHARED COMPETITION REGULATORY AUTHORITY WITH GUERNSEY:

Question

What savings, if any, could be made if Jersey and Guernsey shared a competition regulatory authority and will the Minister undertake to hold talks to this effect as early as conveniently possible with the Guernsey authorities?

Answer

At a joint meeting of 10th November 2009, the Minister for Economic Development met with the Guernsey Minister for Commerce and Employment, together with Officers, to discuss ways in which the two Bailiwicks could increase their working co-operation.

One of the areas discussed at that meeting was pan-Island competition and regulation.

As a consequence of that meeting and the political support to move forward, a working group has been established with representatives of the two sponsoring government departments, together with the JCRA and the Guernsey Office of Utility Regulation. This working group has held a number of meetings and is actively pursuing an agenda of closer co-operation leading to the possibility of a single body being created in the future if it was considered worthwhile.

Although at an early stage, initial opinion is that cost savings by way of efficiencies within the proposed joint body would be negligible. There would still be a need to have offices in both

jurisdictions and the potential for savings in headcount is unlikely. Efforts towards introducing such a unitary body are further hampered by differences in legislation and diverging opinion on certain standards and thresholds, albeit these can be ameliorated as the Guernsey system comes into effect.

The real benefit from such a body, however, comes from the reduction in cost to business brought about by potential efficiencies such as joint filing of returns, common forms, shared data and so on. To that end the working group has concentrated and will continue to work towards delivering practical benefits for Channel Island businesses and consumers that can be delivered relatively quickly and without the need for legislative change.

A further joint Political and Officer meeting is due to take place in Guernsey in mid-May and this item will once again be on the agenda.

3.10 SENATOR B.E. SHENTON OF THE CHAIRMAN OF PRIVILEGES AND PROCEDURES COMMITTEE REGARDING REMUNERATION, EXPENSES AND SUPPORT SERVICES FOR STATES MEMBERS:

Question

Would the Chairman advise the Assembly the total remuneration and expenses paid to States Members (including Employer Social Security) and the total value of parking, laptops and other support services in 2009?

Answer

In 2009 the total remuneration and expenses paid to States members was **£ 2,338,905**. This total is almost exclusively made up of money paid to current members but also includes a small amount for the payment in early January 2009 of the last few days of remuneration to members who left the Assembly on 8th December 2008 and who were entitled under the rules governing remuneration to one month's remuneration after leaving office.

The total amount of social security payments refunded to States members (the equivalent of an 'employer's contribution' for persons who are employed) during 2009 was **£ 96,416**.

PPC is not responsible for the provision of parking for States members as this matter is the responsibility of the Transport and Technical Services Department. Nevertheless, in order to assist the questioner, PPC has made enquiries of TTS and the Committee has been advised that the total cost for providing States Member parking facilities in potential lost revenue to the Car Park Trading Fund is estimated to be **£ 57,000** based on 2009 figures.

Similarly PPC is not responsible for the cost of laptops for members as this matter is the responsibility of the Information Services Department. The only IT facilities that the Committee deals with are those provided in the members' facilities in the States Building. PPC has nevertheless made enquiries of ISD to assist the questioner and has been advised that the estimated cost of providing IT services to States members in 2009 was approximately **£52,100**. This total estimated cost covers the cost of remote access facilities, laptops and their software licences, internet broadband connections, BlackBerry services, a printer and IS support.

The direct cost of other support services provided for members was **£ 159,599**. This included the rent of the Chamber and facilities in the States Building (£91,794), provisions for meetings and States lunches (£19,026) and the sum of £41,516 for improvements to members' facilities and the

Chamber itself, particularly the Public Gallery. The total sum also included the salary costs of the tea lady, telephone costs and other ancillary costs relating to the facilities for members. I would nevertheless stress that the amount does not include the cost of the very significant amount of support given to members by the States Greffe.

3.11 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING TELEPHONE ROAMING CHARGES:

Question

What action, if any, is the Minister taking to ensure that all licensed telephone operators are taking steps to prevent the travelling public from falling foul of incurring large roaming charges?

Does the Economic Development Department maintain any statistical records relating to such charges, and if so, how many local residents have been faced with large roaming charges over the last 12 months giving details broken down by each licensed operator?

Answer

Data roaming charges are currently unregulated in Europe – both at the EC and country level – although it is a subject receiving increased attention in many countries. Currently in Jersey at least one operator, Jersey Telecom, sends users a text-message warning when their data usage charge exceeds €50.00. In addition, the JCRA has produced an information guide to help consumers avoid incurring excessive data roaming charges while abroad. This brochure can be found on the JCRA’s website which I will distribute to members later today.

Neither EDD nor the JCRA maintain statistical records in this regard.

3.12 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE PROPOSED INCREASES IN TARIFF CHARGES BY THE JERSEY ELECTRICITY COMPANY:

Question

What action, if any, will the Minister be taking to investigate the proposed increases in tariff charges by the Jersey Electricity Company from 1st October 2010, particularly in relation to 3-phase private house holders, general domestic tariffs and Economy 7 and ensure that the said increases are justified?”

Answer

Officials have contacted the JEC and confirmed that there are no increases being proposed to the current advertised tariffs.

The Company has discovered a historical anomaly in tariff setting for ‘daily service charges’ (charges meant to recover cost of metering, additional phases and related infrastructure). The JEC are bound to remove these anomalies where identified to ensure that they charge the correct advertised tariffs for 3 phase daily service charges to all customers. As these have in some cases been charged at the lower single phase daily service charge rate it has meant that customers are being treated unfairly and that one section of the public is receiving an advantage over others.

The JEC realize that this is an internal error and so are not looking to retrospectively recover shortfalls and are giving customers 6 months notice to plan for this and/ or revert back to a single phase supply should they wish to do so. As such the Minister is satisfied that the company is acting correctly and in good faith.

3.13 SENATOR B.E. SHENTON OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE COMPOSITION OF THE PLANNING APPLICATIONS PANEL:

Question

Can the Minister advise whether he will consider changing the composition of the Planning Applications Panel in order that it just contains independent members of the public, some of whom may have relevant planning experience, rather than States members with political mandates and potential political conflicts?

Answer

A fundamental principle of the planning application process is that it seeks to regulate the development activities of individual landowners in the “public interest”. To that extent there will often be a political dimension to certain applications, particularly when there have been a number of representations. The view has always been taken that the public interest is best reflected by the people the public elects, and thus mandates, to represent those interests.

For this reason, when the Planning and Building (Jersey) Law 2002 was drafted, and later adopted by the States, it was the deliberate intention that membership of the Planning Applications Panel would be drawn from the members of the States Assembly. In order to effect the change the Senator suggests, it would be necessary for the States Assembly to amend the Law.

There is a code of conduct that regulates the actions of the individual Panel members regarding any personal or political interests, and requires them to act objectively in accordance with the Law, the Island Plan and other policies.

Accordingly, the Minister does not propose to change the composition of the Planning Applications Panel as the Senator proposes.

3.14 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE POSSIBLE IMPACT OF THE CSR PROCESS ON THE YOUTH SERVICE:

Question

Can the Minister confirm that the targets set for his department in the CSR process are based on gross and not net revenue expenditure and state whether, in order to meet the 10% reduction target, this will result in a 12.7% cut in net revenue spend for the Youth Service and a 22.5% reduction in net revenue terms on sports centres, for example because of the impact of income in these areas.

Does the Minister not consider that such measures applied to the provision of the Youth Service place undue strain on partnership agreements with the parishes and other charitable/third sector providers at a time when their funding is also vulnerable?

Will the Minister confirm that this level of reduction in net revenue spend will inevitably result in reductions in the provision of services to young people and ultimately in redundancies amongst Youth workers and would he state the number of F.T.E. job losses that would arise from a 12.7% cut applied pro rata to the Youth Service?

Answer

The CSR savings targets for Education, Sport and Culture and for all States' departments were set by the Treasury and Resources Department. As part of this process the Department is expected to identify savings based on the gross budget amounting to 2% in 2011, 3% in 2012 and 5% in 2013.

These savings are required to be found from the overall budget rather than a 10% reduction on each service provided; hence it should not be assumed that there will be a 12.7% reduction in the Youth Service budget or a 22.5% reduction in net revenue terms on Sports Centres. Therefore I am neither prepared to speculate on what this level of saving would look like nor the staffing implications.

If any savings are proposed which may impact on other agencies or partners I have undertaken to enter full and open discussions with them, as decisions of this sort should not be made in isolation. Regarding the Youth Service, I recognise the importance of the partnership agreements with the Parishes and I would not want to do anything that might jeopardise that relationship.

Ultimately, any proposed savings will be subject to further review by the Council of Ministers and by the Scrutiny Panels as it is important that consideration is given to the impact that each proposed saving may have.

3.15 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE DETAILED 2 PER CENT SAVINGS TARGETS FOR THE COMPREHENSIVE SPENDING REVIEW FOR 2011:

Question

Can the Minister confirm that he has received detailed 2% savings targets from Ministers for the Comprehensive Spending Review for the year 2011 and will he inform members what these targets are, and if not when will he do so? Will he also agree to set these targets in the context of the overall 5% and 10% targets projected for 2012 and 2013 before lodging Part 1 of the Annual Business Plan in July?

Answer

I can confirm that I have now received proposals from all Ministers detailing how they would save 2% of their gross budgets together with user pays initiatives, growth bids and invest to save schemes. The Council of Ministers will receive a summary of these proposals at its meeting on 22nd April 2010 and the information will then be circulated to relevant Scrutiny Panels, union representatives and staff briefed on 23rd April 2010. The Council of Ministers will consider these proposals in depth at two workshops arranged in May before making their final decision to be incorporated in the 2011 Business Plan to be lodged in July.

Departments will be submitting proposals for the 2012 and 2013 savings targets totalling 5% and 10% respectively by the end of August 2010 for consideration by the Council of Ministers in September/October this year.

3.16 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE SET-UP COSTS AND ONGOING REVENUE COSTS OF THE ‘LIVELINK’ SYSTEM:

Question

Will the Chief Minister inform members of the set-up costs and ongoing revenue costs of the “Livelink” system along with an assessment of how well the system has met the targets set out for it and whether it represents good value for money?

Answer

LiveLink went live in 2002 and the table below summarises the original set-up costs and current ongoing revenue costs.

Item	Number
Original set-up costs for 100 user pilot	£227,000
Expenditure 2002 – 2010 (hardware, software and development)	£1.9 million
Total number of users who have access to LiveLink	1,050
Number of documents held in LiveLink	5.9 million
Current annual cost for licenses	£131,000

How well did the system meet its original targets?

When the system was selected back in 2002 LiveLink was one of the market leaders in document and records management and used by many large organisations around the world.

A corporate benefit was achieved in having a single document and records management solution that could deliver departmental requirements, and without this, Information Services could today be supporting several systems instead of a single LiveLink solution.

Does it represent good value for money?

The system has met the original requirements, but like an e mail system it is not possible to retrospectively evaluate what the alternative experience would be today and therefore it is not possible to derive a definitive calculation of value for money. However, like an e mail system it is clear that LiveLink is now an integral part of the way we do business. Unsurprisingly, given the age of the system there are solutions available today that are more cost effective to support and can be integrated to the Microsoft Office suite that is extensively used across the States for email and web solutions. However, such a move would require significant investment and that is not currently available. It is clear that this will need to be evaluated and it may well be that in the course of the Comprehensive Spending Review this would be a suitable area in which to invest in order to provide long term savings.

3.17 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING INDEPENDENT CONSULTANTS APPOINTED TO UNDERTAKE THE IN-DEPTH REVIEW OF THE 6 PRIME AREAS WITHIN THE COMPREHENSIVE SPENDING REVIEW:

Question

Will the Minister inform members who he has appointed to the positions of independent consultants or specialist reviewers, whether local or UK, of the 6 prime areas for in-depth review in the Comprehensive Spending Review?

Answer

I am still meeting with Islanders who would like to get involved in the major reviews but hope to be able to announce appointments by the end of this month. Terms of reference for the reviews are being finalised and I have identified 3 potential specialist reviewers in the UK who could assist in providing external challenge on the reviews. I have agreed a governance structure for each of the reviews and, as soon as I have the people in place, I will advise members.

3.18 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING LEVELS OF CORPORATE TAX IN THE ISLAND:

Question

In a speech on 17th March to the Chamber of Commerce, the Minister said -

“Even after 0/10, much higher levels of corporate tax are paid per capita here than in virtually any place in the world – including other Crown Dependencies.”

- a) Can the Minister explain what “corporate tax per capita” means in economics and in what way is it relevant criterion for comparison with other economies?
- b) What evidence does he have to support his statement that “corporate tax per capita” is higher here than elsewhere?
- c) Does the Minister accept that a more valid comparison of corporate tax between jurisdictions is the percentage of profits paid as tax?
- d) Could the Minister confirm that, on 2007 figures, corporate income tax stood at £196m and net profit in the Finance Sector was £1,460m, giving a maximum tax rate for business of 13.4%?
- e) Given that these figures relate to a tax rate of 20%, will the Minister give estimates of tax revenue in real and percentage terms from the finance and non-finance sectors under 0/10 for 2010?
- f) Will the Minister publish a comparison of corporate tax take as a percentage of profit with appropriate jurisdictions including other offshore centres?

Answer

- a) Corporate tax per capita is the corporate tax revenue received by the government divided by the population to give an idea of the scale of corporate tax revenue per person. It is a relevant comparison because it is one way of measuring the level of public funds derived from corporate tax and therefore the amount which has to be made up through other sources – largely personal taxes – to achieve a certain level of revenue per head to fund public expenditure.

- b) The table below summarises the evidence which supports the statement and shows corporate tax per head for a range of countries and that Jersey is third highest (and higher than the other Crown Dependencies).

Corporate tax per head, 2008

	Jurisdiction	£ at PPP	
1	Norway	£4,682	
2	Luxembourg	£3,066	
3	Jersey	£1,580	**
4	Guernsey	£923	*
5	Japan	£906	
6	Switzerland	£889	
7	Canada	£887	
8	United Kingdom	£837	
9	Denmark	£833	
10	Finland	£825	
11	Sweden	£797	
12	Belgium	£782	
13	Korea	£777	
14	Italy	£764	
15	Ireland	£750	
16	United States	£746	
17	Czech Republic	£738	
18	UK	£712	*
19	New Zealand	£692	
20	France	£639	
21	Austria	£617	
22	Portugal	£580	
23	Spain	£570	
24	Iceland	£497	
25	Slovak Republic	£446	

26	Germany	£442	
27	Hungary	£344	
28	Isle of Man	£308	
29	Turkey	£162	*

* Figures for 2009

** Figure for 2009, adjusted for zero/ten

Source: OECD, national Budget documents

- c) No the Minister does not accept that a more valid comparison of corporate tax between jurisdictions is the percentage of profits paid by tax. Jersey is an offshore centre operating in a very competitive world and must keep its corporate tax rates competitive relative to other offshore centres and corporate tax rates in other larger economies that are not offshore centres do not provide a useful comparison. Corporate tax per head gives a better indication to Islanders of the extent we all benefit from being an offshore centre, retaining our competitive position and the financial services businesses that are based here.
- d) It is not possible to extrapolate ‘a maximum tax rate for business’ from these figures as taxable profits in the finance sector were not only charged at 20% for some entities, but also at International Business Company rates, which range from 2% up to 30%.
- e) This is not possible as 2010 profits will not be assessed and charged to tax until next year at the earliest and the profits for earlier years, which will yield tax in 2010, have only recently been assessed, many on an estimated basis. In addition, robust statistical information on corporate profits in 2010 will also not be available until the Financial Institutions Survey and GVA figures are published for 2010 (in 2011).
- f) A substantial amount of work would be required to answer this question and may not even be fruitful, as data on corporate profits in other jurisdictions and in particular offshore centres may either not be readily available or even published. Given the answer to c) above the Minister does not feel it would be a sensible use of the Treasury’s resources to collect, analyse and publish such information.

3.19 DEPUTY T.M. PITMAN OF ST. HELIER OF THE CHAIRMAN OF PRIVILEGES AND PROCEDURES COMMITTEE REGARDING POSTAL VOTING:

Question

As access to a postal voting mechanism is a fundamental part of all modern, fully functioning, inclusive democracies, will the Chairman inform members what consideration, if any, her Committee has given to ensuring that those who wish to do so, especially the elderly and those with mobility problems or other disabilities, can easily vote by post in the coming elections in line with priorities 6, 8 and 15 of the Strategic Plan 2009 – 14?

Answer

The Privileges and Procedures Committee established a Public Elections Working Party at the end of 2009 in order to review all matters relating to the Public Elections (Jersey) Law 2002 and the organisation of elections in general. The Working Party is chaired by the Deputy of St. Peter, Vice Chairman of the Privileges and Procedures Committee, and the members are the Connétable of St. Saviour and Deputy Montfort Tadier. The Working Party has considered a range of issues and sought the views of the Jurats, the Judicial Greffe and the Comité des Connétables all of whom are involved in the practical arrangements relating to elections. The Working Party is hoping to complete its work in the very near future and will then submit its report to the PPC for consideration.

Although it would be premature to disclose the draft conclusions of the Working Party, PPC is nevertheless able to reassure members that the Working Party has been looking carefully at the most appropriate manner in which to ensure that the elderly and those with mobility problems or disabilities as referred to in the question can vote in elections. PPC will be keen to ensure that any recommendations provide a practical and workable way for those who cannot attend the polling station in person to vote and it is possible that alternative mechanisms may be recommended to replace the somewhat complicated postal voting system that exists at present.

Any changes to the Public Elections (Jersey) Law 2002 would, of course, require approval by the whole Assembly but members can be reassured that the Committee is alert to the need to put in place measures to enable all who wish to vote to do so.

3.20 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE SUSPENSION OF 2 POLICE OFFICERS:

Question

Further to the written and oral answer given on 9th March 2010 relating to the suspension of 2 officers from the States of Jersey Police for just less than 18 months would the Minister advise -

- a) which person within the States of Jersey Police was responsible for taking the decision that resulted in the suspension of two police officers and whether the individual responsible for the original decision to suspend them was the same person who made the decision to reinstate them without charge? If so, does the Minister believe that this shows sound judgement?
- b) that the costs listed in the answers of 23rd March 2010 showed the total cost to the States of Jersey Police of these suspensions and included all ancillary matters such as staff costs and overtime to cover the suspended officers?

Answer

(a) The Deputy Chief Officer of the force has delegated authority for all matters of complaint, conduct and discipline. At the time of suspensions in August 2008, the Deputy Chief Officer was Mr David Warcup.

In March 2009 Mr Barry Taylor joined the States of Jersey Police as Acting Deputy Chief Officer.

The formal disciplinary hearing, in which both officers faced disciplinary charges, was conducted by a senior officer of another Police force and concluded in February 2010. The suspended officers were reinstated, following the decision of that senior officer, by the Acting Deputy Chief Officer with immediate effect.

The following principles apply in relation to all police disciplinary matters.

The decision to suspend a police officer is taken on particular grounds and the decision is regularly reviewed every month. Eventually a report in relation to the disciplinary matter becomes available and following that a decision is made as to whether the matter should proceed to a full disciplinary hearing.

If, at the full disciplinary hearing, the officer facing disciplinary charges is cleared of all such charges, that does not mean that the earlier decisions either to take the disciplinary charges to a full hearing or for the officer to remain suspended pending such a full hearing were wrong.

A similar situation exists where a person facing criminal charges is remanded in custody until trial and then acquitted. The subsequent acquittal does not mean that earlier decisions either to refuse bail or to take the matter to trial were incorrect.

b) It can be confirmed that the costs listed in the answers of 9th March 2010 showed the total cost to the States of Jersey Police. These costs included the acting up costs and the salaries of the suspended officers. There were no overtime costs resulting from the suspensions.

3.21 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE MAGUIRE INVESTIGATION:

Question

In view of the detailed States of Jersey Police 'Sequence of Events: Maguire investigation' timeline published on the internet recently together with the content of the Report by the Manager, Mental Health Services dated 23rd February 1999 and other material including the 26th July 1990 letter from the then Education Committee President, is the Attorney General satisfied that the decision of his predecessor (as summarised in e-mail correspondence from the now Deputy Bailiff copied to all States Members on 8th April 2010) not to pursue the case against Mr. and Mrs. Maguire was both wholly justifiable and correct and, if so, will he state why? Will the Attorney General also clarify whether the issue of Mr. Maguire's stated terminal illness at the time was ever discussed in any shape or form as a potential justification/reason for not pursuing the case in the 1990's?

Answer

My predecessor made a very full statement in a press release in June 2009 not only of the reasons for not prosecuting that case that is the subject matter of this question but also explaining the basis on which an Attorney General should review the decisions of his predecessors. I attach a copy of that press release to this answer.

Prosecution decisions are in the first instance taken on the evidential test – having regard to the admissible evidence, is it more likely than not that a conviction will be secured? Only if that test is passed is consideration given to the public interest test. If it were otherwise, prosecutions might be brought because it was thought to be in the public interest to prosecute someone even though there was plainly insufficient evidence. In the instant case my predecessor's statement makes it plain that the decision in 1998 not to prosecute was based on an assessment of the evidential test only.

People should be able to rely on decisions taken by the Attorney General and that once a decision has been taken that there will not be a prosecution or a prosecution is stopped it will only be in exceptional circumstances that a prosecution would then be brought or re-started.

I am satisfied that the lawyers who reviewed the papers in 2008/2009 had access to all the relevant material and nothing that has been recently published is new or such that it could cause me to reconsider the decisions taken by my predecessors in connection with this matter. Accordingly I have no reason to be other than satisfied that the decisions were justifiable.

As my predecessor's press release makes clear, at the case conference convened to discuss the continuation of the prosecution, all present were aware of an assertion that one of the suspects was suffering from a terminal illness but this possibility was not a factor which influenced the decision made by the then Attorney General that there was insufficient evidence to proceed with the prosecution. I can usefully add nothing more to my predecessor's detailed statement.

Statement from the Attorney General

Jersey Historic Abuse Investigation

The Attorney General last made a statement on 26th August, 2008 when he announced that of the six files which had then been received by the prosecution lawyers, charges had been laid in respect of three of them, one file had been returned to the police for further investigations, and a decision had been taken in relation to one of the remaining two files that no charges would be brought. Further police investigations have now been conducted and a decision has now been made that for legal and evidential reasons, no charges will be brought in respect of either of the two outstanding files. A full statement of reasons is set out below.

Cases of this nature are often difficult. There is rarely any independent evidence, and often the cases come down to being the word of one person against another. In a criminal trial, it is not a question of the Magistrate or the jury deciding which version of events they prefer. The prosecution must prove its case beyond all reasonable doubt, and if there is any doubt, an accused person is entitled to be found not guilty. Before bringing a criminal prosecution, there must be sufficient evidence such that there is a realistic prospect of conviction. A decision not to bring criminal proceedings does not necessarily mean that those who have made complaints are not believed, nor does it necessarily mean that any account given by a suspect has been believed. A decision not to prosecute means only that the Attorney General, having fully considered all of the available evidence and other information, has decided that an acquittal is more likely than a conviction.

A decision not to prosecute is capable of being perceived as denying the complainant the right to be heard. Indeed, this can lead to a pressure to allow the complainant to have his or her day in Court. However to succumb to such pressure would mean that the prosecution was not applying the evidential test which is its function to apply. The Courts are entitled to know that they are not faced with prosecutions which even the prosecutor thinks will not succeed. The criminal justice system as a whole requires each part of that system – police, prosecutors and Courts – to fulfil its functions professionally and properly. To compromise the test to allow evidentially weak cases to proceed is not an exercise of the objective approach which is demanded of prosecutors by the Code on the Decision to Prosecute. It is not fair to anyone – the complainants, the accused, the witnesses or the public – to do otherwise than apply the evidential test professionally and objectively.

Case 5

Nine complainants have made complaints against Mr. A, now a middle aged man who spent approximately 5 to 6 years as a junior trainee and then employee at Haut de la Garenne in the 1970s and 1980s. The complaints relate to incidents which are alleged to have taken place between 20 and 30 years ago. Four of them contained allegations of different types of sexual offending, some of it of the most serious nature; all but two were alleged to have taken place at Haut de la Garenne.

The police have conducted a very thorough and detailed investigation tracing and interviewing all known witnesses before submitting the papers to the independent lawyers instructed by the Attorney General.

In none of the cases is the complaint corroborated by any independent evidence, and none of the complaints is sufficiently similar in nature to suggest that they might supply mutual corroboration.

In two cases, the employment records show that the complainants were not at Haut de la Garenne at the same time as Mr. A. In two of the cases, the makers of the statements were not those against whom the alleged crimes were committed, the alleged victims no longer being alive.

In three of the cases, the complainants are intrinsically not credible for different reasons, one of them being that the complainant described assaults taking place in a cellar, in the bath and with the use of the shackles described in the media reports, the statement being made for the first time after the media reports had been published. In another case, the complainant described sustaining 300 to 400 cigarette burn marks and a branding which required a skin graft, but there is no physical sign of any injury nor do the records show that Mr. A was at Haut de la Garenne at the same time. In those circumstances it was inevitable that it be concluded this complaint was incapable of belief. It is this complainant who makes the most serious allegations of sexual offending. In another case, the complainant's mother, who was allegedly present at the time and gave her permission for the assaults, says they never took place.

Furthermore, the police investigation shows relevant defence material including the fact that a significant number of witnesses speak well of Mr. A. describing his popularity with the children and his good qualities in dealing with the children generally. He received consistently good reports from those responsible for monitoring and evaluating his performance.

The papers have been carefully evaluated by those lawyers, by a senior lawyer in the Law Officers' Department and by the Attorney General personally. None of the lawyers who have looked at this matter considers that the evidential test is passed.

Case 6

Background

In about May 1997, police received information that there was suspected historical child abuse committed by a man and a woman between 1980 and 1990 upon various ex-residents of a Children's Home in St. Clement, Jersey. The woman had been employed as a "*house mother*" and although her husband was not employed in any such capacity, it appeared that he played a full part in the running of the Home, which closed in 1990. Following a police investigation in 1997, a number of charges of grave and criminal assault and common assault were brought against both the man and the woman in the Magistrate's Court. Following an initial hearing, the Magistrate dismissed some of the charges on the grounds that there was no sufficient *prima facie* evidence to commit the accused to the Royal Court, but in respect of other charges, the defendants were committed for trial in the Royal Court.

When the matter was received in the then Attorney General's Chambers, the case file was passed to a private sector Crown Advocate with the request that there should be a full evidential review. The Crown Advocate carried out that review and concluded that there were evidential problems. In the circumstances he recommended that the prosecution should go no further.

On receipt of that review, the then Attorney General convened a case conference which was attended by the private sector Crown Advocate, a departmental lawyer, the police officer in charge of the case, a representative of the Children's Service and the Attorney General himself. The meeting analysed the evidence on each charge having regard to the memoranda prepared by the private sector Crown Advocate. The then Attorney General concluded that there was insufficient evidence to have any realistic prospect of conviction and that in the circumstances it would not be right to proceed. No-one dissented from this view, which indeed was positively endorsed by the other two lawyers present. Although all present were aware of the assertion that one of the couple was suffering from a terminal illness, this possibility was expressly *not* a factor taken into account in reaching a decision, which was taken entirely on an assessment of the evidential test.

Following that meeting, the Crown formally abandoned the prosecution before the Royal Court in 1998 on the grounds that there was insufficient evidence to support it.

Developments in 2008/9

Between 29th April and 9th July, 2008, the independent prosecution lawyers instructed by the Attorney General were provided by the police with a number of statements in relation to this case. These included both the original material arising out of the 1998 investigation, and an amount of new material. Those lawyers provided advice to the Attorney General on 18th and 22nd July, 2008. At the request of the police in the autumn of last year, the Attorney General made an application for mutual legal assistance from the French Authorities to enable an interview with the couple to take place in France. In February this year,

the necessary confirmations from the competent authorities in France were obtained but the attempts to interview the couple proved unsuccessful. The decision has thus been taken based on the evidence available in July last year.

The present case raises the difficult question of what approach ought to be taken when a prospective defendant has been given a clear indication by the prosecuting authorities that s/he will not be prosecuted.

The Attorney General has noted that in a written answer given in the House of Commons on 31st March, 1993, the Attorney General of England and Wales, responding to a question relating to the re-institution of proceedings which had been terminated said this:

“The fundamental consideration remains that individuals should be able to rely on decisions taken by the prosecuting authorities. The policy of the Director of Public Prosecutions is that a decision to terminate proceedings or not to prosecute should not, in the absence of special circumstances, be altered once it has been communicated to the defendant or prospective defendant unless it was taken and expressed to be taken because the evidence was insufficient. In such a case it would be appropriate to reconsider the decision if further significant evidence were to become available at a later date – especially if the alleged offence is a serious one.

Special circumstances which might justify departure from this policy include:

- (i) rare cases where reconsideration of the original decision shows that it was not justified and the maintenance of*

confidence in the criminal justice system requires that a prosecution be brought notwithstanding the earlier decision; and

- (ii) *those cases where termination has been effected specifically with a view to the collection and preparation of the necessary evidence which is thought likely to become available in the fairly near future. In such circumstances, the CPS will advise the defendant of the possibility that proceedings will be reinstated. “*

The Attorney General has also noted the Crown Prosecution Service website at paragraph 12, which reads as follows:

“12. Restarting a Prosecution

12.1 People should be able to rely on decisions taken by the Crown Prosecution Service. Normally if the Crown Prosecution Service tells a suspect or defendant that there will not be a prosecution or that the prosecution has been stopped, that is the end of the matter and the case will not start again. But occasionally there are special reasons why the Crown Prosecution Service will restart the prosecution, particularly if the case is serious.

12.2 These reasons included:

- (a) *rare cases where a new look at the original decision shows that it was clearly wrong and should not be allowed to stand;*

- (b) *cases which are stopped so that more evidence which is likely to become available in the fairly near future can be collected and prepared. In these cases the Crown Prosecutor will tell the defendant that the prosecution may well start again; and*
- (c) *cases which are stopped because of a lack of evidence but where more significant evidence is discovered later.”*

These appear to be well founded and sound principles upon which in the Attorney's view the prosecution in Jersey should also proceed. The Attorney is of the view that, as in the United Kingdom, the damage which would be done to public confidence if people in Jersey could not rely upon decisions taken by the office of the Attorney General, particularly if those decisions were simply undone as a result of a change in the identity of the holder of the office, would be very significant indeed. For all these reasons, as a matter of principle, the Attorney General has adopted the approach which has been taken in the United Kingdom.

Accordingly, two particular lines of approach have been considered:

1. Given that the case in 1998 was not stopped so that more evidence might be likely to become available in the fairly near future, was this a case where it might be said that the decision taken in 1998 was clearly wrong?

2. Alternatively, could it be said that, although the case did not proceed because there was a lack of evidence in 1998, more significant evidence has been discovered subsequently which makes a difference to that decision?

On the first of those questions, the Attorney General has received written advice from both the private sector Crown Advocate and from leading Treasury counsel practising at the Central Criminal Court in London. A review has also been carried out by a senior lawyer in the Attorney's Department and by the Attorney General himself. Having thoroughly considered this review and these advices the Attorney General has concluded that without any shadow of a doubt the decision in 1998 cannot be said to be one which was not justified, nor was it one which was clearly wrong.

One of the particular features of the advice received from senior Treasury counsel in London was that there was a strong probability that re-opening a prosecution in 2008 on the charges which could have been brought in 1998 would be struck out as an abuse of the process of the Court. Indeed, a defence submission that there was an abuse would only be overcome if there were very compelling and completely new evidence capable of removing the reasons for the 1998 decision, and if there were a good reason for the evidence not having been available before. Leading counsel took the view that the material which has become available since 1998 fell far short of providing any such exceptional justification, and that in the circumstances it would not be proper for the Attorney General to seek to reinstitute the criminal proceedings.

Attention was then given to whether or not there was any other significant new evidence which has been obtained. In particular,

consideration was given to allegations of sexual assaults which had not previously been made. The advice received from the private sector Crown Advocate was that the evidential test was not met in relation to any such allegation. On his recommendation, the Attorney suggested that he take leading counsel's advice from London to identify whether that view was shared. That advice was duly taken, and leading counsel has confirmed that, in his view as well, the evidential test is not met. These opinions have been further considered both by the Attorney General and by the senior lawyer in the Law Officers' Department assisting him in these cases. Nothing in that further consideration has led the Attorney General to express any view contrary to the advice which has been received in respect of these sexual allegations.

In the circumstances, the Attorney General considers that, applying the above principles, there is no reason sufficient to re-open the decision taken by his predecessor in 1998.

The Attorney General realises, of course, that the complainants will be very disappointed with this decision, which has, of course, also been discussed with the police.

Nevertheless, hard decision though it may appear to some, the Attorney General is sure that a decision not to prosecute is the right and appropriate decision in these cases taken on the legal principles set out above.

3rd June, 2009.

Law Officers' Department
Jersey.

3.22 DEPUTY T. M. PITMAN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING COMPETITION IN THE POSTAL MARKET:

Question

- a) Given that Jersey Post has worked hard at improving efficiency, including the use of voluntary redundancy packages, and is only 4 months into a four-year plan, what action, if any, will the Minister be taking following the decision of the Jersey Competition Regulatory Authority (JCRA) to advise the public of its proposal to issue a Class 1 Postal Operator's Licence to convey Large Letters and Packets to Citipost DSA Ltd and Hub Europe Ltd?
- b) Would the Minister set out the impact that the grant of such licences will have for Jersey Post and confirm that the bulk mailing represents the core profit-making aspect of its operations? Would he further state whether the introduction of competition will lead to job losses and increased long-term costs for the public and would he state whether or not he supports the introduction of competition in this area?
- c) Would the Minister state how both Jersey Post and competitors can survive and thrive financially in the years ahead within such a limited market where the comparatively unprofitable but socially essential daily mail delivery to domestic and business customers alike is intrinsically dependent on the more profitable side of the business?

Answer

a) By entering into public consultation on its proposal to issue a Class 1 Postal Operator's Licence to convey Large Letters and Packets to Citipost DSA Ltd and Hub Europe Ltd, the JCRA is acting wholly within the provisions of the Postal Services (Jersey) Law 2004. Through this Law the JCRA is responsible for granting all licences to postal operators. It is required to determine whether licences should be granted based on considerations listed in Article 8 of the Law.

The JCRA's assessment of these considerations, must include the potential impact of the grant of additional postal licences on JP's continuing ability to operate on a sustainable basis, including the provision of a universal postal service. This obligation is set out in the Initial Notices it published on 29th March 2010, available from the JCRA and on its website. The public consultation closes on 30th April at which point the JCRA will determine if additional licences are to be granted.

b) and c) In their 2008 Annual Report, Jersey Post's Chairman clearly recognises the benefits of competition in the market place:

"We accept the inevitability of regulation and competition, both of which in our experience are strong performance motivators."

However, it is imperative that the impact of competition on Jersey Post is fully comprehended before any final decision is made. The JCRA's decision to grant additional licence, must and will include the potential impact of the grant of additional postal licences on Jersey Post's continuing ability to operate on a sustainable basis, including the provision of a universal postal service.

I would expect Jersey Post to submit a robust impact analysis to the public consultation to inform the JCRA's decision which would outline the consequences of the award of additional licences on employment, financial sustainability of their operations and their ability to sustain their universal service provision.

As Minister, I will be guided by the findings of the JCRA's review of the responses to the public consultation. It is this review that will determine whether competition in this area of the market is sustainable.

3.23 DEPUTY T. M. PITMAN OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING SCAFFOLDING IN LA MOTTE STREET:

Question

Scaffolding surrounding a 'listed' but empty and unsafe business premises in La Motte Street is having a hugely damaging impact on retailers whose businesses are hidden from view from shoppers which is particularly damaging to potential business in relation from visitors to the island who will not know the hidden shops are there; what measures is the Minister taking to ensure that this eyesore is rectified and what assurances, if any, in terms of timescales can he give the proprietors of the retailers being negatively impacted upon as to when this scaffolding will be removed?

Answer

Following a number of complaints from members of the public who had concerns about the unstable condition of the building at No 11½ La Motte Street my department served a dangerous building notice in August 2009. That notice required the owner to take certain steps to make the building safe.

As the property owner had died a decision was taken by my department to erect shoring in the form of a structural scaffold to remove any risk to public safety from a sudden collapse of the front facade of the building which was considered to be highly likely due to it being severely cracked and showing signs of recent movement.

Whilst every effort was taken to limit the effect of the scaffold on neighbouring businesses, the design was dictated by the overriding requirement to provide adequate support to the building. Unfortunately, because the owner has died there has been a delay in implementing the necessary remedial works to make the building safe.

The property has since become the subject of a disbursement and I understand the property is now in new ownership. My officers are in discussions with the new owners legal representatives who have confirmed the owner's willingness to work with my Department to undertake the necessary the steps to allow the scaffolding to be removed as soon as practicable.

I cannot give a specific date as to when this will be, but would expect this to happen within the next 6 months provided the new owner shows a willingness to resolve the matter quickly, as indeed has been indicated.

3.24 DEPUTY S. PITMAN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE EXTENT OF THE PROTECTION OFFERED BY THE INCOME SUPPORT (TRANSITIONAL PROVISIONS) (AMENDMENT) (JERSEY) ORDER 2008:

Question

Does the Minister accept that the protection offered by the Income Support (Transitional Provisions) (Amendment) (Jersey) order 2008, due to come into force on October 1st 2010, designed to provide a smooth transition from the previous benefit system to the new one, has not been extended to those suffering a loss in household income (sometimes up to £100 per week) as a result of the review process of all IS recipients now being undertaken by his department? Will he consider extending this protection, and if not why not?

Answer

The phasing included in the Income Support (IS) (Transitional Provisions) (Jersey) Order 2008 is being applied. All households currently in receipt of IS transition continue to receive 100% protection of their legacy benefits. This will be maintained for those who continue to qualify for legacy benefits until the first down rate in October 2010 as set out in the Transition Order, from which point a reduced amount of protection will continue to be available.

The purpose of the IS transitional order is to provide a phased transfer from previous benefits to IS, provided that entitlement to the previous benefit remains. As the circumstances or income of a household changes it is appropriate for their benefit entitlement to be reviewed. If the change of circumstances is such that they would no longer have qualified for the benefit that they received prior to IS, then the protection in respect of that benefit is removed. This is no different to what would have happened if the previous benefits were still in place and no different to the treatment afforded to an IS recipient. When there is a change in circumstances this must initiate a review of the claim with benefit levels set appropriately according to current circumstances.

If a household experiences a loss of household income of £100 per week, it is more likely that the IS benefit entitlement will increase. At the very least, in this situation, unless the make-up of the household has changed (e.g. death of a member) the protection would be maintained.

However, it may be that this question is seeking advice on the situation in which transition protection of up to £100 per week is withdrawn without phasing following a review of the household circumstances. The reduction of transitional protection following a change of household circumstance will normally occur if -

- the needs of the household have decreased – for example someone has left the household - in which case it is appropriate that the benefit level should be adjusted downwards
- or the income of the household has increased, in which case the loss of benefit is compensated by the increased income of the household

In some cases, the review of the Income Support claim identifies an error made in respect of the previous benefit, and the review will rectify the previous error.

As members will be aware, transitional protection has been extended twice since the beginning of IS and the first reduction is in October 2010. There are no plans to extend this further.

3.25 DEPUTY S. PITMAN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE LOSS OF IMPAIRMENT COMPONENTS OF INCOME SUPPORT:

Question

Notwithstanding the response to question 5240 from Deputy Southern tabled on 23rd March 2010 does the Minister not accept that a successful applicant for impairment components of Income Support and in receipt of transitional protection will see some of their impairment component (designed to provide financial assistance for the additional costs of their impairment) withdrawn through a reduction in transitional protection and, if so, will the Minister undertake to review this situation with some urgency?

Answer

I do not accept the interpretation set out in the question. Transition protection exists to compensate households for differences between Income Support (IS) entitlement and previous benefit entitlement. All transition protection is paid above IS entitlement. If IS is increased, the need for transition protection reduces. A successful applicant for additional impairment components of Income Support will receive the full value of the impairment component (based on household circumstances). In some cases this will result in an adjustment of transition protection.

3.26 DEPUTY S. PITMAN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THOSE ON INCOME SUPPORT WISHING TO UNDERTAKE EDUCATION/TRAINING:

Question

Will the Minister accept that the treatment of those on Income Support wishing to undertake education/training at Highlands or elsewhere has led to inconsistent advice being given to applicants in some cases? Will he produce a definitive list of what courses are acceptable and ensure that all Income Support staff and applicants are made aware of it?

Will he also ensure that the “access to Education” course, successful completion of which is bound to improve a student’s earning capacity, is accepted on this list, and if not why not?

Will he further commit himself to review the guidance on access to child care components which precludes parents with children under five years of age from accessing child care in order to study?

Answer

There are clear guidelines regarding the treatment of those on Income Support (IS) wishing to undertake education/training. Officers in the department work closely with Careers Jersey and Highlands College to support potential applicants. The application forms individuals are required to complete when applying to enrol on a course at Highlands College include information regarding Income Support.

Support is provided depending on the individual circumstances and the course proposed needs to be appropriate to the current education, background and potential of the applicant. For this reason it would not be practical for the department to produce a “definitive list”.

Highlands College provides two courses designed for adults wishing to return to education. There is a Return to Study course for individuals who left school with few, or no, qualifications and an Access to Higher Education course for those who already have some qualifications and work experience. As stated above individual prospective students must be considered on their own aptitudes and should seek personal advice which is available from Highlands College and Careers Jersey. The statement that “successful completion of (the Access to Higher Education course) is bound to improve a student’s earning capacity” is an educational matter rather than a benefit issue but it is clear that for some individuals this course will be appropriate, but for many others it will not.

Parents with children under the age of 5 who are able to make childcare arrangements without the need for additional financial assistance are supported through IS and may choose to study and continue to receive IS benefits.

The additional cost of including childcare within the IS benefit to support a parent of a child under 3 for 39 weeks of full time study (September to June) would be up to £7,712.25. This support is not usually provided, although exceptional circumstances will always be considered. Such support was not available under the previous benefit system and the Department would need to seek additional funding to extend Income Support to all applicants in this situation.

Following the introduction by Education, Sport and Culture of 20 hours free term time nursery provision to 3 and 4 year olds from September 2009, the opportunities for parents with children just below school age to be able to make arrangements for their own study has increased.

There are alternative options for study for parents with children under the age of 5 as course fees for distance learning may be paid through an IS Special Payment.

This matter will be considered in the IS review to commence in the second half of 2010.

3.27 THE DEPUTY OF ST. MARTIN OF THE MINISTER FOR HOME AFFAIRS REGARDING THE COSTS ASSOCIATED WITH THE APPOINTMENT OF A SENIOR POLICE OFFICER:

Question

Will the Minister inform Members why a recently appointed senior police officer left his post after serving only a few days, how much did his appointment, including travel expenses, cost, who was responsible for the appointment and given that the appointment has not been filled since the last Senior Investigating officer departed last summer, how can the post be justified?

Answer

The reasons for the Senior Investigating Officer not taking up the appointment described are matters which are entirely personal.

The costs associated with his appointment are as follows:

Salary paid	£1037.90
Flights-Initial visit, flight over and return	£ 658.79
Accommodation	£ 741.60
Total cost	£2,438.29

The question of the resources required to carry out specific enquiries is a matter for the Chief Officer of the States of Jersey Police; it is essential to have suitably trained individuals to assist in completing enquiries.

3.28 THE DEPUTY OF ST. MARTIN OF THE MINISTER FOR HOME AFFAIRS REGARDING THE COST OF THE HISTORIC ABUSE ENQUIRY:

Question

Will the Minister inform Members –

- (a) of the cost of the historic abuse enquiry from 23rd February 2008 to the date of the former Deputy Chief Officer's retirement;
- (b) the cost since the appointment of his replacement;
- (c) how the expenditure is monitored and who is the accounting officer legally responsible for expenditure;
- (d) who has political responsibility for the expenditure and how closely the expenditure is monitored?

Answer

- a) Cost of the historic abuse enquiry from 23rd February 2008 to the date of former Deputy Chief Officer's retirement - £3,202,600.
- b) The cost since the appointment of his replacement from September 2008 to end March 2010 - £3,710,800.
- c) Financial Management of the enquiry is overseen by a multi-agency Gold Strategic Co-ordinating Group. The Chief Officer of the Home Affairs Department is the Accounting Officer, and member of the Gold Strategic Co-ordinating Group.
- d) The accounting officer of a States funded body is personally accountable for the proper financial management of the resources of the body in accordance with Article 38 of the Public Finances (Jersey) Law 2005 Law.

The accounting officer is not responsible for making decisions on policy issues but is accountable for the implementation of policy with due regard to value for money. Policy decisions are the responsibility of ministers. Furthermore, the accounting officer does not have managerial oversight of, nor clearly any operational responsibility for, the States of Jersey Police.

Departmental expenditure is monitored on a regular basis and reported to the Minister in the Quarterly Ministerial Financial Report in accordance with Financial Direction 6.5.

3.29 THE DEPUTY OF ST. MARTIN OF THE MINISTER FOR HOME AFFAIRS REGARDING THE RELEASE OF PARTS OF THE CONFIDENTIAL WILTSHIRE POLICE REPORT:

Question

The Minister has stated that he can justify the release of selected parts from the confidential Wiltshire Police Report on the grounds that the suspended Chief Officer of the States of Jersey Police and his supporters have carried out a concerted campaign to put the whole case in the public domain, if the Minister is of that view will he inform Members what information from the confidential report has been put into the public domain by the suspended Chief Officer and what action, if any, the Minister has taken in response?

Answer

It is my opinion that during the working week commencing on 15th March 2010, there was a concerted campaign on behalf of the Chief Officer of the States of Jersey Police to put into the public domain the main elements of the said Chief Officer's case.

During the first few days of that week I became aware of the following:-

- (1) That the first and second reports of the ACPO Homicide Working Group were put into the public domain both on websites and by virtue of the Deputy of St Martin making public comment thereon on various news media.
- (2) That transcripts of the private hearings which I conducted in relation to the suspension of the Chief Officer of Police in February and March 2009 appeared on various websites. The transcript was only available to the Chief Officer of Police, the Senior Personnel Officer who had caused the transcript to be produced, the Royal Court, before whom parts of the transcript had been put during the Judicial Review hearings in 2009 and the people who produced the transcript.
- (3) A document which purported to be a resume of the issues which were raised by the Acting Chief Officer of Police in his letter dated 10th November 2008 to the Chief Executive to the Council of Ministers together with detailed comments thereon which were attributed to Doctor Timothy Brain also appeared on various websites. Doctor Timothy Brain is the former Chief Constable of Gloucestershire who has been acting as a representative of the Chief Officer of Police. That document, if genuine, could only have come from a person who was acting as the representative of the Chief Officer of Police.
- (4) At the same time, there was a very high profile media campaign fronted by the Deputy of St Martin to put into the public domain:-
 - (a) the major parts of the Chief Officer of Police's case;
 - (b) criticism of the handling both of the original suspension hearing and of the suspension hearings conducted by me; and
 - (c) criticism of the role played by the Acting Chief Officer in relation to the original suspension of the Chief Officer of Police.

It is my opinion that where matters are put into the public domain that they then cease to be confidential. Furthermore, if they are put into the public domain by or on behalf of an individual who is a party to a confidentiality clause then that individual effectively waives confidentiality in relation to those matters. It would, in my view, be absurd to suggest that a party to a confidentiality agreement could put matters of information and opinion into the public domain whilst other parties to that agreement were forced to remain silent due to the confidentiality clause.

Furthermore, once matters which are of important public interest are placed in the public domain I then have a duty, in the public interest, to ensure that the public are not being misled by virtue of a one sided view of matters being put forward. The judgement as to exactly where the balance lies between the public interest in information being available on the one hand and the application of the confidentiality clause on the other hand is a fine balance which requires difficult decisions to be made.

I do not think that I have stated that I can justify the release of selected parts from the confidential Wiltshire Police reports as alleged in the Question. My opinion is that where particular facts or issues are placed in the public domain and particularly where they are placed there on behalf of the

Chief Officer of Police, I am able properly to comment thereon. In my view, whether in so doing I am able to release parts of the Wiltshire Police report or the essence thereof in a matter of fine judgement.

I do not believe that I have ever alleged that the Chief Officer of Police has put information from the Wiltshire Police reports into the public domain. What I am saying is set out above.

3.30 THE DEPUTY OF ST. MARTIN OF THE MINISTER FOR HOME AFFAIRS REGARDING THE INDEPENDENT CUSTODY VISITOR SCHEME:

Question

On 11th September 2009 the States unanimously approved P.122/2009 and agreed to establish an Independent Custody Visitor Scheme to commence no later than 1st February 2010; will the Minister inform members why the Scheme is not operating yet and when is it likely to commence?

Answer

Following a necessary period of research and liaison with the Independent Custody Visitors Association (ICVA) in the UK, the Department advertised for volunteers in the Jersey Evening Post on 29th October 2009 with a closing date for applications of 13th November.

Twelve members of the public applied and all were short listed. A formal interview process took place. To allow for the Christmas and New Year break, two interview sessions were held on 22nd December and 19th January. Three people withdrew before the interviews and one subsequently; the remaining 8 were considered suitable for the role and come from a range of backgrounds, ages, etc. which will make the group reasonably representative of Jersey society.

Although security clearances were applied for after the interviews, they inevitably take some time to be carried out in some instances; the final one was returned in mid-March. Successful clearances are a key factor in determining whether the required training would be viable.

To allow for the availability of all volunteers and to allow sufficient time for the Department to complete work on the Scheme Handbook, Saturday 5th June has been booked for the trainer to come across from the ICVA. There were earlier dates available in May but they coincided with bank holiday weekends when volunteers are likely to be occupied.

Although I withdrew my amendment to P122/2009 which would have recognised that an additional 3 months would be needed to implement the scheme, my initial thought was right in that a reasonable length of time was always going to be required for a proper recruitment process; the setting up of a new scheme for Jersey; and to allow for the imposition of a new task on a small Department which is additional to the 2010 Business Plan and therefore unresourced. I am grateful to the Deputy of St. Martin for his assistance in relation to the setting up of the scheme but, notwithstanding that, it has taken longer than he and I hoped.

3.31 THE DEPUTY OF ST. MARTIN OF THE CHIEF MINISTER REGARDING THE SUSPENSION OF A CONSULTANT GYNAECOLOGIST:

Question

On 3rd November 2009, in answer to an oral question regarding the appointment of a panel to investigate the suspension of a consultant gynaecologist, the Chief Minister stated that the panel

was ready to start, that its investigation would be concluded within a month, that exact costs would be dependent on the number of days needed to conduct a review and that the cost was expected to be in the region of £40,000. Will the Chief Minister inform members why the report has not yet been presented to the States, state when will it be presented and inform members whether the cost will still be in the region of £40,000?

Answer

The Review Panel started work the week ending 6th November and read over 1000 pages of documentation and conducted a number of interviews by the end of that month. Further reading and follow up work was completed before the end of December and a preliminary report drafted by mid January. From mid December to mid February two key individuals were taking extended holidays consecutively, however, by mid February, the summary report that will be made available to all States Members had been drafted. It was necessary for this document to be subject to legal advice and checks as it will put information and views about the actions of States employees into the public domain and could subject individuals to public debate and criticism. The States Employment Board owes a duty of care to its employees and has to seek a balance between this duty and that to the States of openness and accountability.

The States Employment Board has received a final draft of both a detailed and summary report, and subject to final legal checks it is anticipated that the summary will be released to States Members in early May.

The cost to date of £47,000 is a little above the original estimate.

3.32 DEPUTY M. TADIER OF ST. BRELADE OF THE CHIEF MINISTER REGARDING AN INDEPENDENT INQUIRY INTO ISSUES SURROUNDING HAUT DE LA GARENNE AND THE HISTORIC ABUSE INQUIRY:

Question

Will the Chief Minister state whether he is supportive of a complete independent inquiry into issues surrounding Haut de la Garenne and the so-called historic child abuse inquiry, including issues such as the confusion surrounding the skull fragment; whether human bones were previously removed from the site by the police and why there is currently confusion about the depth of cellars under the building. If so, would he state when he envisages this taking place and if not would he set out the grounds for his objection? Would the Chief Minister also list any other considerations in favour or otherwise of an inquiry, as promised by the former Chief Minister?

Answer

R.27/2008 was lodged in March 2008 by the former Council of Ministers at a time when the Island was in shock at the terrible events it had been alleged had taken place at Haut de la Garenne. It was in this context that the Council of Ministers stated its commitment to hold a full inquiry into unanswered questions once the police investigation and subsequent prosecutions had been concluded.

In November 2008, the States of Jersey Police publicly dismissed the notion of murder at Haut de la Garenne as well as removing confusion surrounding the nature of some of the evidence. At about this time the Chief Officer of the States of Jersey Police was suspended pending an investigation into the circumstances surrounding the historic abuse inquiry.

In the early part of 2010, it is clear that the context within which the former Council of Ministers made its public commitment to an inquiry has changed beyond recognition, and this is something I believe must be taken into consideration when making decisions about the way forward. In addition, it is clear that since March 2008 much has happened in response to the investigation which is likely to provide answers to matters that would otherwise have required a public inquiry.

One of the most notable developments has been that of the Wiltshire Report into Operation Rectangle, which has been produced as part of the disciplinary process relating to the Chief Officer of the States of Jersey Police. Whilst this report remains confidential throughout the disciplinary process, the Minister for Home Affairs has committed to make available to the States Assembly as much as possible of this report once the disciplinary process has been completed.

I remain supportive of the notion of an open and transparent public inquiry where there are outstanding issues to be investigated which represent definite matters of public interest. In this case it will be important to take stock of all that has happened since March 2008 in order to reach a conclusion as to whether such an inquiry is the most appropriate way forward and if so what its scope should be. I can assure the Deputy that this is being actively considered by the Council of Ministers and I fully intend that this will be considered by the States Assembly at an appropriate time.

As any public inquiry would not be able to begin until the conclusion of the current police investigation and subsequent prosecutions, this provides the best guide in terms of timing. With some cases still within the judicial process and the possibility of subsequent appeals, should a public inquiry take place, I believe the soonest it could begin would be the early part of 2011.

Whilst it is clear that a public inquiry could be an extensive and costly exercise, the overriding consideration must be whether the public interest would be served through such a process, in particular if unanswered questions remain that should be addressed in this way. If, having reviewed what has happened since March 2008, there remain outstanding issues of public interest I would certainly consider an open and transparent inquiry to address these areas.

3.33 THE DEPUTY OF ST. MARY OF THE MINISTER FOR HOME AFFAIRS REGARDING THE SUSPENSION OF THE CURRENT CHIEF OFFICER OF THE STATES OF JERSEY POLICE:

Question

In view of the public concern over the suspension of the current Chief Officer of the States of Jersey Police and the intended appointment of the Acting Chief Officer as Chief Officer, and to inform members in this vital matter, will the Minister provide an official chronology of the three letters which were used during the actual act of suspension in November 2008, namely the letter from the then Minister for Home Affairs to the Chief Executive initiating disciplinary action under the Disciplinary Code for the Chief Officer of Police, the letter from the same Minister to the Chief Officer notifying him that the disciplinary process had commenced and the letter of written notification that the Chief Officer was suspended from duty, giving an explanation of who created them, when, and why?

Answer

The information in relation to the chronology of the three letters is as follows:-

- (1) The letter from the Home Affairs Minister to the Chief Executive asking for a disciplinary investigation to be put in train under the terms of the Chief Officer's Disciplinary Code was first created at 14:00:56 on 11th November 2008.
- (2) The letter from the Home Affairs Minister to the Chief Officer informing him that he had asked the Chief Executive to carry out an investigation under the terms of the Code was first created at 08:44:00 on 8th November 2008.
- (3) The letter from the Home Affairs Minister to the Chief Officer informing him that he was suspended was first created at 08:48:00 on 8th November 2008.

The issues as to who created the letters, when and why is within the remit of the Commissioner appointed by the Chief Minister and should properly be left for him to determine.

3.34 THE DEPUTY OF ST. MARY OF THE MINISTER FOR HOME AFFAIRS REGARDING THE APPOINTMENT OF THE NEW CHIEF OFFICER OF THE STATES OF JERSEY POLICE:

Question

Will the Minister, 2 or more weeks before any debate on the appointment of the new Chief Officer of the States of Jersey Police, make available to members -

1. The letter sent on 10th November 2008 by the then Deputy Chief of Police which triggered the suspension process?
2. The Metropolitan Police interim report?
3. The Metropolitan Police final report?
4. The report of the preliminary investigation by the Chief Executive under paragraph 2 of the Disciplinary Code?
5. The media presentation script used on 12th November?
6. The 5th November draft version?
7. The initial and follow-up reports by ACPO about the Historic Abuse Inquiry, presented during March 2008?
8. The written record of the briefing given by members of the ACPO team on 7th March 2008 to the then Chief Minister and Home Affairs Minister and the Chief Executive?
9. The Wiltshire report either complete (or with necessary redactions). or one or more complete "threads" for example a full account of media statements/interviews about the "potential remains of a child" to when they became a "piece of coconut", including the actual video and audio?

or should he withhold any particular document, an explanation for doing so?

Answer

It is my intention, prior to the debate of the appointment of the Acting Chief Officer of Police as the new Chief Officer of Police to make available to Members of the States as much information as I properly can in relation to the issue of the role played by the Acting Chief Officer in providing information to the Chief Executive to the Council of Ministers and to the then Home Affairs Ministers in relation to issues concerning the Chief Officer of Police.

However, I do not believe that a two week period for such information will be necessary.

I am also unable at this point in time to determine which matters and documents I will then be able to properly put before the Members of the States.

I note that the Deputy of St Mary will wish to receive a great deal of information and my intention is to put as much information before the Members of the States as I possibly can.

There is a further complication in that it is my understanding that the issues which the Deputy of St Mary's wishes to cover in terms of provision of information will, to some extent, have already been covered by the report of the Commissioner appointed by the Chief Minister in order to examine the circumstances of the original suspension of the Chief Officer of Police.

Finally, I will take this question as notice from the Deputy of St Mary as to the documents which he would wish to see prior to any such debate and notice that I will need to give an explanation as to any reasons which may arise as to why I cannot provide any particular document or can only provide that document in a limited or adapted form.

3.35 THE DEPUTY OF ST. MARY OF THE MINISTER FOR HOME AFFAIRS REGARDING THE AUTHOR OF A REPORT ADVISING THE STATES OF JERSEY POLICE ON MEDIA-RELATED MATTERS:

Question

In his reply to a written question from the Deputy of St. Martin on 23rd March 2010, the Minister referred to the lengthy quotation which forms part of the judgement in the matter of the Attorney General v. Aubin and others [2009] J.R.C. 035A. in the following terms "The quotation above which is attributed to an outside expert is a quotation from the report of an independent media expert who was called in to advise the States of Jersey Police on media related matters." Would the Minister inform members who called for this report, when and why, who conducted it, how were those who undertook the review were selected and what their qualifications were? Will the Minister release the report to members as it has already been used in a public court judgement?

Answer

In September 2008 an external media consultant, experienced in working at ACPO level in the UK, was formally engaged by the then Deputy Chief of Police with the knowledge of the Chief Officer of Police to develop an appropriate external communication strategy regarding Operation Rectangle. This was primarily to ensure:

- That trials and ongoing investigations were not compromised or challenged on the grounds of an abuse of process, based on the information supplied to the media by the States of Jersey Police.
- That the public were presented with accurate facts.

The external media consultant gave advice on these matters and subsequently resigned from his role. He then produced a written report in relation to his advice. Other issues relating to the report fall both within the ambit of the enquiry being conducted by the Commissioner and the terms of the first Wiltshire Police Report and it is not appropriate for me to express an opinion thereon at this stage.

I will need to take advice as to whether I can properly release this report to Members at this time or at a time in the future and in what form. My position remains that I am keen to release as much information as possible to Members of the States and as soon as possible.

3.36 THE DEPUTY OF ST. MARY OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING CYCLE-RELATED ACCIDENTS:

Question

Following her written answer to my question on 23rd March 2010, can the Minister answer the following questions about the 7 children, out of the 174 who suffered a cycle-related accident in 2009 and went as a result to Accident and Emergency (A&E) who were subsequently admitted to Hospital -

- 1) what were their presenting injuries as recorded on the A&E system;
- 2) what led to their admission to Hospital;
- 3) what were the outcomes for these 7;
- 4) what diagnostic codes were added to their record when they were discharged from the A&E Department?

Answer

The Deputy for St Mary has already been supplied with generic information attached to his written question number 1240/5(5249) on 23rd March 2010.

Unfortunately, due to the need to maintain patient confidentiality the Department is unable to comply with this specific request.

It is the opinion of the Department that given the small number of patients (i.e. seven patients) implicated in this latest question, any answers to the very precise sub questions would potentially be recognisable to any one remotely close to the affected individuals and be able to identify them. This is not in the best interests of the patient. Whilst we would not advocate this course of action, the formal agreement of each affected patient would have to be gained before the information sought could be released to the Deputy.

3.37 THE DEPUTY OF ST. MARY OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING RECENT TRENDS IN PUBLIC EXPENDITURE:

Question

In the interests of helping members understand better the trends in public expenditure over the recent past, will the Minister give members a complete and accurate breakdown of the oft-referred to "30% increase in public expenditure over the last 5 years" to show members and the public exactly what the increase is due to, including, but not restricted to, such factors as inflation and increases in pay, the Historic Child Abuse Inquiry, the flu pandemic and Williamson, and will he undertake to publicise this breakdown with the same prominence that he has given to the 30% increase claim?

Answer

The increase in public expenditure over the last 5 years is broken down as follows:

£m	%	
42	10%	Pay awards as allocated in the Annual Business Plans
18	4%	Non-Pay inflation as allocated in the Annual Business Plans
42	10% ¹	Increases in the Social Security service provision made up of: <ul style="list-style-type: none"> • £10.8m transfer of Parish welfare to Social Security • £6.8m protection against GST • £8.2m uprating of benefits • £1.5m growth in residential care • £5.6m increase in cost of supplementation • £6.7m transitional relief • £2.4m economic downturn funding of Social Security
18	4% ¹	Annual Business Plan allocations made up of: <ul style="list-style-type: none"> • £9.5m Health and Social Services growth • £0.5m Privileges and Procedures growth • £1.8m Education demographic growth and social inclusion costs • £2m Overseas aid • £3.2m Home Affairs growth • £1m Housing rent rebate growth
4	1% ¹	Other service changes agreed in the Annual Business Plans, principally as a result of the Fundamental Spending Review and Strategic Plan funding, net of efficiency savings
13	3%	Transfer of capital budgets to revenue budgets
1.4	0.3%	Pandemic Flu costs ²
4.2	1%	HCAE costs (2009) ²
1.4	0.3%	Economic Stimulus funding ²
2.6	0.6%	Cessation of the Reciprocal Health Agreement ²
0.3	0.1%	Williamson report implementation ²
146.9	34.3%	

¹ 15% of the increase is due to changes in services.

² Additional one-off costs incurred in 2009 are included in the total increase. One-off costs in prior year do not contribute to the overall rise between 2004 and 2009.

This breakdown shows that the primary cause of increases in costs over the last five years is changes to services agreed by the Assembly in the Annual Business Plan (15% of the 34%). This is coupled with the fact that no contingencies are allocated, resulting in one-off expenditure of £12 million in 2009 alone. These increases in costs are unsustainable and I am committed to find a way to reduce the overall budget and introduce an allowance for contingencies, as part of the Comprehensive Spending Review which is currently in progress.

Notes on the analysis provided

1. The breakdown above is compiled principally from the Annual Business Plans for the years from 2004 to 2009. The actual expenditure for each line item may vary from the numbers outlined above due to issues such as timing differences between planned and actual spend. To review the previous 5 years to identify any variances would be extremely time consuming and would require involvement from departments. The above provides a breakdown that was achievable in the limited time available. Nonetheless the analysis does provide a clear and accurate assessment of how the significant increase in public spending over the past five years has been allocated.
2. The pay award increase for the period as allocated in the Annual Business Plans (and adjusting for the pay freeze in 2009) was £42 million. The increase in actual pay over the period was approximately £70 million. The difference is due to a number of issues such as changes in service provision (meaning that some additional staff costs are incurred in years over and above the annual pay award) and incremental increases in pay due to promotions over and above the pay award. Departments have consistently delivered their services at or below the budget set in the Annual Business Plan.
3. £13 million of the additional costs relates to transfers between capital and revenue expenditure. This means the costs are now recorded in revenue, as dictated by the appropriate accounting standards but the budget was originally allocated in capital so there has been a commensurate reduction in the cost of capital projects.

4. Urgent Oral Question

The Bailiff:

We then come to an urgent oral question which was due to be asked at the last sitting but was unable to proceed because the Minister was unable to be present and so it was agreed it be held over to today's sitting.

[9:45]

4.1 Deputy F.J. Hill of St. Martin of the Minister for Home Affairs regarding comments made during the BBC Talkback programme about a senior ACPO officer:

Will the Minister inform Members whether he broke a confidentiality clause by claiming on the B.B.C. (British Broadcasting Corporation) Talkback programme that the Wiltshire Police had identified what the Minister claimed to be a "scandal" involving a senior A.C.P.O. (Association of Chief Police Officers) officer, and if so, why? Would he further state what the conflict of interest was and with whom the person involved agreed to intentionally omit certain matters in A.C.P.O. reports? Has the Minister made an official complaint to A.C.P.O.?

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

I want to first of all explain to Members why I was not here on the last occasion. Both myself and my wife were struck down on the evening of the Monday at about 9.30 p.m. with a Norwalk-type virus which was not very pleasant and it would not have been very pleasant either for me or for other Members if I had attended on the next day. In answer to the question, there are 2 assertions contained in the question which I do not think are factually correct. In addition to that I will try and answer as briefly as I can but, as is the habit of the Deputy of St. Martin, it is a multi-part question. Firstly, I do not believe that I have broken a confidentiality clause and that is for the reason set out in some detail in my written answer to 5302 to which I would refer Members. Secondly, I do not think that I mentioned the Wiltshire Police in this context. I am not sure of that, and I have not had a chance to check any transcript, but I do not think that I did. My intention on the Talkback

programme was to attempt to achieve a better and fairer factual balance in relation to the situation. In particular, my intention was to deal with issues which had been put into the public domain, some by the Deputy of St. Martin himself, presumably on behalf of the Chief Officer of Police, and also by others. Those issues included an assertion that the first and second reports of the A.C.P.O. Homicide Working Group provided a complete defence to the Chief Officer of Police. Now, I have not made any factual decisions on these matters and cannot do so because of the fact that I am involved in a disciplinary matter but when matters were asserted in this way which were not, in my view, in any way balanced, I believe it to be a public duty of mine, as the Minister involved, to correct and to seek to balance the situation where there are clear imbalances in what has been put to the public. There are a number of issues in relation to the A.C.P.O. reports. There are various issues and, of course, it all depends upon what their status was. Were they just a friendly policeman coming alongside to give friendly advice or were they in some sense intended to be independent advice? If they were intended to be the latter and it was my understanding at that time that that was the intention, then there are a number of issues that arise. In particular ...

The Bailiff:

Minister, I appreciate this is quite a lengthy question but this is turning into an extremely lengthy answer.

Senator B.I. Le Marquand:

I cannot avoid that. [Laughter]

The Bailiff:

How much longer do you have?

Senator B.I. Le Marquand:

About a third of a page, Sir. It was, after all, given the status of being an urgent oral question. I think it is not improper for me to respond in some detail to a matter which has been deemed to be urgent [Laughter] if I may put it that way. I shall try and be as brief as I can. The issue to which I alluded was an issue as to whether there was a conflict of interest on the part of the senior officer involved. That conflict of interest would be in the area of the fact that that officer was about to apply in Jersey for a senior post in the Jersey police force. Now in my view there was an obvious potential conflict of interest in that sort of situation and the conflict is between the person's desire to be objective, if it was going to be an objective report, and the temptation to say and to do things to please the senior officers already in the force. That is the issue. I do not believe that I have at any time said that this officer agreed to intentionally omit certain matters in reports. I have, however, said I believe that certain recommendations which were made by the officers were not contained in reports. Finally, I do not believe it would be appropriate for me to make an official complaint at this stage.

4.1.1 The Deputy of St. Martin:

I know my question was lengthy but I have difficulty finding out where the answers were. I think most people were looking really at the "scandal" and I really feel it hardly could be said it was a scandal. Could I ask the Minister whether in actual fact he has seen any of the 4 A.C.P.O. reports and, if so, will he agree then that the senior applicant from A.C.P.O. who was applying for the job had? Two of the reports were published before the actual interview and 2 were published after the interview; would he agree with that also?

Senator B.I. Le Marquand:

The 2 reports which are particularly being relied upon were before the interview. I am not sure of the timing of the other 2; they may well have been after.

The Deputy of St. Martin:

Could I ask the Minister again, has he seen any of the 4 reports?

Senator B.I. Le Marquand:

Yes, I have indeed.

The Deputy of St. Martin:

I did ask, would the Minister then agree that the 4 reports were consistent in the way in which they reported favourably about the way in which the States of Jersey Police were conducting the investigation? Therefore, if there was any scandal surely it would be the fact that there was no scandal because the reports were consistent in the way they reported favourably from before the interviews for the job and then after the interviews for the job.

Senator B.I. Le Marquand:

I do not want to go into detail and expressing a view in relation to the contents of the reports because this is part of the disciplinary process that I am part of. It was the first and second reports which were particularly relied upon and put into the public domain and it is in relation to those that I was seeking to achieve a greater balance.

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

Given that the Minister is, as he says, so essential to the eventual decision on the Chief Police Officer's suspension, in terms of talking about providing a fairer picture does the Minister not believe that using terms like "scandal" and "scoop" for the *J.E.P. (Jersey Evening Post)* as he used to the Home Affairs Scrutiny Panel can only paint the exact opposite picture, intentional or otherwise?

Senator B.I. Le Marquand:

The term "scandal" as I understand it from having looked it up in a dictionary is wide enough to cover improper conduct. If a senior officer puts himself into a position where there is a conflict of interest, or potential conflicts of interest, that is, in my view, improper. The term "scoop" was used by me rather light-heartedly in a particular context and that particular context which I checked from the transcript of the hearing was the context that I had given an interview with the *J.E.P.* specifically in relation to the timescales in relation to the different reports. I do not want to start talking to the Scrutiny Panel about that detail. I do not find that was being reported before the main Article. That was the meaning of the word "scoop" in that context.

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

I just want to ask the Minister about the review hearing into the suspension. He has talked in his answer at length about balance and I just would like him to comment on the impression given by the transcript which is that the letter from the acting Chief Officer of Police, which is then rebutted by Dr. Brain, seems to be the only evidence that he took serious cognisance of. He said that he could not look at other things like A.C.P.O. reports and so on which gave the other side of the picture and found reasons for not doing so, and I just would like his comments on that.

Senator B.I. Le Marquand:

The factual matters that I had before me in relation to the suspension hearings which I conducted in February and March 2008 were indeed the letter from the now acting Chief Officer setting out concerns in relation to various issues and an extract - I think it was the outline - of the press conference, for want of a better word, which took place in November 2008 which stated certain specific matters. I excluded certain other matters from what I was considering. The decision I had to make was as to whether I should start looking at any of the evidence in relation to the matter. The problem with this, if you start looking at partial evidence, where do you end: you end up in a sort of mini-trial. I am very experienced in the parallel situation which is bail applications where exactly the same situation arises. You make a decision based upon the allegations and the broad

sweep of things. You do not allow yourself to be drawn into looking into detailed evidence. The specific issue which is raised by the Deputy of St. Mary was challenged, of course, as part of judicial review proceedings before the Royal Court and the Royal Court upheld the approach which I had taken.

4.1.4 The Deputy of St. Mary:

Can I ask a supplementary on that? The Minister said that in the review hearing he excluded certain other matters and that is the point, I put it to him, why people are uneasy about this process.

The Bailiff:

Sorry, Deputy, how does this arise out of this question? This question is related to the A.C.P.O. report.

[10:00]

The Deputy of St. Mary:

Well that is exactly it, that those reports do not seem to have been taken into account in the review hearing, so only one side of the story, if you like, and then that is treated and assessed but not the other side and excluded certain other matters and I do not understand why.

Senator B.I. Le Marquand:

Well that is exactly what I have just explained, that the A.C.P.O. reports would have been part of the evidence in relation to the matter. Even if I had looked at the A.C.P.O. reports, and I have subsequently, it would have made no difference to my decision because I do not know the circumstances in which they were obtained. I do not know whether they were followed out properly; I do not know whether they even make sense. Now all these are issues which have to be looked at in a wider context.

4.1.5 Deputy M. Tadier of St. Brelade:

I was obviously there during the scrutiny review. I would like to ask the Minister if he thinks that using terms like “scoop”, which may be appropriate for an ice cream salesman but not necessarily for a statesman, and sensationalising issues by talking of “scandal” on the radio and then not giving evidence on the radio, is partaking in the exact kind of behaviour for which the Deputy Chief of Police ...

The Bailiff:

Deputy, that is an exact repetition of the question that Deputy Trevor Pitman just asked.

Deputy M. Tadier:

Well, in that case I will leave it.

4.1.6 The Deputy of St. Martin:

I will just ask the Minister would he not really agree that the real scandal is the Chief Executive Officer's role? He was the person who appointed the Deputy Police Chief. He was then involved directly again with the suspension of the Police Chief with the Deputy Chief Police Officer and now has come forward with recommending that the Deputy Chief Officer should have the suspended police officer's job. Would he not really think that is the real scandal of what is going on at the moment?

Senator B.I. Le Marquand:

No.

5. Oral Questions

The Bailiff:

Very well. Then we come to Oral Questions. The first question is from Deputy Tadier to the Attorney General. It relates in part to a matter when I was Attorney General so I think for convenience I will step down just for a moment while this question is dealt with and the Greffier will take the Chair.

5.1 Deputy M. Tadier of H.M. Attorney General regarding the decision not to prosecute Mr. and Mrs. Maguire for historical child abuse:

Given the renewed interest generated by Senator S. Syvret's web log surrounding the decision not to extradite Mr. and Mrs. Maguire, would the Attorney General undertake to reconsider the legal advice given not to prosecute and, failing that, take all measures possible to make the exact grounds known on which the prosecution was advised against?

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

My answer to written question 5294 lodged today deals with largely this subject matter. The previous Attorney General made a very full statement in his press release of June 2009. It is clear that he gave the most careful consideration as to whether or not he should re-open matters that were halted in 1998 and/or to start proceedings based on new material received in 2008. On the former point he took the written advice from both a private sector Crown Advocate and from leading Treasury counsel, a specialist London barrister who prosecutes the most serious cases. On the latter point he took advice from the same private sector Crown Advocate and from leading counsel in London. My predecessor and a senior lawyer in the Law Officers' Department then gave careful independent consideration to those opinions and concluded that there was no basis to prosecute. I am thus satisfied that the relevant evidence and the matter generally was robustly and thoroughly considered by a number of highly qualified lawyers both inside and outside the department and that their opinion was that, applying the correct test, there should be no prosecutions. Accordingly, I have no basis to reconsider that decision. As a general rule the Attorney General, as with other prosecution authorities, does not give details of the reasons for reaching any decision about a prosecution. My predecessor's statement went as far as it could in explaining the basis on which decisions had been taken and I do not propose to add to it.

5.1.1 Deputy M. Tadier:

I am well aware of the written answer given. I think it was Senator Le Marquand himself who said if you want a question and answer hidden then do it in the written questions and that is the exact reason I have asked the oral as well. Part of the answer given is that the maintenance of confidence in the criminal justice system is very important and that is why decisions should not generally be reconsidered. So I would ask, is confidence in the Attorney General and the legal system more important than matters of justice?

The Attorney General:

The simple answer to that is that confidence in the legal system, which includes confidence in the Attorney General and the process, is part of confidence of justice and part of what makes up justice in our society. I do not consider, however, that they are more important than justice, no.

5.1.2 Deputy T.M. Pitman:

If I could just quote from the police report from 2008. One paragraph says: "Should it become apparent that Mr. Maguire was not suffering from a terminal illness or his illness was not as serious as made out, then consideration should be given to an investigation into offences of perverting the course of justice." Mr. Maguire was clearly alive and by all accounts very well a decade later when tracked down. So could the Attorney General advise the Assembly as to why no investigation into possible perjury was ever initiated and would it not be the compassionate thing to at least have provided a death certificate to give some closure to the victims?

The Attorney General:

On the matter of the death certificate, once a decision not to prosecute has been taken it is not part of the Attorney General's responsibility to monitor the health or indeed the existence of any people who were previously the subject of suspicion. Consequently, I cannot make any comment on the existence or otherwise of a death certificate. I am sorry, I have lost the first point; if the Deputy could repeat it.

Deputy T.M. Pitman:

Given the recommendation in the police report and brief that there may be a case for perjury relating to Mr. Maguire's alleged illness which seemed to not manifest for another decade, could the Attorney General advise why no investigation into these possible offences of perjury were ever pursued?

The Attorney General:

I do not propose to comment on documents which it is not clear to me are appropriately within the public domain and appear to me to have been inappropriately leaked; they are confidential documents. I am not aware of the basis on which any investigation for any alleged offence would have taken place.

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

Obviously there is a level of concern surrounding the events in 1998 and 2008 in this case. Although the advice has been given that the question of the terminal illness was not taken into consideration at that time, obviously lots of questions arose out of that. I accept that the Attorney General feels that he is not able to answer this question because of the confidentiality of documents but my understanding is ...

The Greffier of the States (in the Chair):

A question, please, Deputy; this is sounding like a speech.

Deputy J.A. Hilton:

Okay. My question is, in light of everything that has happened previously, can the Attorney General confirm that now where evidence is given or a statement is made on behalf of a defendant by his advocate concerning illnesses or whatever, that evidence would be required by the prosecution?

The Attorney General:

Yes, generally speaking, and I cannot think of any exceptions to that. If the health of an accused person is material to any decision made by the prosecution and representations are made regarding that health, then the prosecution would invariably wish some form of independent verification of that statement.

The Greffier of the States (in the Chair):

Do you wish a final supplementary, Deputy Tadier?

5.1.4 Deputy M. Tadier:

I appreciate the constraints within which the Attorney General is working but I think his own words said that he was thus satisfied that the correct decision had been made. The point I was trying to make in my question is that while the Attorney General and the Legal Department may themselves be satisfied, I, as a States Member and (I do not think) any States Member or a member of the public can be satisfied in any real sense because we are not privy to the information. So, first of all, will the Attorney General acknowledge that this is a particular problem for abuse survivors themselves and could he explain perhaps, if we applied the public interest test, the actual reasons

for the prosecution not going ahead? I am talking about concrete and tangible reasons that we could give to victims if not released in this very exceptional circumstance.

The Attorney General:

I think it is extremely dangerous to begin to discuss the reasons for a prosecution decision one way or another within the public domain, particularly within a political assembly. I think it would be wholly inappropriate other than in the most exceptional cases for any detail to be gone into in that regard. In that direction lies political influence over prosecution decisions which, of course, [Approbation] as a matter of fundamental principle must be wrong. My predecessor made his statement in June 2009. He went as far, I think, as he properly and reasonably could do so in explaining why the decisions had been taken, the legal principles that he applied in reaching that decision, and I do not think that there is any basis that I can properly go any further. Inevitably, part of a consequence of keeping a prosecution decision sacrosanct, away from political influence and away from debate in the media or by emails, is that some information, substantial amounts of information, cannot enter the public domain. That will be frustrating for some people, difficult and painful for some people, but sadly it is the right thing to do.

The Greffier of the States (in the Chair):

Very briefly, Deputy, we must move on.

5.1.5 Deputy M. Tadier:

It is very brief. I am thankful for the answer. Could the Attorney General then explain what the very exceptional circumstances might be? Just give one example of a circumstance under which this kind of information would be given.

The Attorney General:

I am afraid I cannot immediately bring to mind an exceptional circumstance that information of this nature would be given in detail. Information was given in this case. It is a significant amount of information and much more than information about a prosecution decision would normally be given.

The Bailiff:

Very well, we come now to a question that Deputy Le Hérisier will ask the Minister for Treasury and Resources.

5.2 Deputy R.G. Le Hérisier of St. Saviour of the Minister for Treasury and Resources regarding the publication of the Office Strategy:

Will the Minister advise the Assembly when the Office Strategy will be published and whether the development of the strategy is proceeding according to schedule?

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

I have delegated matters for property services to Deputy Le Fondré who, I would be grateful, could answer the question.

Deputy J.A.N. Le Fondré of St. Lawrence (Assistant Minister for Treasury and Resources - rapporteur):

Yes, the department will be producing a high-level plan for the development of core office accommodation, hopefully before the summer recess.

5.2.1 Deputy R.G. Le Hérisier:

Would the Assistant Minister acknowledge that this policy has been subject to interminable delays, political in-fighting and that many people, including himself, are highly dissatisfied with what has happened?

Deputy J.A.N. Le Fondré:

It is an interesting question. I think it would be helpful to explain where we are. Where we are is that a fairly extensive report was produced earlier on last year and it clearly identified obviously that the States offices are inefficient as they currently stand. Put simply - and I have said it before in the States - we have more desks than employees and we should be having less. That report in itself established a considerable amount of base data and obviously demonstrated that there were savings around. As a guide, you can turn around and say that the estate - I think it is more than half the estate - is over 70 years old. More than two-thirds of the estate in area is over 30 years old. As a guide, we have something like 195 square feet on average used per work station and that is per person.

The Bailiff:

Are we going to keep this reasonably brief?

Deputy J.A.N. Le Fondré:

I am going to try to. But the point is there are a lot of issues out there and as a guide what we are trying to do is we are trying to get that down to about 100 square feet. Now we have done all sorts of evaluations on about 20 sites in and out of town. We have had discussions with a variety of organisations, including the M.O.D. (Ministry of Defence), the B.B.C. and certain local authorities to get experiences or understand how they have done these experiences in the U.K. (United Kingdom) and obviously need to put a Jersey twist on them. But there is a lot to learn from them and they were prepared to come and talk to us. So there is a lot of work being done but there is another stage of work to be done and ...

The Bailiff:

I am sorry, you are going to have to cut this short.

Deputy J.A.N. Le Fondré:

I think that is where we are. I think to say there is a lot of work being done; we have to get some more done as well.

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

Could the Assistant Minister advise whether this will be part of the C.S.R. (Comprehensive Spending Review) seeing as it will not be released before the summer recess but whether it will be within the documentation due to be received by scrutiny panels on 23rd April?

Deputy J.A.N. Le Fondré:

I cannot comment as to what is in the C.S.R. It would seem logical that there are potential savings that would arise from the Office Strategy as I understand them and therefore they would form part of the benefit from the C.S.R.

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

Will the Assistant Minister undertake to bring to the States when he brings the strategy detailed breakdowns of the costs involved in compiling the strategy?

[10:15]

Deputy J.A.N. Le Fondré:

There is absolutely no problem on that instance. I think also that what is very important is that a financial evaluation is done of the various options offered under the strategy.

5.2.4 Senator S.C. Ferguson:

The Public Accounts Committee in approximately 2006 recommended that a charging structure should be installed by 2009, and this was in one of our reports. It would seem that there are perhaps insufficient resources and what further work is required to move the project forward?

Deputy J.A.N. Le Fondré:

In relation to the charging mechanism, firstly I fully support the principle of a charging mechanism. I do not believe you should be in this day and age having an estate of something like £1 billion-odd and not recognising the value of that property when you are making decisions. There have been some completely realistic reasons, or reasonable reasons, for the delays that have taken place. Some have been in the actual implementation of a proper I.T. (information technology) system on the matter and you need to get the base data correct and understood and properly managed before you can get the charging mechanism in place. However, that I.T. system, as I have understood, is imminently about to be signed-off. It has been in the process of being implemented for the last few months. In my understanding it is either live or in the process of going live as we speak. So from a physical obstacles point of view, there should no longer be any problems from moving that part of the strategy forward.

5.2.5 Deputy R.G. Le Hérisier:

I wonder if the Assistant Minister could tell us when we can see the implementation of the Office Strategy.

Deputy J.A.N. Le Fondré:

If by “implementation”, the Deputy means concrete poured into the ground, then the Business Plan did lay out a time schedule of something - I think it was last year’s Business Plan for 2010 - over a period up until 2014. As I have said, the timetable is very dependent on making sure you get the work done correctly and even the likes of the C.B.I. (Confederation of British Industries) recognise that your base data and evaluation needs to be robust before you define the solution. The issue there is that there is a property solution and it is also the ...

The Bailiff:

No, I am sorry, this is a question on dates; I think you have given the dates. Very well. We have a large number of questions to deal with today. We come next to a question which Deputy Martin will ask of the Minister for Economic Development.

5.3 Deputy J.A. Martin of St. Helier of the Minister for Economic Development regarding the 2010 efficiency report into Jersey Post:

Would the Minister inform the Assembly who the Jersey Competition Regulatory Authority commissioned to carry out the 2010 efficiency report into Jersey Post and state whether the report will be available to States Members and, if so, when?

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

In my capacity as Minister, I was informed by the J.C.R.A. (Jersey Competition Regulatory Authority) that they had agreed to conduct this review using their own internal resources in co-operation with Jersey Post. This review is, I understand, currently ongoing. Efficiency reviews generally are not published because they contain the commercial confidential data and information of the company under review. However, I understand that the J.C.R.A. will publicly disclose the outcome of the review after its completion. Thank you.

5.3.1 Deputy J.A. Martin:

As the Minister says he can request - which the last Minister for Economic Development did - on the incorporation of Jersey Post on directions and guidance. Can the Minister assure us that no decision on the 2 outstanding other licences will be considered until the results of the efficiency of 2010 into Jersey Post in his position where he can request the J.C.R.A. to wait?

Senator A.J.H. Maclean:

It is not a question of requesting the J.C.R.A. to wait but certainly I would agree with the Deputy that I would expect the J.C.R.A. to consider the efficiency review that is currently underway before they make a final determination. Of course, the Deputy and Members will be aware that the consultation period is currently underway and that in itself does not conclude until the end of this month. I would hope the efficiency review will be considered as part of that process.

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

Is the Minister aware of the previous efficiency review which reported in 2007 which says that Jersey Post was an efficient operator and asked them to make £2.8 million of savings until the end of 2010, which Jersey Post is well on the way to doing, including the layoff of 80 employees? It is now an even more efficient operator. Why the need to bring in competition?

Senator A.J.H. Maclean:

Yes, I am aware of the report carried out by Europe Economics, an independent consultancy, and, in fact, that particular review did say that Jersey Post was broadly efficient. It did, however, point out that there was a high administration cost within the business. I do accept that Jersey Post have taken great strides forward in addressing the issues that it needs to. Yes, there have been some redundancies. They continue to improve their business model and I would expect that the efficiency review that is currently underway will inform the debate about the current proposal for new licences.

5.3.3 Senator S.C. Ferguson:

The Minister must be aware that under the terms of the Competition Law he is entitled to issue directions to the J.C.R.A. Will the Minister confirm that he will issue directions that no action be taken on this until all the reports on efficiency are in?

Senator A.J.H. Maclean:

As Minister, I do have limited powers under the Competition Law under directions and guidance. Certainly, I am more than happy to confirm that a conversation has already been undertaken with the J.C.R.A. with regard to this efficiency review and indeed the results of that will be considered, together with the consultation period and the results from this particular consultation period.

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

Within the J.C.R.A. review was the closure of the post office in the market and moving it to Burrard Street part of that review? If so, was the Minister aware of it?

Senator A.J.H. Maclean:

I am not sure whether the Deputy is referring to the efficiency review because that is currently only underway at the moment. The announcement that he has referred to is the subject, I believe, of an emergency question which will be dealt with in due course this morning.

The Deputy of St. John:

I am not concerned about an emergency question after. I asked the question was the Minister aware of the closure of the post office within the market and if it was part of the review.

The Bailiff:

No, I am sorry, Deputy, that has nothing to do with the current question. Deputy Shona Pitman and then I think we will have to call the questions on this to an end.

5.3.5 Deputy S. Pitman of St. Helier:

What consideration has the Minister given to the loss of the social service in the everyday delivery of letters, *et cetera*, to the people all over the Island to Jersey Post if competition is introduced?

Senator A.J.H. Maclean:

I think the Deputy is referring to the universal service obligation under which Jersey Post are obligated to provide a 6-day service. As part of the consideration for future provision of services, that is a matter that will have to be debated. I have no doubt the future provision of services from a postal service perspective will need to be considered as indeed it is in other places around the world.

5.3.6 Deputy J.A. Martin:

I would just like to remind the Minister he does have the obligation to direct and it is not just for economic but for social reasons which is the Universal Service Agreement [**Approbation**] to the last mail to the lady in St. Mary or St. Ouen. I would point out that Mr. Brown said: “The importance of fulfilment to the business is there for the profit and to the extent that it is necessary to use this finance to cover the Universal Service Agreement.” [**Approbation**] So will the Minister make sure this is taken into consideration? The Minister has been asked for the consultation to go on further than the 30th and will he request the J.C.R.A. to do this? This has come out of the blue to States Members and everybody else; it is not enough time.

Senator A.J.H. Maclean:

I agree with the Deputy. Yes, it is a matter of social and economic interests under which there are limited powers that I have for guidance and direction and, yes, I do agree with her in that respect. As far as extending the consultation period, that is not within my powers to do. However, following the consultation period, I have already given an undertaking that the efficiency review which is being undertaken will be a matter that will be considered by the J.C.R.A. and indeed that particular efficiency review I understand is not going to be concluded until the summer so there is some breathing space at the end of the consultation period.

The Bailiff:

Very well. Then we come next to a question which the Deputy of St. Mary will ask of the Minister for Planning and Environment.

5.4 The Deputy of St. Mary of the Minister for Planning and Environment regarding the Town Park:

In his consideration of the Town Park and associated issues, has the Minister taken account of the uplift in land and property values in the surrounding areas which would result from the construction of the Town Park, and has he considered, and does he support, the findings of the PwC 1999 report in this regard, and if not, why not?

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

The north of town is in urgent need of regeneration and urgently needs a park but it needs to be a well thought out park, having the maximum chance of providing the catalyst for regeneration. This will maximise the chances of increasing property values which in turn will act as a catalyst for further improvement. A successful park and increasing property values and investment in those properties are interrelated. The 1999 PricewaterhouseCoopers’ report was a socioeconomic and environmental impact appraisal of 3 separate development options for the Town Park: the first park

occupying the entire surface of the Talman and Gas Place sites with underground car parking, the second, a park occupying the entire surface of the Talman and Gas Place sites with no car parking, and the third, a small park on the Talman site only and surface car parking on the Gas Place site. The PwC preference was for option 1 but they made it clear that they had ranked all objectives equally and made it clear that the then Planning Committee may rank the objectives on a different basis. We are presently concluding the North of Town Master Plan to have the final version with Members in the second week of May.

5.4.1 Deputy G.P. Southern:

The Minister repeatedly said that there was an urgent need for a Town Park in the north-east of town. Why then is he introducing something - his master plan - which puts buildings on the park, not green space, and introduces further delay into any possible solution for the Town Park?

Senator F.E. Cohen:

As I have repeatedly tried to explain to Members, I think it is important that we get the best park. It may very well be that this House decides that some development on the periphery of the park is the best option. It is certainly not a decision for me alone but I do not believe that we will be delaying the park significantly and we could certainly make a start on the Talman site immediately which could be an unencumbered park in the vision that the Deputy has. Thank you.

5.4.2 Deputy G.P. Southern:

Is the Minister aware - he must surely be aware - that any building on the Town Park site is likely to require a new E.P.I.A. (Environmental Protection and Improvement Area) and therefore introduce further delay because of the need for proper remediation if you start digging things out for underground parking and to pile for building?

Senator F.E. Cohen:

I would remind the Deputy that the States decision was for a Town Park with underground car parking. At the moment it looks as though it is very difficult and very expensive to deliver a significant quantum of underground car parking but I think it is certainly worthwhile spending a little time to get to the end of this matter and for this Assembly to form a conclusion. Thank you.

5.4.3 The Connétable of St. Helier:

In his finalising of the North of Town Master Plan, will the Senator undertake to review the decision already made by this Assembly back in 1999 in respect of the projet (Millenium Project) brought by the Policy and Resources Committee P.27/1998? Will he undertake to look at that debate which was passed by a majority of 45 votes and accept the States has already decided - and it decided many, many years ago - to create a Town Park on the site? **[Approbation]**

Senator F.E. Cohen:

I am not doubting that we should create a Town Park on the site. It is a question of what park we should create on this site and, as I have already explained, it is rather difficult to deliver the States ambition which was a Town Park with underground car parking below. The North of Town Masterplan, as I have said, will be completed in the next couple of weeks and it will then be for States Members to decide which option they prefer.

[10:30]

5.4.4 The Connétable of St. Helier:

Just a supplementary, if I could. I would ask the Minister to refresh his memory of P.27 because when it was a Millennium Project the key emphasis of that debate was on the Town Park itself. **[Approbation]**

Senator F.E. Cohen:

I thank the Connétable. I do not need to refresh my memory; I am well aware of the various States decisions. I am simply doing my best to try and present the options to the States. Thank you.

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

Will the Minister not admit that to put building around the Town Park will simply make it a posh lawned area for the townhouses and flats?

Senator F.E. Cohen:

I do not really fully understand the question. I am trying to give this Assembly the option of delivering the best park for the residents of the area. I do not believe that creating some residential development on the site on the periphery will do anything other than improve the nature of the park and I am therefore unable to understand the nature of the question. Thank you.

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

The Minister mentioned car parking. If the plan went ahead as he envisioned, how many of those spaces would be available for public use and how many would be for private use?

Senator F.E. Cohen:

I am afraid I do not know the answer to that question yet. We are in the final stages of the master plan and as soon as I have the answer I will ensure that all States Members have a copy of the final version of the master plan. Thank you.

5.4.7 The Deputy of St. Mary:

In the Hopkins North of Town Master Plan - the draft that went out to consultation - there were lots of sums about how much things would cost and absolutely no information about benefits, either psychological or health, or indeed property uplift. My question to the Minister was, and still is, will States Members be properly informed when the debate comes about the value of the different options and that does include the downsides of the different options but also, of course, the upsides? I just want to be absolutely sure that States Members are going to have adequate information on the benefits of different options.

Senator F.E. Cohen:

I will certainly do my best to provide that information but whether States Members consider it adequate is, of course, up to them. Thank you.

The Bailiff:

Very well. We come next to a question that the Deputy of St. John will ask of the Minister for Treasury and Resources.

5.5 The Deputy of St. John of the Minister for Treasury and Resources regarding increases in the public sector workforce:

Following the publication by the Statistics Unit of figures showing a significant increase in the public sector workforce, can the Minister give details of which departments have seen an increase in manpower and whether the additional employees are in new or existing posts and, if new, would he explain why this has been permitted when the Council of Ministers is calling for restraint?

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

I should start by politely reminding the Deputy that all increases in posts are effectively agreed in the States Annual Business Plan and for this year in addition as a result of the States Assembly approval of fiscal stimulus funding. The annex of the Annual Business Plan details posts and

individual Ministers, I am sure, will be happy to provide an explanation of the increases in their individual departments. What I can say to assist the Deputy, of those increases reported, 27 were in Education, Sport and Culture - 12 were fiscal stimulus funding, 15 were permanent recruitment to vacancies; 35 in Health and Social Services as a result of increased funding; 35 in Home Affairs (mainly prison officers) but including, for example, a seconded assistant emergency planning officer, a P.A. (personal assistant) to the Minister, an individual for Vetting and Barring; 9 were in Economic Development, including 8 administrative trainees for fiscal stimulus; 7 for Social Security (mainly fiscal stimulus); 6 in the Chief Minister's Department to strengthen international relations, tax and affairs and a project officer and the deputy chief executive; 5 in Transport and Technical Services, all due to fiscal stimulus; and 3 in Treasury and Resources relating to the strengthening of the Treasury. Departments filled approved vacancies in the reporting period for 97 of the 138 figures, a fiscal stimulus related to 32 of the total posts. What I can say to the Deputy finally is that the Council of Ministers is urging restraint on filling of vacancies and has requested that all vacancies filling are considered at department senior management team as well as the co-ordination with States H.R. (Human Resources). This, together with the voluntary redundancy scheme, I hope will allow departments to start restructuring and to progress the Comprehensive Spending Review.

5.5.1 The Deputy of St. John:

Have any of the positions been filled by non-Island residents and, if so, how many, given that we have some 1,200 people registered with Social Security as unemployed?

Senator P.F.C. Ozouf:

I would need notice of the detailed breakdown but what I can say to the Deputy, I am advised most of the employees that are recruited from off-Island relate to areas such as Health where there is a requirement to bring in specialised staff from outside the Island. I agree with the Deputy that the first call on filling vacancies should be locally-qualified people and I think the States record in relation to that is strong.

5.5.2 Deputy G.P. Southern:

Can the Minister guarantee that the 32 posts filled from fiscal stimulus funding will, at the appropriate time, be wound-up and will not continue *ad infinitum*? Will he agree to circulate the details he has just given to all Members in writing?

Senator P.F.C. Ozouf:

The temporary nature of fiscal stimulus funding means that the Deputy is quite right that they will be wound-down. I am sure the Deputy would agree that the fiscal stimulus funding in running programmes such as Advance to Work is making a meaningful difference in helping people that otherwise would be on the unemployment register and that there is good work going on. But, yes, those jobs, as far as the co-ordination of that, will go.

Senator J.L. Perchard:

Deputy Southern asked the very same question that I was about to.

5.5.3 Deputy R.G. Le Hérisier:

The Minister spoke very quickly, obviously with the hope of burying unpalatable facts. Would the Minister acknowledge that there has been an unprecedented growth in the management levels of the organisation despite the avowed policy of only developing frontline staff and services?

Senator P.F.C. Ozouf:

I do not think that I am trying to deal with unpalatable facts; I will circulate the details of what I said to Members if that is of assistance. Perhaps this would be more sensible for a written question. Concerning management, I think that we need to be honest and say that in some areas of the States

organisation that there is management which could be regarded as top heavy. In others, there are improvements that are required to strengthen the operations. We have had numerous reports, for example, at Health and Social Services which have said that the management of Health need to be strengthened to get better value for money, to get better prioritisation of resources. I have to say that that is the case in the Treasury too. It is an uncomfortable position that I am having to bid for money for strengthening the Treasury to improve financial management, doing exactly what the Comptroller and Auditor General said. Better management, most appropriate management, will mean better value for money across the organisation and we should not duck that even though that sometimes does not trip off the tongue in a populist way.

5.5.4 The Deputy of St. John:

Does the Minister not consider that the States are operating double-standards in that the public sector workforce is growing while the private sector workforce is reducing? Secondly, will he give us numbers of members of staff working within the Chief Minister's Department since we have had an increase of 6, given not so many years ago the President of P. and R. (Policy and Resources) operated with one man and his secretary i.e. the former Chief Officer, Mr. Powell, running the entire department and made an excellent job of it?

Senator P.F.C. Ozouf:

There were a couple of questions in there. The public sector: I do not regard myself as a Keynesian but I have to say that during the time of an economic downturn I think that there is a strong argument for States spending - investment - to be stepped-up in order to ensure that people are kept in work that otherwise would not. While it is frustrating for drivers along Victoria Avenue, that is an example of the States taking action, investing in the economy, putting in maintenance which the Deputy cares very much about. There is investment in drains on the railway walk that is being carried out; that is investment that is required in the economic downturn period that does need to be wound-back. In relation to the Chief Minister's Department, I endorse the comments that the Deputy makes about the outstanding record of the individual that he mentioned; however, we need to be aware that the world has become very complex. The world in terms of international relations, in terms of international tax, means that the Treasury and the Chief Minister's Department need the appropriate staff to deal with these issues. I have said to the Deputy that it was this Assembly that approved an increase in staff in the Chief Minister's Department which included 6 posts, including the Director of International Tax, Director of International Affairs, *et cetera*.

The Bailiff:

I do not think you need to go into detail.

The Deputy of St. John:

The question was how many members of staff within the department which would be 6 ...

The Bailiff:

I am sorry, Deputy, we are going to have to move on.

The Deputy of St. John:

You are cutting me off at the knees again.

Senator P.F.C. Ozouf:

It is very quick; it is 6.

The Bailiff:

Six. Then we come next to a question which Deputy Trevor Pitman will ask of the Minister for Home Affairs.

5.6 Deputy T.M. Pitman of the Minister for Home Affairs regarding conspiracy allegations associated with the suspension of the Chief Officer of the States of Jersey Police:

Following analysis of the sworn affidavit of the suspended Chief Officer of the States of Jersey Police, will the Minister advise the Assembly whether he has fully investigated every possible allegation of a conspiracy existing to remove the Chief Officer from office? Further still, is the Minister wholly satisfied that no such conspiracy to remove the Chief Officer or to try to discredit him to justify his removal existed?

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

My answer to the first part is no; that is not part of my role. The relevant issues raised were, in my view, apparently in relation to another department. I would wish to point out that an investigation in this area is currently being conducted by a commissioner appointed by the Chief Minister and I am fully content that he be allowed to reach his conclusions. I do not think it is correct that I should start making statements in that area. Finally, although I do not think this was part of the question, for the avoidance of doubt I want to affirm that my disciplinary decisions have always been made strictly upon disciplinary grounds in relation to disciplinary matters.

5.6.1 Deputy T.M. Pitman:

I thank the Minister for his answer and I will re-pitch it accordingly perhaps. But could he just advise the States whether he has spoken to the States Member mentioned at point 18 in Mr. Power's affidavit, the States Member who has confided in a number of people, including myself, that he heard a conversation revolving around the possibility of leaving the Deputy Police Chief Officer in place as he was nearing his retirement but removing the Chief Officer to replace him with someone who would keep the police under control. This conversation allegedly took place between the former Chief Minister and the Minister for Home Affairs of the day.

Senator B.I. Le Marquand:

I am aware that a States Member overheard something but not the details of what they overheard.

5.6.2 Deputy T.M. Pitman:

Could I suggest that it is a very important something to overhear and if we are talking integrity, honesty and justice then surely that should be considered by both the Minister for Home Affairs and the gentleman now charged with investigating this matter?

Senator B.I. Le Marquand:

It is difficult for me to express a view without knowing exactly what was overheard. I know the general area but I do not know precisely what was overheard. Unless that particular Member wishes to say more to me about it, I really cannot comment on it.

The Bailiff:

Very well, we will move on then to the next question which Deputy Lewis will ask of the Minister for Social Security. Deputy Lewis.

5.7 Deputy K.C. Lewis of the Minister for Social Security regarding the discrepancy between minimum Income Support benefits and the minimum wage:

Would the Minister confirm that some unemployed people currently receiving benefits would need as much as £8 per hour otherwise they would be working at a loss and, if so, how does the Minister propose to remedy this discrepancy and return local people to full employment?

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

The income support system provides a number of incentives for adults in employment so an income support claimant who is in work will have a higher household income than the same income support claimant who is not in work. People can claim income support while unemployed as long as they are actively seeking work and take up any reasonable employment opportunity that is offered to them. Income support is not available to individuals who are not actively looking to take up employment. When someone returns to work they will receive various incentives through income support. The benefit is not reduced for the first 4 weeks of employment. All earned income carries a disregard of 12 per cent, therefore an individual earning £8 pounds an hour and working 35 hours a week will be £33.60 better off working rather than unemployed.

5.7.1 Deputy K.C. Lewis:

I thank the Minister for his reply but there are still some discrepancies. Does the Minister not find it ludicrous that with over 1,300 local people unemployed as at the end of February that we are sucking in more and more foreign labour. Also with regard to people who may be disabled, does the Minister not find it odd that if someone is 70 per cent disabled how do they get 30 per cent of a job? Thank you.

[10:45]

Deputy I.J. Gorst:

There were lots of issues raised in that, what seemed like one question. There was bringing together of more than one benefit, the initial question was about income support, then we have gone into L.T.I.A. (Long Term Incapacity Allowance), then we have talked about foreign labour.

The Bailiff:

Let us just stick to income support.

Deputy I.J. Gorst:

I know you are about to stop me from answering anyway. **[Laughter]** If I try and take them in order. We are working very closely with Economic Development and with the Migration Advisory Group to ensure that they are aware of all the vacancies that come to my department and that they are aware of the skills that are available for those actively seeking work, part of the 1,200. Therefore, we are expecting them not to issue new licences to non-qualified workers so we are trying to address that issue in the best way that we can and we will be doing more over the coming months. With relation to L.T.I.A. that is a benefit which people can ...

The Bailiff:

I think, Minister, you should confine yourself to income support.

Deputy I.J. Gorst:

Thank you, Sir.

5.7.2 Deputy G.P. Southern:

Does the Minister not accept that incentives to work are in fact inadequate in the present system and that his predecessor was warned at the time that that was the case and chose to ignore the warning he received from the Scrutiny Panel at the time?

Deputy I.J. Gorst:

Systems can always be improved. The Deputy will be aware that I increased the incentive by 2 per cent last October, it is my intention to continue to work towards improving that incentive. I have got a growth bid - I am not going to look at the Minister for Treasury and Resources here but it is in

the budget for 2011 - of £1 million. If I am successful in receiving that, I intend to apply it to work incentives to this very area.

The Bailiff:

Do you wish to ask a final question, Deputy Lewis? Very well we will move on to the next question then which Deputy Vallois will ask of the Minister for Treasury and Resources.

5.8 Deputy T.A. Vallois of the Minister for Treasury and Resources regarding the results of the Business Tendency Survey:

Could the Minister explain how the recent results of the Business Tendency Survey reflect the work being done through the Economic/Fiscal Stimulus Package?"

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

The results of the March survey are consistent with the expectation of a 2-year economic downturn but with the G.V.A. (Gross Value Added) forecast to be a contraction of 5 per cent in 2009 and a further 2 per cent in 2010. In particular the survey reported that business activity has fallen for the third consecutive quarter, profitability and optimism is falling across the economy and jobs continue to reduce. The finance sector, which was of course the first industry to go into the downturn, is I am pleased to say reporting a more positive outlook, reporting an increase in business activity and new business. Finance firms do not also expect to reduce employment in the coming months and this provides some cautious optimism. However, these results were balanced by reductions in finance employment earlier as profitability remains under severe pressure because of the low interest environment. There is still clearly some way to go before recovery in the finance industry takes real hold but I am confident that it will, and the additional money for fiscal stimulus will assist. As far as the non-finance part of the economy is concerned, the survey shows for the first time that fiscal stimulus is, I think, working and feeding through into the economy. Recovery is not underway in non-financial services and that is the reason why there is more fiscal stimulus money that will assist and deal with the mitigating effects of the downturn over the coming months. What I can say is specifically in construction business activity and new business indicators continue to decline and firms that operate with spare capacity continue but they no longer report that this is reducing or expect it to reduce employment. They are not expecting business activity to fall further in the coming months, which I believe is as a result of fiscal stimulus. Profitability across the economy is falling and unemployment has increased. I recognise that the non-financial services sector continues to experience tough trading conditions and that means that I think there is every reason for us to continue with the fiscal stimulus plan as agreed by this Assembly.

5.8.1. Deputy T.A. Vallois:

The Minister for Treasury and Resources mentioned about construction and finance but he never touched on wholesale and retail and it was quite interesting to see recently that Guernsey have released a survey on the leakage coming from their economy, I was wondering whether the Minister for Treasury and Resources will have anything in future for us to see with regards to the fiscal stimulus and leakage from the economy in Jersey.

Senator P.F.C. Ozouf:

The Deputy asks a very good question. Generally on this area and particularly in relation to leakage it remains something which needed to be taken account of in the fiscal stimulus plan. What we can say is that money invested in fiscal stimulus plans, whether it is Victoria Avenue or improving drainage, is going to be money in wage packets of local people because it is all local people that are employed and that will have a corresponding effect in relation to the spending in the economy generally. We will continue to look at the issue of leakage and I will continue to take

advice about leakage but the key thing is to ensure that there are local people employed as a result of the fiscal stimulus funding.

The Bailiff:

Very well, we will move on to the next question which Deputy Southern will ask of the Minister for Treasury and Resources. Deputy.

5.9 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the strength and depth of the recession:

Will the Minister inform members of his latest assessment of the strength and depth of the recession and the risks of “double-dip” in particular?

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

As I have said in my previous answer, the F.P.P. (Fiscal Policy Panel) in their last report of December 2009 expected G.V.A. to fall by 5 per cent in 2009 and 2 per cent in 2010. Although they pointed out that there would be few downside risks in 2010. My assessment of the economic situation ties in with the views of our independent experts. The results, as I said in the previous answer, of the Business Tendency Survey continue to show that business activity fell in the last part of last year and there were tough trading conditions for organisations in Jersey. Jobs continued to be cut. The labour market has weakened and unemployment in terms of actively seeking work numbers is now at 1,320 in February and vacancies are at a 10-year low. With the developments at the global level there has been some encouraging news that the recovery in larger economies and in financial markets is underway but fragile. The central projections of most forecasters are not for a double-dip and I do not think the recovery at a global level will not continue but it will be weak and it will be retracted. In Jersey I would not completely rule out a double-dip. I am becoming more confident that it is an unlikely scenario, particularly if one is to be avoided at the global level. There are more positive signs from the financial services sector, as set out in the Business Tendency Survey, and there is good news in terms of more stimulus for the economy for the duration of this year.

5.9.1 Deputy G.P. Southern:

The Minister described himself as not quite as keen in another question, is he aware of the statement by David Blanchflower - former member of the Bank of England’s Monetary Policy Committee - that lesson one in a deep recession is you do not cut public spending until you are into the boom phase. What evidence does the Minister have that we are in the boom phase, so that he can consider 2 per cent cuts to public spending in 2010?

Senator P.F.C. Ozouf:

First of all, if I may say, I am grateful that the Deputy has now circulated his note that he apparently sent through the media about the comments of the economy. I think it is important that we do debate economic matters in this Assembly. I would say to him that it would be unwise, I think, for anybody to take the comments of one economist out of context and one single economist in terms of the economic outlook. Economists around the world are divided it seems in terms of their observations about how governments should be responding to the downturn. I would also say that I will be responding to his note which contained a number of factual errors in relation to his observations of the economy. I would say to him that it is not in 2010, as he said in his answer, that we are cutting spending, it is in 2011 when we expect the recovery to be underway.

5.9.2 Deputy G.P. Southern:

The Minister manages to put a lot of words into his answers but does not address the question. What evidence - evidence - does he have that by 2011 we should be in recovery and not risking double-dip recession because of his moves to cut public spending?

Senator P.F.C. Ozouf:

First of all I do not expect that a 2 per cent cut in the efficiency of the public sector is likely to have a corresponding effect in relation to the economy. Secondly, I am optimistic that the economy will return to growth in 2011. If nothing else that is as a result of the likely return of a rise in interest rates which has a very magnifying effect on the Jersey economy. Some people are asking why the Jersey economy from a statistics point of view is falling and has fallen more sharply than, for example, Guernsey. That is simply as a result of the scale of the financial services activity that we have in Jersey. When interest rates rise we will see our economy growing and I am confident that will happen in 2011.

5.9.3 Deputy M.R. Higgins:

Could the Minister clarify the role of the Fiscal Policy Panel. He gives great credence to the view of the fall in G.V.A. but is it not true that they are relying for quantitative data from the economics unit and only take qualitative soundings during their infrequent visits to the Island? Therefore any view they have regarding G.V.A. is coming from the same section that provides the Minister his information, is it not totally independent in that sense?

Senator P.F.C. Ozouf:

I hope very much that the Deputy is not attempting to cast aspersions on the Fiscal Policy Panel and the Members. I am grateful for that, I assume he is not. The Fiscal Policy Panel is made up of eminent economists who have been appointed, among other things, to the Monetary Policy Committee at the Bank of England. These are eminent economists with a track record across Europe and they are not going to be told by anybody of how to interpret data. They have encouraged the Statistics Unit to create the Business Tendency Survey as I understand it in order that there be a better dataset in order for them to take a range of indicators in terms of what their views of the economy are.

5.9.4 Deputy S. Pitman:

I believe that one of the aims of Deputy Southern's challenge to the Minister in holding a public debate on this subject was so that the Minister could submit himself to questions from members of the public. Does he not see that as a vital role of his Ministerial position?

Senator P.F.C. Ozouf:

I absolutely agree with that and I am very much aware that there is going to have to be an extensive public engagement and public debate in terms of how we deal with the Comprehensive Spending Review and the Fiscal Strategy Review. Deputy Southern in his note circulated says that I was ruling out tax increases. I need to say, and I have some bad news for the Deputy, I am not ruling out tax increases, that is why we are running the twin strategy of the Comprehensive Spending Review and the Fiscal Strategy Review, and there will be a paper published in May on options for tax rises. It will be for this Assembly to decide what the balance is between spending cuts and tax rises. We are going through the research phase of exactly identifying what the options are, we will have a debate in this Assembly in 3 or 4 weeks' time on the balance and no doubt there will be extensive public discussions about how we deal with the challenges ahead.

5.9.5 Deputy S. Pitman:

Does he not consider that views and questions from the public to the Minister are very important and will he reconsider his decision in submitting himself to the public in a public debate with Deputy Southern, because I believe that the debate will be going ahead but if the Minister is not there there will be an empty seat in his place.

Senator P.F.C. Ozouf:

I am not sure whether or not this is a J.D.A. (Jersey Democratic Alliance) event. I need to say to the Deputy that I do submit myself for public scrutiny and examination in relation to my policies, I am on talkback on Radio Jersey this Sunday. I am going to be explaining some issues concerning the comprehensive spending review, *et cetera*. But what I would say to the Deputy is this, she and her colleagues in the J.D.A. I think believe that it is not possible to make meaningful savings and efficiencies in the public sector. What I think they are trying to do is they are trying to stop any even discussion and options about reform and change and modernisation of the public sector before it happens. [Interruption]

Deputy G.P. Southern:

Sir, this is outrageous.

The Bailiff:

One moment, Deputy.

Senator P.F.C. Ozouf:

So therefore I am quite happy. We will have a debate first in this Assembly of the broad principles, some Members are not happy with the extent of the cuts that I am proposing. Some Members want me to go further. We will have a debate in this Assembly first, we will get the data and it will be for this Assembly to decide what the balance between cuts and taxes are.

Deputy S. Pitman:

Deputy Wimberley will be attending that public debate so it is not just a J.D.A. thing.

The Bailiff:

Deputy, please. Deputy Tadier and then a final question from Deputy Southern.

5.9.6 Deputy M. Tadier:

I am very interested to hear the Minister's comments on waste and I would like to ask if he has seen David Mitchell when he talks about waste, it is very incisive. But that is not the question I am going to ask. I am sure he and the public can google that if they want to. The question I would ask is that I am sure the Minister will agree that one of the main reasons for the sub-prime and the whole recession that we have been through is that people have been borrowing and also banks have been lending money that they could not pay back. We know that the Minister preaches zealously that we should be living within our means as a States Assembly, what steps will he be taking to encourage locals to live within their means and not spending money that they cannot afford to spend, and how will he level that if it means that we are going to have to back-pedal it on consumerism in the Island?

[11:00]

Senator P.F.C. Ozouf:

I am not sure that I can solve or attempt to solve all of the ills of the consumer society or whatever. I have got to deal with the issues of public finances and to balance the books. Jersey will exit the global recession in a far better position than most other places and the Deputy is quite right to say that the States is not beleaguered with debt and will not have the hangover of large deficits going forward. We will be able to share the proceeds of the growth, which will come, by investing in public services in the future. We do have to make some short term decisions though within the next 2-3 years and we need to close that deficit so that we do not bequeath to our successor States Assemblies debt that needs to be repaid. That is what I am trying to do. We have a £50 million recurring problem, let us work together in order to try and find solutions to that, both on the

spending side and, I have to say to Deputy Southern, there will need to be some consideration of tax rises too.

The Bailiff:

Deputy Southern, final question.

5.9.7 Deputy G.P. Southern:

I am glad to hear the Minister will publish his proposals or suggestions for alternative tax treatment. Will he also agree alongside that to paint an outline of the full picture of the potential 10 per cent cuts over a 3-year period so that everyone can see what the whole package might contain, and not just the initial bit, the 2 per cent? Also will he agree once this information is made public to debate the issues in the whole before a wider audience than this body or the I.O.D. (Institute of Directors)?

Senator P.F.C. Ozouf:

The decisions in relation to spending constraints will be in 2 parts. Firstly the 2 per cent proposed in the business plan this year and then the 3 and 5 per cent proposals in the budget debate later on this year. I would have thought that every member of this Assembly would agree that there is scope in all departments in order to deal with a constraint in terms of inefficiency. Two per cent is not a large figure. It is a small figure compared to most households, most governments, most businesses. This is normal operational matters. We need to assist our Civil Service, we need to assist the public sector to make those, I think, easy decisions, or relatively easy decisions. The 3 and the 5 per cent, the Deputy is quite right, is going to be much more difficult and we are going to have to have a much more engaging debate about how we deal with that. It is going to require change. I certainly do not want to be part of death by 1,000 cuts at public sector. This is a chance to modernise, reform, allocate resources where they are needed.

5.9.8 Deputy G.P. Southern:

Will the Minister answer the question? When will he publish the potential 5 and 10 per cent figures so that we can see the debate in the whole? Because there is no point in doing 2 per cent not knowing where you are going.

Senator P.F.C. Ozouf:

The difficulty I have is that the Deputy ... we deal in a very transparent way in Jersey in relation to politics. People know what is being asked of them. The details of the 3 and the 5 per cent will not be available and not be published, because they are not completed, until September at the very earliest. The 2 per cent is now being reviewed by departments. What the Deputy is trying to do is he is trying say: "I know that the 3 and 5 and 2 is not possible and therefore do not even start working on it." We are working on the proposals; they will be available and engaged in public debate in September onwards.

The Bailiff:

Very well, we come next to the question which the Deputy of St. Martin will ask the Minister for Home Affairs. Deputy.

5.10 The Deputy of St. Martin of the Minister for Home Affairs regarding the height of the deepest void/cellar at Haut de la Garenne:

At the police press conference on 12th November 2008 it was stated that under Haut de la Garenne there were no cellars but there were floor voids in which a grown-up person could not stand up straight, will the Minister inform Members of the height of the deepest void/cellar investigated at the premises and state how many allegations were received of abuse in the areas under the floorboards?

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

I have a figure of 1.4 metres for the first answer which I calculated to be just over 4 feet 7 inches, that is the greatest height. I am assuming, although I am not sure of this, that that will have been the height at the time when digging started and it is quite possible that heights may have changed as a result of material having been removed. In relation to the number of allegations, I do not know when these were made, whether before or after press matters in February and March 2008, is approximately 30.

5.10.1 The Deputy of St. Martin:

I am interested about the heights of 1.4 metres, could I just ask the Minister has he been there himself to measure those or whether these were given to him?

Senator B.I. Le Marquand:

These were given to me, of course.

5.10.2 The Deputy of St. Martin:

There was a reason for it. As some Members know I did invite some to come with me last week to measure the depth of it, would the Minister accept that it is possible that the depths of some of those cellars were much deeper, in fact that the one that I measured was as deep as 7 feet; would the Minister say that it is possible?

Senator B.I. Le Marquand:

What I do not know is what the change in height levels has been as a result of materials being removed. I have assumed that the figure I have been given was the figure before materials were removed. I simply do not know down to what depth things were dug out. That is highly relevant because there would be a difference between the height when work started and the height now.

5.10.3 The Deputy of St. Martin:

I can understand the difficulty the Minister has and I have sympathy with him, but it is rather important because on 12th November a statement was released to the world that these are floor voids, they are not cellars; it is impossible for a grown-up person to stand up straight in the floor voids under Haut de la Garenne, so quite clearly that statement does not appear to be true. Bearing in mind that I have been there and measured for 7 feet, would the Minister now say that it is likely that that statement made by those 2 officers on 12th November is incorrect?

Senator B.I. Le Marquand:

If the figures given to me of 1.4 metres are correct then I think that statement is correct. If the figure were 7 feet then obviously it would be incorrect. But, as I say, I do not know how much material was removed and I am going on the information provided to me by the States of Jersey Police.

5.10.4 Deputy M. Tadier:

First of all I would like to ask whether the depths were uniform. So was that 1.4 metres an average, was it right across ... why are people sighing? Is child abuse not important in Jersey? I think these are very important questions and I think at least one Deputy who has gone to Haut de la Garenne to do the research should be respected and not have people tutting while questions are being answered. Back to the questions, are the depths uniform, is the 1.4 metres right across the board? I have heard that it is quite common for cellars to be slanting because they are built on uneven surfaces. Also as a mathematical man, would the Minister say what he thinks the minimum height requirement would be for child abuse to be carried out in a cellar?

Senator B.I. Le Marquand:

The question I have answered is the question as to what was the greatest - the deepest - height, not the average. Now, I am under the impression that the voids increase in height as one moves away from the road because of a natural slope on the ground. I could be wrong on that but on the basis of pictures that I have seen, I think that that is highly likely. In relation to how high a height there would have to be in order for sexual abuse to take place there, I am afraid I have absolutely no idea on that, it would depend upon the height of the abuser and the person who was being abused.

5.10.5 Deputy M.R. Higgins:

To clarify the situation, would the Minister undertake then to give in a written answer or written information to States Members detailing the heights of the various cellars at the time that the investigation started so we can see exactly what the height of those voids were.

Senator B.I. Le Marquand:

Yes, it would be helpful if someone could ask me ... although I am loathe to invite yet more written questions than the 8 I have this time, it would be helpful if someone could define exactly the information they want and that I will produce.

5.10.6 Deputy M.R. Higgins:

Could we do that outside of States sittings so if he provide him with the information would the Minister please reveal the information?

Senator B.I. Le Marquand:

Yes, I am happy to make inquiries of the police as to whether they have precise measurements of the heights in different areas that were in fact dug up. I shall do that.

The Bailiff:

Very well, do you wish a final question, Deputy of St. Martin.

5.10.7 The Deputy of St. Martin:

I am grateful. Could I just again ask the Minister, I missed the number of people ... the allegations that were made. There were 30 allegations that were made about crimes that may have occurred under the floor? I am grateful, thank you.

The Bailiff:

Very well, then we come to the next question which the Deputy of Grouville will ask of the Minister for Home Affairs. Deputy.

5.11 Deputy C.F. Labey of Grouville of the Minister for Homes Affairs regarding the number of prosecutions resulting from the historic abuse enquiry:

At the press conference on 12th November 2008 the Senior Investigating Officer stated he was not questioning that, historically, serious offences had been committed against children but that "there will however not be the number of court cases or prosecutions which were originally reported"; will the Minister state whose comments the Senior Investigating Officer was referring to, when they were made, what numbers were originally reported and the reasons for the shortfall?

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

To a degree I am having to put myself into the mind of the Senior Investigating Officer at the time. I deduce that it must have been the view of the Senior Investigating Officer that it was a matter of public record that while precise figures were not detailed that statements made to the media by the former Senior Investigating Officer had raised expectations that a significant number of prosecutions would follow. Whereas by the time of the November press conference an assessment

of the evidence by lawyers and police revealed that this was extremely unlikely. May I say I am having to put myself into the mind of an officer who has since left the force.

5.11.1 The Deputy of Grouville:

Is it not the case that the then new Senior Investigating Officer took his information from a press report and not the quoted elements of it and not the facts available to him on police records?

Senator B.I. Le Marquand:

I have no idea. I have looked at various relevant materials including the recorded press conferences and I noted from at least one of those a reference made by the Senior Investigating Officer in February 2008 to a large number of complainants. Now, it may well be that deductions have been drawn from that. My own personal view in relation to this matter is that expectations were raised of a large number of prosecutions and I think that is very unfortunate and very unfair, particularly to people who have been victims, either at Haut de la Garenne or elsewhere that their expectations should have been raised in this way.

5.11.2 The Deputy of St. Martin:

Can I ask the Minister, was it not a fact that the Senior Investigating Officer said: "There are a number of suspects to be interviewed" rather than there will be a number of prosecutions to follow. Would that not have been really what the investigating officer was saying in February. He would not have been in a position to say how many prosecutions there would have been at that stage.

Senator B.I. Le Marquand:

What the Deputy of St. Martin has just said corresponds with what I have seen on the recorded interviews. It was a number of complainants, a huge number of complainants involved rather than a figure of a number of prosecutions. I would agree with that.

5.11.3 Deputy M. Tadier:

The question may be best placed for the Attorney General but I think the Minister for Home Affairs can also answer part of it. Given the difference in the evidential test between criminal and civil cases, has the Minister put in any mechanisms at the disposal of potential victims who may want to pursue civil cases against alleged abusers?

The Bailiff:

I am sorry, Deputy, I think that is too far removed from question here which is all about prosecutions. Deputy of St. Mary.

5.11.4 The Deputy of St. Mary:

Does the Minister agree that one problem we are going to face in the debate on the appointment of the new Chief Officer is going to be his apparent unwillingness, in his reply to my written question 34, to let States Members see information that we need. We are constantly getting these replies that say ... that do not allow us to track an event like the skull and how it evolved to a coconut. I just want to see the entire trail and I just want confirmation from the Minister that we are going to get one, at least, trail so that we can evaluate this great debate, this great total difference between one set of opinions and another.

[11:15]

Senator B.I. Le Marquand:

I have publicly said on numerous occasions that once the disciplinary issues are completed in relation to the Chief Officer, which in my view will be on 21st July of this year at the latest, that I will want to put as much information to Members of this House and to the public as I can. But I am having to take advice in relation to exactly how much can be put out and in what form. This is the

classic problem that Ministers have all the time in relation to reports, that there are references to individuals who are entitled to privacy, there are potential issues of libel, *et cetera*. These matters have to be looked at carefully and professionally. There is no lack of will on my part to put as much as possible, but what I can put I cannot tell at this stage.

5.11.5 The Deputy of St. Mary:

Supplementary, please. What the former Senior Investigating Officer claimed, and whether it was number of complaints or prosecutions, that is a matter of record and it is quite simple for us to have that information so that we can track, so that we can find out what the truth of this matter is.

Senator B.I. Le Marquand:

The press conference which took place in November 2008 is a matter of record. The details of that are surely already out in the public domain.

The Deputy of St. Mary:

The corroborating evidence. We do not have a single trail so that we can find out whether the accusations made in November 2008 stack up at all or not.

Senator B.I. Le Marquand:

There are 2 primary sources I believe of information. The first is parts of the Metropolitan Police report, their interim report which was produced in November 2008. Parts of that may well be available but not the whole of it because it deals with detailed operational matters in relation to individual investigations and that could never be revealed. The major other issue will ultimately be the matters of the investigations conducted by the Wiltshire Police Force. Again, there is a greater class of detail, there is a mass of documents, there is a mass of statements, a whole ... from memory there were 20 plus lever arch files full of items there. Now, what can go into the public domain and what cannot, I simply cannot tell at this stage.

The Bailiff:

Deputy Tadier and then a final question from the Deputy of Grouville.

5.11.6 Deputy M. Tadier:

If I maybe try and rephrase my question so it is acceptable and I think it is relevant. Given that the Senior Investigating Officer said that he ... he did not deny the fact that abuse may have taken place, he simply said there was not enough evidence to prosecute so all I am asking is are the police going to give help or have they been giving help to those victims who may want to pursue civil cases, given that the evidential test and the evidence may be sufficient for a civil case and not for criminal ones. I hope that is related enough.

Senator B.I. Le Marquand:

It is the same question asked before which was disapproved but I will happily answer it. Again, that simply could not be part of my role. If individuals have civil claims then they should go and see lawyers and they should bring those civil claims. Certainly it is anticipated by the Council of Ministers that there will be civil claims and people need to go through a proper procedure in relation to that. But it is not a situation where I could be providing advice or whatever for them on that, other than what I just said.

5.11.7 The Deputy of Grouville:

The Minister answered in his previous question to me and said that expectations were raised, could it not be the case that expectations were raised about prosecutions because of the amount of evidence that the police had at that time and the amount of victims that did come forward? Would it not be reasonable for the victims to have expectations for justice?

Senator B.I. Le Marquand:

If, as I believe to be the case, the impression was given that there was going to be a huge number of successful prosecutions, that in my view was very unfortunate because the experience right across the world in relation to sadly similar situation is the number of successful prosecutions which result from initial complaints is very low indeed.

The Bailiff:

Very well, we come next to a question which Deputy Shona Pitman will ask of the Minister for Transport and Technical Services. Deputy.

5.12 Deputy S. Pitman of the Minister for Transport and Technical Services regarding the potential importation of Guernsey's waste:

Would the Minister inform Members whether he believes his justification for backing the importation of Guernsey's waste, namely that it will raise £4 million in revenue for the States, is congruent to any environmentally sound principles and the States strategic aim of improving and sustaining our own environment?

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

I have set out within my amendment to P.17 how the potential income from temporarily receiving Guernsey's waste could be invested in developing Jersey's own recycling infrastructure and increasing Jersey's recycling of waste. This I believe is an ambition that is entirely consistent with the stated aim of the strategic plan to maintain our quality of life while consuming less and creating less waste. Investing in recycling could enable Jersey to introduce recycling from Parishes not currently undertaking kerbside collections for example, and increasing recycling rates towards the 36 per cent target level agreed by my predecessor and the 40 per cent level to which I aspire. However, I am conscious of all the aspects of any proposed importation being considered fully before I would be willing to put any formal proposal to the States of Jersey for approval and I have set out the many matters that would need to be considered in my amendment to P.17. States Members can be reassured that I would not bring to the House any proposal for importing waste which did not have a clear environmental as well as financial benefit.

5.12.1 Deputy S. Pitman:

I have to say that I am absolutely astonished that the Minister for Transport and Technical Services is saying that we can do more recycling if we bring in more waste. Really how can this be environmentally friendly?

The Connétable of St. Brelade:

I am not sure whether the Deputy understands the correlation between recycling and cost, effectively to recycle further there is a tremendous costs. Unfortunately an Island situation dictates that we have to export a lot of the recyclates. Clearly any imported waste from Guernsey would be purely waste to be put into the Energy from Waste plant so it would not increase the recycling rate in Jersey. I hope that the Deputy understands that answer.

5.12.2 The Connétable of St. Helier:

I am astonished but for a different reason than the Deputy who asked the question. Has the Minister forgotten that it was his predecessor that came to this House 2 business plans ago to request a dollop of about £11 million that the Council of Ministers handed themselves to spend on projects. That money was for recycling. Has the Minister also forgotten that part of the cost, the capital cost of the incinerator was to be providing recycling facilities which I gather have been taken out of the plans.

The Connétable of St. Brelade:

We have a £500,000 sum towards recycling and quite clearly it is not enough if we wish to develop, as I indicated in my answer, recycling in Parishes who are not at present. One of which of course is St. Helier. If St. Helier is to come on-line with recycling, which I know they are keen to do, quite frankly we have not got the money to deal with the recyclates and this is the issue at present.

5.12.3 Deputy M. Tadier:

I have 2 questions, if I may. The first one is, is the Minister having a laugh and the second one is, does he think we are stupid? Because I think it is quite obvious that the policy to go down the road of a vastly oversized incinerator is contradictory to the very concept of recycling. We could have had a recycling plant, I am sure the Minister will agree, and it would have been a lot less cost and we could have saved tens of millions of pounds, so it is completely insulting to the Members of the Assembly and the public to suggest that this £4 million first of all will be used for recycling and, secondly, that we are committed to recycling.

The Connétable of St. Brelade:

I have to differ with the Deputy's opinion on the plant. We have a commitment to recycling. A recycling plant would not work in Jersey *per se* in the style of the U.K. operations in that it is extremely labour intensive and the sort of labour that is used on the U.K. operations tends to be immigrant labour. We are not in that position, we employ local staff and we anticipate continuing doing that. It is important that we continue to develop our recycling in order to reduce the amount we burn so that certainly by the time this plant comes to the end of its useful life we will be moving on to a different technology, which I certainly look forward to.

5.12.4 Deputy M. Tadier:

A supplementary, very quickly. I am glad to know that the Minister has a commitment to recycling. In his capacity as Constable of St. Brelade will he therefore be supporting a kerbside collection for recycling to encourage parishioners to recycle more, as is the case I believe in St. Mary and is currently being put through in St. Helier?

The Connétable of St. Brelade:

Certainly. The difficulty with the larger Parishes, namely St. Helier, St. Brelade and St. Saviour, is the volumes produced are considerably in excess of those produced by the small Parishes. Speaking with my Constable's hat, certainly when the contract for the collection of refuse in St. Brelade comes up for renewal in a year or so time that will formulate part of the tendering agreements.

5.12.5 The Deputy of Grouville:

Could the Minister confirm that talks with Guernsey about the importation of their waste took place with the previous Minister and the President before him?

The Connétable of St. Brelade:

I understand, but I have not got the dates in front of me, there were meetings initially at the outset with regard to a pan-Channel Islands waste disposal arrangement. Those proposals I think foundered and each Island decided to go off on its own tack. Members will be aware of the developments which have gone on in Guernsey over the last few months and our position is that we have simply responded to requests. But, as I have indicated earlier, any proposal to import waste into Jersey would be dependent on the will of this House.

The Bailiff:

The Constable of St. Helier and then final question from Deputy Pitman.

5.12.6 The Connétable of St. Helier:

The previous Minister of Transport and Technical Services took absolutely no notice at all of a Parish of St. Helier Assembly decision to request that certain waste disposal practices should be ceased at La Collette. What notice will this Minister take should a Parish of St. Helier Assembly request him not to accept off-Island waste into the incinerator?

The Connétable of St. Brelade:

I am not sure quite what the Constable is getting at in that I am not aware of an issue, an ongoing issue with the Parish of St. Helier and my department. I am keen to curry favour with the Parish and encourage a good relationship with regards not only to waste but obviously the roads development in the Parish. So I am quite happy to discuss any developments with the Parish on an ongoing basis.

5.12.7 Deputy S. Pitman:

In the States 5-year strategic plan it aims to implement the reduction of waste, energy use and pollution. Can I firstly ask how does the Minister's justification meet these aims and, secondly, has he consulted upon any of our international agreements, i.e. the Kyoto protocol E.C. (European Commission) directives to see if Jersey will abide by them in importing Guernsey's waste and incinerating it before he brought his amendment to P.17?

The Connétable of St. Brelade:

Clearly the answer to the Deputy's questions lie in my amendments to P.17 at pages 10 and annexe 2 from the Minister for Planning and Environment. I think the Deputy is trying to pre-empt any decisions which may be made. At this stage we have work to do and my amendment is purely to enable my department to pull the information together and present it to Members so they can make an informed decision.

The Bailiff:

Very well, then we come to a question which Deputy Lewis will ask of the Minister for Health and Social Services. Deputy.

5.13 Deputy K.C. Lewis of the Minister for Health and Social Services regarding the reclassification of the drug mephedrone:

Further to the banning of mephedrone both within the Channel Islands and now in the United Kingdom will the Minister be seeking to reclassify the drug, as at present the drug is class B in Guernsey and C in Jersey?

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

I am pleased to have this opportunity to update the States on actions in Jersey to tackle this very important new health risk.

The Bailiff:

Very briefly I hope, Minister.

The Deputy of Trinity:

I take your point. I am very pleased to say that Jersey Misuse of Drugs Advisory Council met yesterday and discussed the issue of reclassification of mephedrone. The council has advised me that mephedrone should be reclassified from the present class C to class B controlled drug. I have accepted the advice and the necessary process will now be in place to bring forward the appropriate legislation.

The Bailiff:

Commendably brief, Minister. Deputy Lewis, do you wish to follow up?

5.13.1 Deputy K.C. Lewis:

I thank the Minister for her reply and I am delighted. I have great sympathy with the Minister as one door closes they tend to invent yet another legal high. My understanding is that the U.K. has also now classed this as B which also lends weight to the argument. Does the Minister not agree?

[11:30]

5.13.2 Deputy M. Tadier:

Could the Minister explain to those of us who are not so savvy why exactly mephedrone is so bad and why it needs to be classified as a B rather than a C, and what mephedrone is?

The Deputy of Trinity:

There has been a lot of information about mephedrone and I take the Bailiff's advice ... and I would like to thank the *J.E.P.* for their interesting articles in raising the awareness yesterday. It was very point taken that a lot of work is being done. It is a new designer drug and it has side affects of panic attacks, sweating, fits, seizures, collapse, abnormal heart rhythms, paranoia, hallucinations and it is addictive.

Deputy M. Tadier:

I thank the Minister, I thought she was just describing symptoms that ordinary States Members get after a sitting.

The Bailiff:

Very well, we will move to the next question which the Deputy of St. Martin will ask of the Minister for Home Affairs.

5.14 The Deputy of St. Martin of the Minister for Home Affairs regarding the author of the Metropolitan Police Interim Report:

In a written answer on 23rd March 2010 to a question on who was requested to provide the Metropolitan Police Interim Report, the Minister stated that it was a detective superintendent: "The name of whom has been supplied to the questioner"; as I have not been supplied with the name, will the Minister give the name and rank and state whether that person was the sole author of the report?

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

There is obviously some misunderstanding here because the name of the Detective Superintendent was provided in paragraph 6 of my letter dated 15th March 2010 to the Deputy of St. Martin. It is the same person as was named there. I am not going to name that person because frankly when individual officers from outside have been named in the past they have sometimes become the subject of abuse on internet websites. **[Approbation]** Such actions have a severely damaging effect on the relationship between Jersey and forces in the U.K. If we are not very careful and this kind of thing continues, we may not be able to get the much needed co-operation which we need from forces in the U.K. As with any report of this nature, it is likely that contributions will have been made by many persons.

5.14.1 The Deputy of St. Martin:

I am grateful, and also about the name because I think the Minister himself may not be as aware of the information I have. One of the difficulties has been in getting information; even Scotland Yard now are refusing to say whether there was an interim report. Could I ask the Minister to make

more inquiries and ask whether in actual fact it was an interim report or was it indeed just a report requested which has now become known as an interim report but really was an emerging thought of an individual officer who was asked on 10th November ... on the very day when the letter was being addressed or being written by the Acting Chief Police Officer to suspend the suspended Chief Police Officer? So will the Minister make inquiries to see in fact whether there really was an interim report or just a letter asked for to substantiate the possible accusations made against the suspended officer?

Senator B.I. Le Marquand:

The situation is, as I have already dealt with in written answers, that a report was requested of the Metropolitan Police in relation to the overall management of the historical abuse inquiry matters and indeed in relation to specific cases. During the course of that issues arose of concern expressed by the Metropolitan Police in relation to management issues of the inquiries. What happened, as I have already indicated in response in a written answer, was this: there was one further person to be interviewed in relation to these matters but the local senior officers involved were very concerned about the potentiality for abuse of process arguments in relation to existing criminal trials, in other words that existing criminal trials might be prejudiced as a result of matters which had happened before and wanted to make a public press conference statement in order to undo damage which they perceived had been done earlier. In order to do this they needed to have some information and what happened was that the Metropolitan Police were urged to produce something, to produce as much as they could without having seen the last person. That is what they did and it was a document which was emailed to the Jersey Police Force.

5.14.2 The Deputy of St. Martin:

I know it is very difficult for the Minister because he is only acting on information that he has been given, and I can fully understand the difficulty he has. But the difficulty one has ... will he accept then that the letter that was allegedly written on 10th November by the Acting Chief Officer ... a letter dated 8th November was drafted which said: "With reference to a letter dated 10th November from the Acting Chief Police Officer." Does the Minister accept that if that is the case then quite clearly the email which was sent on 10th November really was just to add a bit of strength to a decision that had already been made to suspend the officer?

Senator B.I. Le Marquand:

I am sorry, I have lost the track on what the Deputy is asking me. Perhaps he could be more precise.

The Bailiff:

If I may, the first one I did not understand either and I am not sure it follows from the question, furthermore Members will have an opportunity to question the Minister during questions without notice so I think we will probably press on. We will come then to the question which Deputy Tadier wishes to ask of the Minister for Home Affairs. Deputy Tadier.

5.15 Deputy M. Tadier of the Minister for Home Affairs regarding the date on which the Metropolitan Police commenced work on their report into the historic abuse investigation:

Will the Minister inform Members of the exact date the Metropolitan Police commenced work on their report into the historic abuse investigation; how many officers were assigned to it and the rank of the officers involved?

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

I am not absolutely sure of the exact date, although I have come across an invoice which suggests that it was 8th August 2008. That appears to be the date from which a financial charge was made, for work done. I understand that at least 6 members of staff were assigned with additional support supplied by specialists, headed by a detective superintendent who I referred to in a previous answer without naming, but details of the rank of contributing staff is not, in fact, known.

5.15.1 Deputy M. Tadier:

A supplementary in that case. The Minister may be aware of the expression that work expands to fill the time allotted, I think it is something like that, although in this case it may be to meet deadlines as they are required. Can the Minister explain why there seems to be, at least to me, a discrepancy because if we do take the date as 8th August to 10th November when the actual suspension of the current Chief Constable was initiated, that is a very short timeframe considering that we have got a very long process going on at the moment which is still yet to be resolved. So why is it that this report seems to have been done very quickly, been given lots of resources and this current one is still yet to be resolved?

Senator B.I. Le Marquand:

I think I can express an opinion on that. My opinion is simply because the degree of thoroughness involved in the work of Wiltshire is greater than the degree of thoroughness involved in the work of the Metropolitan Police. That is no criticism of the Metropolitan Police but in terms of the degree of detail that is what I would expect.

5.15.2 Deputy M. Tadier:

If I may, we already know that the Minister is on record for saying that the Chief Constable was removed too hastily, does that extend also to the Met report? I know the Minister will not want to be critical of it but presumably if the Met report was done too quickly then surely that is also questionable. In particular, given that the suspension was done on the basis of that report.

Senator B.I. Le Marquand:

I have not said that the Met report was done too quickly. It was produced for particular purposes, the disciplinary investigations have been produced for another purpose. My impression is that they were gone into in greater detail in relation to the latter, bearing in mind that the future and the integrity of the current Chief Officer of Police rested on the disciplinary reports to a great degree.

The Bailiff:

Final supplementary, Deputy.

5.15.3 Deputy M. Tadier:

Does the Minister think it is coincidental that the Chief Constable is suspended on 10th November and that the report was produced for that date, when it was so close to the election?

Senator B.I. Le Marquand:

The suspension of the Chief Officer was on 12th November, not the 10th. I do not think there was any relevance to the election whatsoever.

The Bailiff:

Very well, we will come then to a question which the Deputy of St. John will ask of the Minister for Home Affairs. Deputy.

5.16 The Deputy of St. John of the Minister for Home Affairs regarding the number of people who do not have British nationality working within the States of Jersey Police Force:

The poor Minister for Home Affairs is getting quite a busy morning. Would the Minister inform the Assembly how many people who do not have British nationality are working within the States of Jersey Police Force and, of these, how many have full residential qualifications and how many are working under (j) category status?

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

I do not know the exact number but an estimation has been made as well as possible. I am surprised to find that the nationality of employees is not recorded among the HR information. The number working in the Jersey Police Force, we think, is approximately 29 of whom 23 have full residential qualifications and none are working under a (j) category.

5.16.1 The Deputy of St. John:

Firstly can I say I am aghast. I am aghast that the States of Jersey Police who deal in fact do not know the number of police officers who are non-British within their force. That to me is a shock. Well, it is not after some of the questions that have been answered this morning. Will the Minister made an inquiry and come back at a future meeting with the exact number of non British nationals working within the force? Secondly, will he ...

Deputy R.G. Le Hérisier:

Is this not discriminatory, the inference behind the question?

The Deputy of St. John:

Will he give us details of how many British people have applied to join the States of Jersey Police force over the last 4 years, and also the nationality of the non-British persons who are working within the force?

Senator B.I. Le Marquand:

Again it would be helpful if I had a written question for future occasions so I can be sure I am providing exactly what is required. I welcome the fact that we do have people who are [Approbation] of different nationalities. Indeed, Members may recall on a previous occasion I indicated that among the recent intake there were 2 Polish officers, one officer who I suspect is Portuguese and one Australian officer. Of the 3 prize winners, 2 of them were Polish. [Approbation] But nevertheless I share the surprise of the Deputy that we do not have this information because I would have thought we would have wanted such information to check that we had some degree of diversity in terms of different groups, apart from anything else. If the Deputy would care to ask me a written question or if he prefers just to ask me informally but it would be helpful if he could define precisely what he would like.

5.16.2 Senator S.C. Ferguson:

I would like to ask the Minister, I am somewhat curious because the oath that police officers take, the swearing in the name of the Crown and the Queen, does this not present problems?

Senator B.I. Le Marquand:

No, because that was changed some time ago. I believe there was an Irish person who might have had difficulties in swearing allegiance to the Crown and the form of the oath was then changed to avoid that situation.

5.16.3 Deputy D.J. De Sousa:

Does the Minister not consider that the diversity of the police service is enhanced by the fact that we do have people from the Polish, the Portuguese, the Australian communities working within our police service?

Senator B.I. Le Marquand:

Yes, very much so. I thought that is what I said before but if it was not clear I say it again.

5.16.4 The Deputy of St. John:

I am not aspersing any comments on foreign nationals working within our police force but what we do need to know are the numbers. Also, can the Minister confirm that we also have members of foreign nationals working within our honorary police force? I am aware that it happens. Does he know the numbers within that particular area?

Senator B.I. Le Marquand:

I believe that to be so and I welcome that also but, of course, I do not have any figures because I had no notice of that question.

[11:45]

The Bailiff:

We come next to a question which the Deputy of St. Mary will ask of the Chairman of the Privileges and Procedures Committee.

5.17 The Deputy of St. Mary of the Chairman of the Privileges and Procedures Committee regarding the role of the Privileges and Procedures Committee in protecting Members of the States as they carry out their duties:

Would the Chairman state whether it is part of the role of P.P.C. (Privileges and Procedures Committee) to protect Members of the States as they carry out their duties and if so can she inform Members what action, if any, P.P.C. took to support and protect the Deputy of Grouville when her home was searched by the police with no warrant and Senator Syvret in publishing information he believed was in the public interest?

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

It is not the Privileges and Procedures Committee's role to protect Members of the States as they carry out their duties. The committee's responsibilities regarding Members of the States are set out under standing order 128. Paragraphs (d) (e) and (f) make it the committee's responsibility to provide accommodation, services and facilities for Members of the States and make recommendations for improvements, to liaise with the body directed by the States to review Members' remuneration and expenses and bring any proposals forward to the States for debate, and enforce the code of conduct for elected Members of the States, promote high standards among Members of the States, and champion and defend the privileges of Members of the States. Perhaps there is some confusion on this last point in respect of the committee's remit to champion and defend the privileges of Members of the States. The committee would point out that neither of the matters referred to by the Deputy in his question are covered by parliamentary privilege. I would refer the Deputy to R.79 of 2009, Parliamentary Privilege in Jersey, which was presented to the States by P.P.C. in 2009 in July. This report gives an overview of parliamentary privileges as applied in legislatures such as the States of Jersey which follow a Westminster model and may be of assistance in clarifying the role of P.P.C. in respect of the defence of privileges of Members of the States. The committee is not empowered to intervene in criminal matters on behalf of States Members. In this respect Members of the States are treated in exactly the same way as members of

the public and all of the same complaints mechanisms concerning the actions of the police are open to them.

5.17.1 The Deputy of St. Mary:

Just on a specific point, is the Chairman then saying that the fact that communications between constituents and a States Members were basically open to view when the police were doing the search of the house, is that not a concern?

The Connétable of St. Mary:

I assume from the Deputy's question he is referring to the communications not to the Senator who is the subject of the police search but to his partner. The partner of anybody being investigated, just because they happen to also be a States Member, makes no difference. P.P.C. is unable to intervene in criminal matters, either for the person being investigated or his or her partner if they should happen to be a States Member.

5.17.2 The Deputy of St. Mary:

I am sorry, I do not see that this is a criminal matter - and I would like the Chairman to clarify - when the purpose of the raid was to look at data protection issues in connection with a States Member carrying out what they thought was their job. It just seems odd that the Chairman is saying P.P.C. do not have a role in this matter.

The Connétable of St. Mary:

I believe I have been as clear as I can in my answer given just a few minutes ago, and indeed when the Deputy asked me this very same question in February of this year. The most significant privileges that are available under the Westminster model are freedom of speech and the exercise by parliament of control over its own affairs. I would refer the Deputy to the answer given by Her Majesty's Attorney General in the question put by the Deputy of St. John on 20th January when the Deputy asked whether Members had any protection from investigation by the police. The Attorney General at that time said: "There is no special protection for any Member from investigation by the police, whether within or without the States building, other than through ordinary parliamentary privileges which might be claimed." The ordinary parliamentary privileges of freedom of speech and the exercise by parliament over control of its own affairs do not apply in this case, hence there is no special protection from investigation by the police.

5.17.3 Deputy M. Tadier:

If I can ask what I think is the underlying question that the Deputy of St. Mary is getting at: if it is not the job of P.P.C. to protect Members of the States as they carry out their duties whose job is it? Is it like under the Westminster model, for example, the job of the speaker? We all know the example given of Black Rod. When Black Rod knocks on the door at the House of Commons it is the speaker who will speak up for members' rights. Is that also the case in Jersey that if there really has been a challenge to a Member's privilege in a real sense is it the job of the speaker to act on behalf of the Member or is it P.P.C. or both or neither?

The Connétable of St. Mary:

I am tying this strictly to what the Deputy of St. Mary has asked me in his question and as I have repeated now twice, parliamentary privilege was not an issue regarding the matters raised by the Deputy. I would refer to the report that P.P.C. put out, R.79. I specifically draw the Deputy's attention to section 7.8 when, very briefly, it says: "In common with the position described above in relation to the United Kingdom, Canada and Australia, it is clear that there is no immunity from arrest or detention for Members of the States of Jersey in relation to criminal matters. Members are subject to the criminal law in exactly the same way as all other members of the community with exactly the same rights in relation to search, arrest or detention." I really would refer the Deputy and Deputy Tadier to that report.

5.17.4 Deputy M. Tadier:

The supplementary question is clearly a slightly different question, although I think it is related. The question I have been asking is if in an actual case where privilege has been flouted or a Member feels that their right to carry out their job and to represent the public has been challenged is it the job of P.P.C. to speak up on that issue if there is an issue concerned or is it the job of the speaker of the House?

The Connétable of St. Mary:

As I have already said, part of the remit of standing orders, is and I will just read it again to make sure I get it right: "To enforce the code of conduct for elected Members of the States, promote high standards among Members of the States and champion and defend the privileges of Members of the States." As I have repeatedly said, the question does not refer to anything which deals with parliamentary privilege. If parliamentary privilege was a matter then clearly it would be up to P.P.C. to enforce it.

5.17.5 Deputy M. Tadier:

Maybe a tangible example: if somebody came into the States, a police officer came to the States, searched my locker and I had a problem with that, would I go to P.P.C. and make a complaint or would it be up to the speaker of the House to speak out on my behalf if there is an issue with that?

The Connétable of St. Mary:

My understanding is that if there was just cause for the locker of the Member to be searched, if it is a criminal matter, parliamentary privilege does not give Members immunity from criminal sanction.

5.17.6 The Deputy of St. Mary:

The point at issue is whether or not these matters that I referred to in my question are in fact criminal matters or whether they are matters of some other kind. Would the Chairman like to comment?

The Connétable of St. Mary:

I am not a lawyer, I am not a police officer, but I do know that the matters in the question do not fall under the ambit of parliamentary privilege. That is my responsibility, nothing more.
[Approbation]

The Bailiff:

We come next to a question which Deputy Trevor Pitman will ask of the Minister for Economic Development.

5.18 Deputy T.M. Pitman of the Minister for Economic Development regarding anti-social behaviour directly under residents' apartment balconies and bedrooms at the Albert Quay:

Having worked in support of the residents at Albert Quay for over 10 months now and residents having been promised that a solution was imminent before last Christmas, would the Minister advise the Assembly when he will finally be in a position to put an end to the anti-social behaviour they are experiencing by installing the agreed security barrier to control late night access to the areas directly under residents' apartment balconies and bedrooms?

Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur):

I have spent some considerable time reviewing the effectiveness of a proposed barrier and regretfully it is unlikely that anti-social behaviour will be stopped or significantly reduced by

having a barrier. Therefore I am not prepared to spend the excessive costs of providing a barrier and I am instead considering alternative methods of helping to address the situation. There is a social problem that needs to be dealt with in an appropriate way but I am afraid that a barrier is not that particular way.

5.18.1 Deputy T.M. Pitman:

Never mind the issue of the Minister having reneged on what he told the residents: no surprise there, I would suggest. I have been told, and I have it in an email, that costs could already be met from existing budgets. Clearly we have harbour security who do not do their job, do not get out of the car; the police seem little better. This has gone on for 3 years, 10 months since I have been involved. Will any Minister, particularly this one, sort it out?

Senator P.F. Routier:

I met with the police yesterday to discuss this matter which is of concern to myself and to some of the residents. I have to say that the number of complaints that the police reported to me yesterday were not significant. They do get more complaints from other areas of the Island than they are getting down at the harbour but certainly there is an issue that needs to be dealt with. We will be having another meeting on Friday with the residents to put forward other options to help to alleviate the problem but with regard to, I have to say, the extortionate costs of spending £70,000 on a barrier, that is totally inappropriate, especially in this time of C.S.R. I cannot justify spending £69,000 plus staffing to man the barrier which is totally out of proportion to the problem.

5.18.2 Deputy T.M. Pitman:

I do not know if the Minister is even in contact with his department but, as I said, it has already been stated quite clearly that the manning would come from within existing budgets, the costs could be met from existing budgets. The Minister told residents this would happen, it was the best way forward. Now he is saying the exact opposite. Why and when is he going to take some action? What is the timescale, when will it happen? These people's lives are being made a misery by a Minister who is frankly incompetent.

Senator P.F. Routier:

I thank the Deputy for his compliment. **[Laughter]** From the meetings I have had with the police only this week, we have agreed that placing a barrier is not going to solve the problem. It is not going to solve the problem of anti-social behaviour down at the harbour. There are other methods which we will be discussing with the residents on Friday of this week. I know the Deputy is coming along to that meeting and I am very pleased that he is able to come along. What I would suggest is that there are going to be options which are possible to help to alleviate the problem and one suggested to me by one resident is the possibility of some of the residents joining the honorary police. That would be a great help to solve the problem if the residents were to take it upon themselves to join the honorary police and to help to police the matter.

The Bailiff:

I think it would be helpful to try and get in one or 2 more questions so we will move on then to question 19 which Deputy Southern will ask of the Minister for Economic Development.

5.19 Deputy G.P. Southern of the Minister for Economic Development regarding the costs and benefits of the Jersey Competition Regulatory Authority's (J.C.R.A.) proposal to grant postal licences to 2 new postal operators:

Will the Minister inform Members of his assessment of the costs and benefits of the J.C.R.A. proposal to grant postal licences to 2 new postal operators?

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

In the absence of all the facts it is not for me to speculate on the potential costs and benefits at this stage. Following the public consultation I expect, as I am sure Members do, that the J.C.R.A.'s final decision must include the potential impact of any additional postal licences on Jersey Post's continuing ability to operate on a sustainable basis. I expect Jersey Post to submit a robust impact analysis to the public consultation to inform the J.C.R.A.'s decision. I have spoken to Jersey Post and I am confident that their submission to the consultation will outline the consequences of the award of additional licences, in particular on employment and financial sustainability of their operations. It is this review that will determine the potential impact of competition in this area of the market and whether such competition would be in the public interest at this time.

5.19.1 Deputy G.P. Southern:

I am surprised that the Minister has not received information already on the potential impact of this proposal. However, he has earlier said that he will wait for the impact of an efficiency study some time this summer before the J.C.R.A. should expect to act. Will he take that time period to call for extensive talks between all the affected parties, including States Members, so we can fully comprehend the pros and cons of this issue?

[12:00]

Senator A.J.H. Maclean:

I will certainly be informed by the results of the consultation process which, as the Deputy and Members will be aware, concludes at the end of this particular month. Following that there is the efficiency review which I have also stated that I am interested to see the results of. At the end of that period, if indeed the limited powers that I have as Minister with regard to this issue require any form of guidance, then indeed within the law it states that such guidance when and if given will be a matter that will be brought and notified to the Assembly.

5.19.2 Deputy D.J. De Sousa:

Bearing in mind what has happened with telecoms and the fact that the States have 4 different companies that they have shares in with that, are we not in danger here of competition for competition's sake?

Senator A.J.H. Maclean:

I would certainly hope that that is not the case. Competition in an economy is a very positive influence upon consumer prices. I think the key is sustainability. What we need to make certain is that whatever competition is delivered that it has a sustainable and positive effect on consumers and is not detrimental to businesses. It is getting that fine balance right which is absolutely important.

5.19.3 Deputy J.A. Martin:

The Minister said that this would be taken into consideration. I think this is a very wide debate. Everybody knows, even 5 years ago, the up and coming fulfilment industry - and let us be clear this is the only part the 2 licensees want, the profit making part - is really going to affect the whole postal system in Jersey. Can the Minister for Economic Development ensure somehow that we have this debate in the States? It is a very big decision. Do we have a 2 a week delivery in St. Ouen or St. Mary? If that is the way the States want to go and the public want to go so be it but under the way I am reading it can the Minister confirm the States will have no say in the matter?

Senator A.J.H. Maclean:

I am not saying that the States will have no say in the matter; the Deputy is absolutely right. There are 2 issues here and in fact the Deputy is referring, I believe, to the universal service obligation and the effects that competition could have upon that particular provision. That is a debate that most certainly should be had and indeed will need to be had in the future. It is a consideration not

just for Jersey Post but indeed for postal services in other parts of the world. There is a significant pressure on postal services. As volumes have dropped postal services are finding that their costs are rising and profitability is falling. It is a problem and certainly needs to have further debate.

5.19.4 Deputy M.R. Higgins:

As Chairman of the Economic Affairs Scrutiny Panel I have been lobbied by quite a number of Members and others who are very concerned about the impact on postal. At our next meeting we are going to be discussing conducting a review of this. Would the Minister give an undertaking to the House that he would ensure that no decisions were made if we did go ahead with a review so the House and everybody else, the public, could be fully aware of all the implications, done by an independent panel within the States?

Senator A.J.H. Maclean:

The Deputy, as Chairman of the Economic Affairs Scrutiny Panel, is of course at absolute liberty to review any aspects of the work undertaken by and responsibilities of Economic Development and I have always and will continue to support any reviews that he and his committee wish to undertake.

The Bailiff:

I am afraid we are out of time now. Deputy Southern, do you wish to ask the final question?

5.19.5 Deputy G.P. Southern:

Final supplementary, if I may, Sir. Will the Minister assure the House that whatever the outcome of this consultation he will bring the results to this House for a decision, in particular in light of the opinion of Mr. Brown of the J.C.R.A. that the question of whether it is better to have a monopoly for Jersey Post or it is better to have a competitive market is a political decision which he does not have a view on?

Senator A.J.H. Maclean:

I am more than happy to give an undertaking that the House will be involved and will have the information presented to them with regard to the outcome of the consultation process and also the wider impacts of universal service obligations and so on in due course.

The Bailiff:

That completes ordinary questions but I have given leave for an urgent question from Deputy Shona Pitman and so I invite her to ask that question now of the Minister for Economic Development.

6. Urgent Oral Question

6.1 Deputy S. Pitman of the Minister for Economic Development regarding the justification for the closure of the sub-post office in the Central Market:

It has just been announced that the sub-post office in the Central Market is to be closed. Would the Minister advise Members what is the justification for closing this sub-post office and will there be any job losses?

The Bailiff:

I understand that this should more correctly have been directed towards the Minister for Treasury and Resources. Is that right? Is it agreed between you that that is the correct position?

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

Yes, Sir. With the shareholding responsibility of Jersey Post it is probably more appropriate for me to answer. The justification for closing the Central Market sub-post office is because of the rapid

decline of the use of local and global postal services. I can tell Members that Jersey Post have advised me that the retail network, in other words the Island's sub-post office network, loses around £1 million per year. Jersey Post quite rightly needs to change the way it delivers its retail services. It has been announced that it is closing the Central Market outlet but it has also announced that it will be opening a new retail outlet at the Co-op in Don Street and this is among a wide number of other changes in relation to the retail network that will be worked on over the forthcoming months.

6.1.1 Deputy S. Pitman:

Could the Minister outline what advantages there are in taking this service to the Co-op and has he not considered that this service has been used by many of the market traders since 1972? Does he not see the value of this being part of the market and being an attraction to come to the market and the value of its history to Jersey?

Senator P.F.C. Ozouf:

I was advised of this on Friday and I share the regret of the closure of the post office. What I will say to the Deputy is that I think this should be regarded as an opportunity for the Central Market. I have understood that the Central Market post office is an attraction in terms of footfall into the market and I have already commenced discussions this morning with Property Services so that they can identify an alternative use for that site in the Central Market, perhaps with the offices above it too, in order to create a really vibrant attraction to bring people into the Central Market which will further enhance the Central Market. I am afraid that we cannot hold back the tides of change. The retail network is going to need to be modernised, there are going to be some difficult decisions to be made. That is going to be an engaging requirement of the discussion between Jersey Post, the J.C.R.A. and the Minister for Economic Development in relation to the universal service obligation. I am afraid the decision for the sub-post office in the Central Market has been made and we need to deal with it.

6.1.2 Deputy J.A. Martin:

The Minister just mentioned the post office, himself and the Minister for Economic Development again. He also admitted the retail side of Jersey Post loses £1 million year. If anyone in this House or outside thinks the closing of Central Market is just the beginning, if they lose the rest of that it will be at least a half to two-thirds of sub-post offices will have to go [**Approbation**] and yet the Minister has just said, contrary to the Minister for Economic Development, that it will not be a decision of the States. Can I have his word that it will be a decision of the States how we deal with the universal service agreement which is partly retail services?

Senator P.F.C. Ozouf:

I do not disagree with the Minister for Economic Development in relation to the universal service obligation. There is clearly a debate to be had from the shareholder's point of view about the universal service obligation and how that is delivered. Currently the universal service obligation costs Jersey Post money and that is something that is going to have to be dealt with and I think there is a need to have a debate about the universal service obligation with customers in order to resolve the long term arrangements. Jersey Post is not alone in having to deal with these changes. As far as the retail network is concerned, post offices around the world are finding alternative ways to deliver their postal services. La Poste in France is working with *mairies* and town halls across France. That is something that Jersey Post is going to be doing with Constables and Parish Halls. There are ways of dealing with looking at the retail network in order that it can stop the haemorrhage of £1 million a year.

6.1.3 The Deputy of St. John:

Will the President confirm that the States of Jersey owns 100 per cent of the post office? Secondly, given that the States of Jersey own the markets and we subsidise rents within the market - and I do not think he is taking notice of what I am saying - would it not be sensible to reduce the rental of

the post office so we keep a footfall within that market, because that was the idea of the market? Also will he tell us what is the new rental they will be paying at the Co-op?

Senator P.F.C. Ozouf:

I think the Deputy perhaps hankers after a former time when he asked the President. The President of Postal Services is no longer. Jersey Post is an incorporated entity and needs to run on a proper commercial basis. But I can confirm that the States of Jersey does own 100 per cent of Jersey Post and there are no intentions to change that. I do, however, need to engage with Jersey Post in order that they can continue to fund their operations and they can continue to provide the services that are valued by Islanders. I do not think any Member of this Assembly would suggest that there should be a subsidy to Jersey Post in terms of providing those services. We need to ensure that Jersey Post can continue to deliver what they need within the commercial arrangements. What I will agree with the Deputy is that I need to work and ask Property Holdings to seize the opportunity of this vacant unit in the Central Market and if necessary incentivise an alternative use which will be a vibrant attraction to draw people into the Central Market. Change is inevitable. This is a change that must be made. Let us try and make an opportunity out of it rather than holding something which simply cannot be justified back. The rental, I am advised, is an initial rent for a 9-year lease from 2004 was set at £12,500. Currently the rental is £13,726.

6.1.4 The Deputy of St. John:

The rental for the new premises at the Co-op, please?

Senator P.F.C. Ozouf:

The arrangement as I am advised in relation to the Co-op is not a rental. As Jersey Post is changing its retail model, it is not simply a rental for a site. It is a partnership with the Co-op in the same way that, for example, there is a partnership at the airport. The airport now has full postal services but that is done on a commission basis with airport staff running the services. It is a different model but it is a more efficient model which does not lose as much money.

6.1.5 The Deputy of St. John:

Can the Minister give us a costing of this, please?

The Bailiff:

Sorry, Deputy, there are a lot of Members who want to ask questions and we are going to have to call it to a halt at some stage. Deputy De Sousa.

6.1.6 Deputy D.J. De Sousa:

Does the Minister not consider that the terminology used by Jersey Post on their website to make this announcement is very misleading? It does say that there are no redundancies to come, whereas the employees are on short-term contracts of 6 months. These people will not be offered jobs. These people will effectively be made redundant.

Senator P.F.C. Ozouf:

I have been, I have to say, satisfied with all the ways that Jersey Post has dealt with some difficult announcements over the last few months. The way in which this announcement was made I think there are some opportunities for learning and improvement. The way in which it was announced, I have had discussions with Jersey Post about it and I do agree that there are going to be effectively some job losses as a result of it. They are not permanent job losses but they are job losses. I do not think that we should be sending the message to Jersey Post that they should not be making the necessary commercial changes that they need to make to maintain the valued services that Islanders need. Jersey Post cannot be maintained in aspic. They must change, they must modernise in order to deliver the universal service obligation. Some difficult decisions are necessary. This is one example of it but I do agree that it needs to be communicated properly.

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

I have not heard the Minister explain how closing the outlet in the Central Market and opening one at the Co-op will save money at all. I wonder if he will give the comparisons, please, Sir.

Senator P.F.C. Ozouf:

I think I should say that Jersey Post is not a States department. It is a separately incorporated entity and I am standing here answering questions as the shareholder representative for Jersey Post. So some of the detail of this, if Members wish me to, I would need to engage in discussions with Jersey Post. This is an urgent question. What I can say is that Jersey Post temporarily took over running of the Central Market post office 2 years ago and placed the staff on a 12-month contract. Prior to this Jersey Post employed an independent sub-postmaster and I understand that that individual retired. I cannot really give any more details apart from the fact that this is a commercial decision and the closure of the Central Market and the reopening of a new postal service in the Co-op in Don Street will obviously be losing less money or will certainly deal with the loss of the Central Market post office.

[12:15]

The Connétable of St. Lawrence:

I would like to take the Minister up on his offer to find that information and I ask him to secure the information and relay it to all Members, please.

Senator P.F.C. Ozouf:

I am happy to do that but I need to be clear to the Assembly that Jersey Post have made this decision and we need to work with the relevant parties in order to deal with the consequences of that. Most importantly that is working with Property Holdings who I have already spoken to, as I have said, this morning to find an alternative use for this site which will benefit and enhance the Central Market, something which all Members, I think, think is extremely important.

The Connétable of St. Lawrence:

My question still remains, Sir.

6.1.8 Deputy G.P. Southern:

In his initial response to the question the Minister mentioned other wide ranging changes. Is he in a position to announce what those changes are and when might he be or when will Jersey Post be publishing these other wide ranging changes which hopefully will not affect the universal service obligation?

Senator P.F.C. Ozouf:

There are discussions within Jersey Post about how to deal with a number of challenging issues as a result of the decline in the traditional postal market. One of them is the retail strategy. I do not have notice of exactly when that will be finalised. It will inevitably be within the next few months, maybe in the early part of next year. Change is going to be required within the Jersey Post network and I say that there is also going to be a need for discussions about the universal service obligation. That needs to happen between the J.C.R.A. and Economic Development and we will assist where necessary.

6.1.9 Deputy M. Tadier:

I think that first of all the Minister seems to mislead the House. He presumes to speak for Members in the entirety when he says: "I do not think there is any Member here who would want to subsidise Jersey Post." I think clearly there is the Deputy of St. John and myself who would be quite happy to subsidise rent in the market, and I presume there are other Members. The real issue is, and I hope the Minister will agree, that by bringing competition in and giving out the most profitable

parts of the cake to businesses, while we are left with the non-profit making parts to deal with, we are going to have to subsidise Jersey Post even more. Will the Minister explain, if he is against subsidy, why is he promoting competition on what is effectively not simply a business but also a public service and utility?

Senator P.F.C. Ozouf:

I think that it is perhaps unfortunate the announcement of the closure of the Central Market post office is being linked to this issue which is a separate issue about the licensing decision in relation to bulk mailers. I can understand why Members want to take the 2 things together but they are very separate. I can say that the issue of the Central Market is not simply about rent. It is a bigger issue, as I understand it, in relation to the retail operation there. I do not think that Jersey Post would simply - which they are not in a position to do - change their position on this if there was a rent-free position. I think we need to understand that there is a radical change going on in the postal business. I do not purport to speak for all Members in relation to subsidy of Jersey Post. If there is a requirement to subsidise in future the universal service obligation then that would be a matter for the States in the Annual Business Plan. But, together with the other priorities that we have in health and education, I do not think that we would be saying to Jersey Post, or are in a position of saying to Jersey Post, that we would subsidise them over allocating money to health or education, *et cetera*. I think Jersey Post need to live within their means but we need to help.

The Bailiff:

I am sorry, I know Members want to ask a lot of questions. I am going to allow 2 more, which I had seen, and then we will return to Deputy Shona Pitman. The Deputy of Grouville.

6.1.10 The Deputy of Grouville:

I know what the Minister has just said but if the market is opened up any new companies coming in will be coming from the U.K. and therefore not paying tax and they will be trading against Jersey Post. Has the Minister got any forthcoming plans that we have all been waiting for that can make a level playing field for the Jersey companies versus the U.K. counterparts that come in and create the competition?

The Bailiff:

Deputy, I am sorry, that clearly is an important question but this is an urgent question in relation to the Central Market and I think it goes much wider than that, so I think it is a question for another day. The Constable of St. Helier.

6.1.11 The Connétable of St. Helier:

The traders in the Central Market must be truly confounded by the way they are being treated by the States. [Approbation] We have an investment in the refurbishment of the roof of hundreds of thousands of pounds, which we all welcome. At the same time they seem to be being deprived of one of their anchor tenants. Would the Minister tell us what communication has been carried out by Property Holdings with the Market Traders Association and their members and does he have confidence in Property Holdings and in the way they have carried out this?

Senator P.F.C. Ozouf:

There are clearly issues that the Assistant Minister who is responsible for property identified this morning which we need to work with Ministerial colleagues to deliver on property matters. Clearly everything is not working at the speed at which we would want. However, on this issue let me be absolutely clear, this is not an issue where the finger should be pointed at Property Holdings. They received the information about this change from me this morning when I asked them what they were going to do or whether they were aware of it. They were not aware in relation to the closure of the market post office but they will be working in order to find a solution for the Central Market, and I agree completely with the Constable that we have got to find a positive future for the Central

Market which also gets value out of the States investment in the roof, *et cetera*. So, we cannot hold change back, we need to regard this as an opportunity, and I hope that he will work with us with his very good Town Centre Manager in order to help find a retailer that will wish to take the space.

6.1.12 Deputy S. Pitman:

Following on from the Constable's question, does the Minister himself know what effect and concern this will have on market traders? I suspect that this decision has been made as part of the aims of the Minister in increasing privatisation of public utilities. My final question is does the Minister know when the decision was made to close this sub-office?

Senator P.F.C. Ozouf:

May I just say that there is no intention of privatising Jersey Post and indeed any decision in relation to sell-off of any utilities will be a matter for this Assembly to take. I am very sympathetic to the market traders in relation to the closure of the post office. If it is of assistance for the market traders I am more than happy to attend a meeting with Deputy Le Fondré and Property Holdings to try and find an opportunity and to find a way forward in relation to this site, that this is seized as an opportunity, together with the offices above, to find a new anchor tenant which is going to attract people and increase vibrancy in the market. If the Deputies of the area wish to get involved in those discussions then let us do that.

The Bailiff:

That concludes oral questions on notice. Now we come to questions to Ministers without notice and the first period is to the Minister for Home Affairs. Deputy Lewis.

7. Questions to Ministers Without Notice - The Minister for Home Affairs

7.1 Deputy K.C. Lewis:

Further to news that a convicted sex offender who is facing further charges in Jersey has a Facebook page with several young local girls listed as friends and as the Facebook moderators have declined to remove this page will the Minister insist that whichever local telecom provider supplies this person that they terminate the connection with immediate effect and if not why not?

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

I do not think I have the power to do that. This case does highlight the importance of the Sex Offenders Law and the powers under that, because this person I understand had previously been convicted of sex offences and it will be possible to control this person, but I do not have arbitrary powers to require people to do things.

7.2 Deputy K.C. Lewis:

Does the Minister believe that on completion of a prison sentence it should be a condition of release that sex offenders do not have internet connections?

Senator B.I. Le Marquand:

Well, there are no conditions of release under the current law. Once a person has served their sentence they have served their sentence. That is exactly the reason why we need to have the Sex Offenders Law in place. I do not know the date when it is coming back from the Privy Council but I am obviously keen to press on as soon as possible with the implementation of that and this case highlights exactly why this is so important.

7.3 The Deputy of St. Mary:

The Minister said earlier today in questions that the press conference of November 2008 by the 2 leading policemen was to undo the damage that had been done which might prejudice possible

cases going to trial. The Minister, in his written reply to my question asking for information to be made available, has basically stonewalled. I just wonder whether the Minister will agree to let Members have specific threads in the *Wiltshire Report*. He can talk about confidentiality of specific cases; I am not interested in specific cases. I am interested in following the media presentation because that seems to be one of the main criticisms of the S.I.O. (senior investigating officer) and the former chief of police is the media handling is the important matter. I want to know whether Members are going to be able to follow through on any of these specific media so-called disasters and whether we are going to have the information, the actual transcripts, actually what the S.I.O. said, the actual videos. I want to know that we are going to be able to make up our own minds.

Senator B.I. Le Marquand:

This is exactly the same question as I was asked before as a follow-up and I gave exactly the same answer. That is that I want to provide as much information as possible but at this stage I cannot say exactly what I can provide and in what form. It is exactly the same question, Sir.

7.4 The Deputy of St. Mary:

With respect the Minister did say that the *Wiltshire Report* would only be issuable, even in part, when the disciplinary process is brought to a conclusion, I think the Minister mentioned July. Well, that is going to be after we debate the appointment of the new Chief Officer of Police.

Senator B.I. Le Marquand:

That depends on what date we debate the matter, and the date on which we are going to debate that matter will probably depend upon when I can provide the information.

7.5 The Deputy of St. Martin:

I am grateful for the written answer the Minister has given - written answer 28 - in which there is a breakdown of the cost during the time of the Deputy Chief Officer's involvement at Haut de la Garenne. It appears that there is just about £7 million broken up into 2 halves. Is the Minister in a position to say how much of that was police expenditure and how much was the legal costs? Would it be fair to say possibly of that £7 million how much would go for paying for legal costs, lawyers, *et cetera*?

Senator B.I. Le Marquand:

It is my understanding that the answer I gave there was solely police expenditure. I hope I am not wrong on that but that was my understanding because I do not think we have sought information from any other sources. If I am wrong on that then I apologise but that was my understanding.

7.6 Deputy R.G. Le Hérissier:

Given the enormous amount of time that the Minister is having to devote to the Chief Officer of Police issue, could he inform the House whether he has made contingency plans to advance very important draft legislation, such as Vetting and Barring, such as the Discrimination Law, which are at the moment languishing because of the enormous pressures he is under?

Senator B.I. Le Marquand:

Vetting and Barring is not languishing because we have one specific officer who is working on that and making considerable progress in relation to that. Discrimination Law is also not languishing because we are awaiting the Law Draftsman doing some additional work on that.

7.6.1 Deputy R.G. Le Hérissier:

I wonder if the Minister could be more specific and say when will they be referred to scrutiny?

[12:30]

Senator B.I. Le Marquand:

In relation to the latter, I cannot say because I do not know when the drafting is going to be done but we are still firmly very much on target, as far as I am concerned, for this year in relation to the Discrimination Law. There is also an intention that in addition to the law the first attributes would be dealt with as part of the law and that will be in relation to race. In relation to the Vetting and Barring matters, I am struggling to find the details in my mind in relation to this but in fact, of course, this is an issue in which we are going to be applying the U.K. system and extending the U.K. system, as I understand it, and therefore it would not be a law drafting area, if I am right in that. It would be an area where the Law Officers would be working on it but we have to decide the various different principles. One of the difficulties that we have had is we do not know as yet the precise final shape of what is going to exist in the U.K. What has become apparent is that whatever that final shape is we are likely to be put in a position of either buying into it entirely or not at all which I regret because I had hoped that we might be able to have some degree of fluidity in relation to exactly how we bought into it. That is the shape things seem to be taking at the moment.

7.7 Deputy T.M. Pitman:

Is the Minister confident that elements of our police have not become politicised given that in the past 2 weeks another States Member, who will remain nameless, enjoying a quiet glass of wine at home, had 2 police officers demand entry to their home under the guise of an unfounded, as it turned out, suspicion of drink driving. Not only this, but then sat with the Member for the best part of half an hour because they said that a sergeant had to come along to carry out a breathalyser test, a breathalyser test that was passed yet 3 officers to oversee this. Is that standard practice and is the Minister happy about it?

Senator B.I. Le Marquand:

This is the first time that I have heard any details in relation to this matter. Clearly this was an operational matter and I have simply not been involved in it in any way. If there were allegations of a potential possible drink driving offence committed by a person then it would not be unusual for officers to go round to a home on that information, inquire as to if the person had been driving and then check by use of the breathalyser as to what had happened. It would not, in my experience, be usual for a sergeant to become involved in that process unless there was some specific complication which arose. But, as I say, this is the first time I have heard any details of this matter, which is strictly operational. I am satisfied the police force is not politicised. One of my concerns is the attempts of Members of this House from time to time to politicise issues relating to the police force. I am not accusing the Deputy, before he reaches for his button to rebut that; I am making a general statement. It is very important that the issue of operational freedom of the police be recognised. It is a vital constitutional principle, I am utterly committed to that, but I have to say that we are in a process of seeing a politicisation of the police by Members in this House and that I regret.

7.7.1 Deputy T.M. Pitman:

Could the Minister advise if it is standard practice then, on coming across a person, whether a States Member or otherwise, clearly sitting at their table with a bottle of wine having a drink to say that if they failed a breathalyser test they will be arrested and charged anyway?

Senator B.I. Le Marquand:

This is going into an area that is very familiar to me which is the situation where there is an allegation that a person has been driving and the person then returns to their home and then says that they have subsequently drunk alcohol. It is perfectly proper and perfectly normal for officers then to make inquiries to substantiate the quantity of alcohol that may have been drunk subsequently. As I say, it is all dependent on a situation in which a complaint has been made in the first place but the process described in those details is not exceptional, in my opinion, based on my experience as a magistrate.

7.8 Deputy S. Pitman:

I carry on from Deputy Pitman's. During the investigation into my crime I am aware that one of the witnesses had 3 visits by 3 policemen trying to get information out of him. I met the other witness during my canvassing who was so shaken by these police officers that when I knocked on her door with Deputy De Sousa she would not answer the door. Is this not excessive?

Senator B.I. Le Marquand:

These were operational matters. If the Deputy has complaints in relation to the way in which individual officers behaved in relation to particular matters then there is an independent complaints forum for that complaint to be made. That is all I can say on that. Again, it is an operational matter I have no direct knowledge of.

7.9 Deputy M. Tadier:

Going back to the Discrimination Law, is the Minister aware that major stakeholders like J.A.C.S. (Jersey Advisory and Conciliation Service) maintain that rather than prioritising race as the first element that should be put through they think that the gender discrimination, in particular the way it will be applied in the workplace, is a much more pressing concern? Could the Minister explain why he has chosen race and whether he has consulted with stakeholders such as J.A.C.S. and whether he would consider putting gender through first?

Senator B.I. Le Marquand:

I chose race because I thought that was always intended to be the first. The issues that will be raised by gender I believe will be much more complicated and may take much more time to work on. I have not had discussions with J.A.C.S. on that. No doubt different Members will have different opinions as to what are the highest priorities in terms of different attributes. I think race was always viewed as a relatively simple matter and therefore that we could get it in force earlier and start to operate the tribunal.

7.9.1 Deputy M. Tadier:

Just a supplementary, I understand, I think, where the Minister is coming from. Would he undertake, given his admission, to get in contact with the likes of J.A.C.S., the Citizens Advice Bureau, *et cetera*, at this stage while formulating policy? These are the actual people on a daily basis; it is not we States Members as such who are going to be dealing with the grass root problems every day. I think it is important that he gets their contributions as early as possible.

Senator B.I. Le Marquand:

I accept that it is highly desirable that there be some consultation with different stakeholders as to what is the appropriate order in which different attributes will be taken and I will now do that. I suspect that I will still come to the same decision that race is the matter we should proceed with because we have a reasonable prospect of doing that alongside the law this year whereas other matters I think are going to take much longer.

7.10 The Deputy of St. Martin:

In a written answer to number 20 about the officers who were suspended following not being found guilty in a discipline hearing would the Minister inform Members, please, whether those officers are now back to work? I know the suspension has been lifted but are they back to work or are they now both sick?

Senator B.I. Le Marquand:

I do not know the answer to that because when they would have gone back to work they chose to take leave, as I understand it. I do not know if their period of holiday leave has ended but they are back, as it were, in operation. Whether they are currently on holiday leave or not I know not.

7.10.1 The Deputy of St. Martin:

Would it be possible for the Minister to inform Members whether they are on leave or whether they are on sick leave?

Senator B.I. Le Marquand:

I do not understand them to be on sick leave but this is an internal matter in relation to divisional officers. This is not a matter that I would normally get involved with if officers are sick. I do not get reports daily or weekly as to who is sick or who is not sick. This is a large police force. I have 4 substantial organisations. It is totally inappropriate for the Minister to get involved in that sort of degree of management structure.

The Deputy of St. Martin:

I would just raise the point that they are getting paid at the public expense and I thought it would be a public matter.

Senator B.I. Le Marquand:

There will always be from time to time officers who are sick. I do not think it is reasonable that the public expect me to say which officers are. Apart from that, there are privacy issues involving individual officers. I do not think we should be telling people that officer so and so is sick or whatever. There are privacy issues of individual officers which are important.

The Bailiff:

I understand that brings questions to the Minister for Home Affairs to an end.

Connétable K.P. Vibert of St. Ouen:

Sir, it is obviously your decision, I do not know if you wish to start a further question time at this moment. With your permission I would just like to inform Members that in their pigeonholes this morning was a notice for a special general meeting of the A.P.F. (Assemblée Parlementaire de la Francophonie) Jersey section, which was in fact an error. The date of that meeting is 11th May, not today. Can I propose the adjournment?

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

The adjournment is proposed.

Senator J.L. Perchard:

Sir, before we adjourn can I just ask something of the proposer of P.26? I am concerned that P.26 is not a credible proposition. The proposition asks that the minimum wage be set at 45 per cent of the average earnings. I ask that Deputy Southern, during the interval, considers withdrawing the proposition as I consider it simply cannot be debated seriously. If you would allow me to explain why. Any figure that represents the average wage includes the current minimum wage figure. If this proposition were to be proved one would calculate the minimum wage figure based on 45 per cent of the average earnings figure, a calculation that of course then affects the average wage figure. This would require another calculation to achieve the 45 per cent figure again. The truth is that this calculation would go on infinitum. As I said, I have got every respect for Senator Southern [Members: Oh!] and his right to bring a proposition.

Deputy G.P. Southern:

Can we have a point of order, Sir? I think the Senator is misleading the House.

Senator J.L. Perchard:

His right to bring a proposition about minimum wage but this cannot be debated seriously and I would ask the Deputy to consider during the lunch interval withdrawing something that is a joke.

Deputy G.P. Southern:

I can respond briefly, Sir, if you wish.

The Bailiff:

I suggest you think about it over lunch, if you need to, and then deal with it when you propose the proposition.

Deputy G.P. Southern:

I do not think it requires much thought, Sir.

The Bailiff:

The Assembly stands adjourned until 2.15 p.m.

[12:42]

LUNCHEON ADJOURNMENT

[14:16]

8. Questions to Ministers Without Notice - The Chief Minister

The Bailiff:

We come now to questions without notice to the Chief Minister. Deputy Pitman.

8.1 Deputy T.M. Pitman:

Some 2 months ago the Chief Minister promised the Assembly that we would take the suspended Police Chief Officer's sworn affidavit seriously. Can he inform the Assembly whether he has interviewed and discussed with the St. Helier No. 1 Deputy, who is not Deputy Martin or myself, the contents of the conversation he claims to have overheard discussing the removal of the Police Chief Officer?

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

I am not aware that that is a sworn part of the affidavit. In any case, that is hearsay evidence. I have got no way of proving hearsay evidence one way or the other, so I am not taking further notice of it.

Deputy T.M. Pitman:

Sorry, I did not understand any of that, I am afraid, with due respect. I could not hear it.

Senator T.A. Le Sueur:

The answer was no. As hearsay, I am not prepared to take any serious notice of it.

8.1.1 Deputy T.M. Pitman:

I just wondered why anything that does not suit the purpose of proving the case, as it were, against the suspended Chief Police Officer is apparently hearsay or is not evidence? A sworn affidavit is evidence and it surely demands investigation, if nothing else, if we are to have any credibility.

Senator T.A. Le Sueur:

The question related to an alleged conversation being overheard between 2 former States Members. I have no knowledge of that allegation or of what might have been said. On that basis, I do not intend to pursue that particular line of inquiry.

8.2 The Deputy of St. John:

Will the Minister confirm or otherwise that the plans to reconstitute the Waterfront Enterprise Board are still going ahead, or have they been shelved?

Senator T.A. Le Sueur:

Plans for the States of Jersey Development Company are still going ahead. If the Deputy looks at the lavender sheets he will find it is down for 22nd June.

8.2.1 The Deputy of St. John:

That being the case, can the Minister explain why Orchard, the consultancy company, have been taken on by W.E.B. (Waterfront Enterprise Board) to do what - to report - given we may be closing this down or moving it across to a States department?

Senator T.A. Le Sueur:

I am not aware of what Orchard relates to. The consultants appointed by me to look into the States of Jersey Development Company are a company called DTZ, who are reporting to me. If the Deputy wants to inform me or advise me what Orchard are doing then I may be in a better position to answer him.

8.2.2 The Deputy of St. John:

On a point of interest, will the Minister not confirm that he is obviously not up to speed with what our States departments are doing if he does not know that we have employed Orchard?

Senator T.A. Le Sueur:

The Deputy says "we" have employed Orchard. Could he be more specific about who is employing Orchard because I am not aware that Orchard have anything to do with the States of Jersey Development Company?

8.3 The Deputy of St. Martin:

The Chief Minister is aware that P.22, which was the Draft Employment of States of Jersey Employees (Amendment No. 5) (Jersey) Regulations 201-, was due to debate today; it has been transferred over or deferred until 11th May. Will the Chief Minister inform Members why it has been deferred and is he liable to put an amendment to his proposition?

Senator T.A. Le Sueur:

Yes, there is a possibility that we would want to amend P.22. That was discussed at the Employment Board and the Council of Ministers last week. We are looking at that possibility very seriously. I say that because there is some concern about the future role of the States Employment Board that we need to address before this matter comes to the House.

8.4 The Connétable of St. Helier:

In his answer to questions on 23rd March on the subject of the destruction of the notes of the suspension of the Chief of Police, the Chief Minister said that all parties had seen the transcript before the typescript was created. Has the Minister been able to review his statement to the House, which I believe was misleading? Would he like to make a clarification or a correction?

Senator T.A. Le Sueur:

I am aware that the parties to that meeting were the Chief Executive, the former Minister for Home Affairs and the Chief of Police. I can certainly confirm that the Chief Executive and the former Minister for Home Affairs have seen and approved those notes. I am advised that a copy of the notes were sent to the Chief Officer of Police. He did not accept or has not signified one way or the other whether he accepts or rejects them.

8.4.1 The Connétable of St. Helier:

Could I just follow up on that. Could I urge the Chief Minister to check the audit trail about this? It is an important matter. Surely, if one is suspending a member of staff, the really important person one wants to agree the minutes of that suspension is a suspended member of staff.

[Approbation] There does seem to be some doubt in the Chief Minister's mind about whether this had been achieved and should that not be done properly in future?

Senator T.A. Le Sueur:

I say this is rather irrelevant to the main proceedings which are being investigated by an independent reviewer on matters relating to the suspension procedure and no doubt in the course of that review he will want to satisfy himself that the procedures taken in respect of the notes of that meeting were properly dealt with.

8.5 The Deputy of Grouville:

Does the Chief Minister believe it is appropriate for one of his Ministers to withhold information being asked of him at a scrutiny hearing in favour of giving the information to the media first and does he feel this behaviour undermines Ministerial government and the scrutiny process?

Senator T.A. Le Sueur:

In general, my answer would be it would not be appropriate to withhold information to a scrutiny panel and present it to the media for no good reason. However, generalisations like that are difficult. If the Deputy was specific about a particular item of information which was withheld from a particular scrutiny panel and given to the media I would be in a better position to comment.

The Bailiff:

Do wish a supplementary, Deputy? No.

The Deputy of Grouville:

Not at this stage, no, thank you.

8.6 Deputy G.P. Southern:

Can the Chief Minister state how much money has been spent by Jersey Finance - and why - to commission a report into the impact of transfer pricing on developing country economies? Will he also inform Members the extent to which Jersey is involved in such activity?

Senator T.A. Le Sueur:

No, I cannot advise the Member how much has been spent by Jersey Finance on inquiring into transfer pricing. Transfer pricing is an issue which, as far as I am concerned, is very much yesterday's issue and I know it has been raised in some particular quarters that really the amount of transfer pricing going on in Jersey, as far as I am aware, is very minimal indeed.

8.6.1 Deputy G.P. Southern:

Will he then seek the answers to these questions from the relevant Minister and return to the House with the answers?

Senator T.A. Le Sueur:

Jersey Finance is an independent operation, admittedly funded by the States but they run their own procedures. I shall make the inquiries, but I will just point that out to the Member in case he thinks it is part of my remit.

8.7 The Deputy of St. Martin:

The Deputy of St. John and myself some time ago asked about the position of the Magistrate, who I gather was not suspended but was on something called gardening leave. Is the Minister in a position to update Members as to the position of the Magistrate? Is he back at work? If not, why not?

Senator T.A. Le Sueur:

The position in respect of the Magistrate remains as it was at the time of that question; nothing has changed, sadly, and the matter is taking longer than I am sure anyone would like. I remind the Member that of course the Magistrate is not a States employee.

The Bailiff:

Does any other Member wish to ask any questions?

8.8 The Deputy of Grouville:

Could I ask my supplementary now? It is just I could not hear the Chief Minister very clearly before and my colleague has just informed me what he did say, so if I could ask my supplementary. The Chief Minister wanted to know the instance. The instance was the scrutiny hearing at the Home Affairs and Education Scrutiny Panel hearing last week or the week before and it was the Minister for Home Affairs.

Senator T.A. Le Sueur:

I think it might be more appropriate to ask the Minister in his questions without notice, but I repeat that in the normal course of events I would expect a Minister to not withhold information to a scrutiny panel if he was going to release it to the media. There may be particular circumstances in which that general comment might not be applicable.

8.9 Deputy J.A. Hilton:

The Council of Ministers are currently looking at ways of plugging a deficit in the tune of approximately £100 million and I believe that they will, among other things, be considering rises in G.S.T. (goods and services tax), cuts in departmental spending, and possibly increases in income tax. Is the Chief Minister able to tell the Assembly his own personal view on the likelihood of increasing tax rates for those individuals in receipt of earnings of £100,000 plus, over and above 20 per cent?

Senator T.A. Le Sueur:

My personal view is I think fairly well known that I believe in this situation the size of the problem is such that it would be solved by a mixture of cuts in spending and increases in taxation of some form or another. I have said and I maintain my view that taxation should be paid on a proportional basis and that those with greater ability to pay should be expected to pay more. Whether that relates to a specific different tax rate for people earning over a certain level of income or some other means will be discussed in the context of the fiscal review to be undertaken by the Minister for Treasury and Resources over the coming months. One way or another, the principle of general, overall progressivity remains my personal preference.

8.10 The Deputy of St. Mary:

The Chief Minister, in reply to the very first question, said more or less that he was not going to take any notice of what was in the affidavit or that he had not seen it. What the affidavit says is: "Since my suspension a Member of the States who is otherwise unconnected to any of these events has come forward and offered evidence. He speaks of overhearing a conversation in the corridors of the States building between the then Chief Minister and Deputy Lewis. This discussion appears to have occurred in the weeks following the meeting. During that discussion the possibility of suspending or dismissing the Deputy Chief Officer was being actively discussed." Now that the Chief Minister knows what was overheard in the corridor of the States building I wonder if he can give a view on whether he would think that this should be pursued?

Senator T.A. Le Sueur:

No, I do not know what was said in the corridors of power.

[14:30]

The affidavit said that the person making the affidavit was aware of the existence of this and it might be worth pursuing. That is a comment made in the context of an affidavit about an incident that may or may not have happened. To me, that is not anything that is of itself necessarily worth pursuing.

8.10.1 The Deputy of St. Mary:

Excuse me, if I may have a supplementary. A comment in an affidavit that may or may not be real or may or may not refer to a real event is a pretty serious allegation to make about the former Chief Officer of Police and this is a sworn statement to a court. I would ask the Chief Minister to reconsider what he has just said.

Senator T.A. Le Sueur:

I would suggest that the Deputy reads carefully the words of that affidavit. It is not an allegation that there was ... it is not a confirmation of any plots to remove him or do anything else; it is an affidavit that there may have been a conversation in the corridor. I am quite prepared to believe that there may well have been a conversation in the corridor, but that is not what the affidavit is ... the affidavit is not saying anything more than that.

8.11 Deputy M. Tadier:

The Chief Minister was asked several questions about the behaviour of a Minister, whether it is appropriate for a scoop to be promised to the *J.E.P.* rather than giving evidence to scrutiny and I think the Chief Minister said that generally speaking that is not something he would expect of the Minister. Would the Chief Minister confirm if this is a subject about which a complaint could be made under the Code of Conduct for Ministers which could be submitted by a member of the public or another States Member? Is that something that the Minister would be able to deal with?

Senator T.A. Le Sueur:

Members of the public or States Members can raise this under the Code of Conduct and each allegation will be considered by me on its merits. So, yes, certainly it is open to people to raise that sort of issue, but I do suspect that if we have particular difficulties here in the context of a matter where the Minister for Home Affairs is under a duty of confidentiality in respect of a disciplinary matter. It may well be that the questions being asked of that scrutiny panel impeded upon that confidentiality and therefore he could not respond to them. What he may, or what the media may or may not have alleged he said is a different matter entirely. So I think I see where the confusion may have begun to arise.

Deputy M. Tadier:

I think the confusion is only just beginning to arise. **[Laughter]** Surely if the issue is one of confidentiality and not giving the Scrutiny Panel information, it must also be confidential when giving that scoop and the same information to the *J.E.P.* So clearly it is not a matter of confidentiality here; it is simply a matter of: "I do not want to give you this information yet because I promised it to the *J.E.P.*" and that is what was said. There is no debate about that being said.

Senator B.I. Le Marquand:

I must protest about that. It is a gross misrepresentation of what happened. The Members who are asking questions had ample opportunity to ask me questions this morning and have failed so to do and they chose instead to ambush the Chief Minister. Now things are being said that are not correct at all. **[Approbation]** I must very strongly protest. This, in my view, is a gross abuse of process.

The Bailiff:

The question has been posed, so ...

Senator T.A. Le Sueur:

I think the matter has been dealt with by the Minister for Home Affairs. I would just reiterate those comments.

The Bailiff:

Very well. That completes questions to the Chief Minister. Just before we move on I want to remind people in the gallery that under Standing Orders people in the gallery may not express audible approval or disapproval of the proceedings of the States and I must ask all members of the gallery to keep quiet. If not, then I will have to ask the gallery be vacated.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

The Bailiff:

Now then we move on to the next matter of business, which are statements on matters of official responsibility. The first one will be a statement by the Chairman of the Privileges and Procedures Committee concerning the absence of Senator Stuart Syvret.

9. Statement by the Chairman of the Privileges and Procedures Committee regarding the absence of Senator Stuart Syvret

9.1 The Connétable of St. Mary (Chairman of the Privileges and Procedures Committee):

On 23rd February 2010 I made a statement to the Assembly on a number of matters relating to Senator Syvret, including his absence from the Island since October 2009. In my last statement I pointed out that Article 8(2) of the States of Jersey Law 2005 provides that a Member is automatically disqualified if he or she is resident outside Jersey for a period of at least 6 months. Then under that privilege Senator Syvret would become automatically disqualified and a by-election would be ordered if he did not return to take up residence again in Jersey by mid-April. I am making this statement today to inform Members that Senator Syvret has now been automatically disqualified from the Assembly as more than 6 months have passed since he left Jersey on 19th October 2009 and became a resident outside the Island. This disqualification will have come as no surprise to him as even if he was not aware of the last statement I made, P.P.C. (Privileges and Procedures Committee) wrote to him last week reminding him of the statutory provisions and the disqualification procedure. Article 13 of the States of Jersey Law 2005 provides that the Bailiff shall inform the Attorney General of any casual vacancy so that the Attorney General can notify the court which shall then order a by-election. I am therefore making this statement so that you are aware of this matter and can make the necessary approach to the Attorney General. Notwithstanding the very exceptional circumstances that have led to Senator Syvret losing his membership of this Assembly I think it would be remiss of me not to place on record today that he served as a Member of the States for nearly 20 years and during that time he served on many committees and held a number of different positions of official responsibility. I think it is only right that this record of service to the States of Jersey since 1990 should be noted at this time. Thank you. **[Approbation]**

The Bailiff:

Then Members have 10 minutes for questions. Deputy Southern.

9.1.1 Deputy G.P. Southern:

Has the Chairman sought clarification of the Attorney General over the difference in wording between the disqualification from office in Article 8 of the States of Jersey Law of not being resident in Jersey for a period of more than 6 months and the wording of Article 7, qualification for election as Senator or Deputy, which says: "A person shall be qualified if they are ordinarily resident in Jersey for a period of 6 months, up to and including the day of election as well as an additional period of at least 5 years"? If not, will she seek to do so now?

The Connétable of St. Mary:

As Members are aware, it is not normal practice to disclose whether legal advice has been sought, but in the circumstances I am authorised by the Attorney General to mention to Members that legal advice was sought in this matter. The very clear and unambiguous advice received was that resident in this context means actual residence in Jersey. The term is not qualified as in other legislation such as tax legislation by words such as “ordinarily resident” or “permanently resident”. It is therefore to be interpreted in its simplest sense; as the place where a person is living at any time. Mr. Syvret was not resident in Jersey after he left the Island by his own admission on 19th October 2009 and was therefore not resident for 6 months.

Deputy G.P. Southern:

That does not quite answer the question because that refers to Article 8 and there is very clear ... **[Interruption]** thank you, and I thank the Chairman for that. On Article 7 it does say: “Your qualification depends upon you being ordinarily resident in Jersey.” Is there a difference between ordinarily resident, in this particular case, so that he can stand for a new election? Apparently, if he is ordinarily resident but be disqualified because he has not been physically resident will the Chairman seek advice on Article 7?

The Connétable of St. Mary:

Sorry, I thought it was implicit from my answer, but just to specify. The term of residence is dealt with in different laws in different ways and it is qualified in different ways. As regards the ordinarily resident in the States of Jersey Law for the purpose of being qualified to stand, any person who stands for election needs to satisfy themselves that they meet the requirements and are able to make the declaration as is required under that law. Therefore, it would be up for any candidate in the election to be able to say whether they met the ordinary residence test. It is not a matter for P.P.C.

The Deputy of St. Martin:

Would it be in order maybe to ask the Attorney General to have a ruling?

The Bailiff:

No. Under Standing Orders it is question time to the Chairman of P.P.C. at the moment.

The Deputy of St. Martin:

Only on the point if the Chairman is unable to answer the question maybe we could ask the Attorney General to answer for her.

9.1.2 The Deputy of St. John:

Does the Privileges and Procedures Chairman and Committee consider their statement somewhat disingenuous to the former Member, the former Senator Syvret, given that he has given 20 years service to the Island? All right, we may not all agree with some of the actions he has taken over the years and he has done his politics in his way, but does the committee - P.P.C. - not consider that they could have in fact in the statement laid out some of the things he has done for the Island? I think that would have been useful.

The Connétable of St. Mary:

I did, in my statement, say that I thought it would be remiss of me not to record his service to the Island in 20 years. I did also promise that it would be a short statement.

9.1.3 Deputy G.P. Southern:

I will try again, if I may, and I hope you will not rule it out of order. Will the Chair seek the advice of the Attorney General as to the definition of “ordinarily resident” in Jersey for a period of 6 months under Article 7 of the States of Jersey Law 2005? Will she do that now? If not, will she state when

she will do so and return to the House with a clear statement of who is and is not eligible to stand in any forthcoming by-election?

Connétable D.J. Murphy of Grouville:

Point of order.

The Bailiff:

Point of order?

The Connétable of Grouville:

A point of order, yes. This statement by the P.P.C. Chairman refers to Senator Stuart Syvret's disqualification; it does not refer anything to do whatsoever with anybody wishing to stand in a future election.

The Bailiff:

I think it is a matter for the Chairman to the extent to which she deals with these questions.

The Connétable of St. Mary:

I accept what the Constable has just said, but I think it might be helpful to say this is not a matter for P.P.C. Elections are overseen by the court and it is up for the Royal Court to rule on whether a candidate is eligible or not, not for P.P.C. [Approbation]

9.1.4 Deputy T.M. Pitman:

Could the Chairman advise, if she is able - and I appreciate she is doing her best to explain the situation - if there is likely to be a legal challenge to whatever decision is made, what kind of impact is that likely to have on when a by-election would take place? Technically, it could go on for months and months. Could this be dragged-on?

The Connétable of St. Mary:

I am not clear. Was the Deputy asking whether there would be a challenge to the automatic removal from office of Senator Syvret or to anything else?

Deputy T.M. Pitman:

Whether the former Senator can stand again. If that aspect is challenged - I do not know if it will but it could - what would the likely knock-on effect be?

The Connétable of St. Mary:

As I have said, the holding of a by-election, supervision of an election is a matter for the courts, not for P.P.C.

9.1.5 Senator P.F.C. Ozouf:

For clarification, and I do not know the arrangements for this, I understand that when a Member loses their seat because of an election they are paid one additional salary, a month's salary, or remuneration. Does this apply for anybody losing their seat in relation to an automatic disclosure, an automatic disqualification? Just for complete transparency purposes.

The Connétable of St. Mary:

Under the rules governing States Members remuneration, Mr. Syvret is entitled to receive one month's remuneration from the date of leaving office, so he will now be paid until 19th May 2010.

The Bailiff:

Any other questions? Very well then. We will move on to another matter where the Minister for Economic Development wishes to make a statement, so I call upon the Minister to make it.

10. Statement by the Minister for Economic Development regarding the Depositor Compensation Scheme

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

As Members will recall, following the approval by the States of the relevant regulations in November 2009, the Depositor Compensation Scheme came into force immediately providing protection up to £50,000 for individual depositors with Jersey banks. As it is around 5 months since the States adopted the Banking Business (Depositors Compensation) (Jersey) Regulations 2009 I wish to update Members on the progress that my department has made in implementing the Depositor Compensation Scheme to this date. In order to oversee the implementation of the D.C.S. (Depositor Compensation Scheme) my department has established the D.C.S. Steering Group, comprising Chief Officers from the States and representatives from relevant public bodies, such as the Jersey Financial Services Commission and the Viscounts Department. As was reported to the Steering Group at its first meeting in February 2010, progress has been made on several fronts. In particular, the department has advertised for members of the Jersey Bank Depositors Compensation Board and interviews for members are taking place on 28th April of this year.

[14:45]

The Privileges and Procedures Committee has decided to take forward an amendment to the Banking Business (Depositors Compensation) (Jersey) Regulations to apply the revised procedures under P.205/2009 to appointments to the board. Given the current timings, my department anticipates that the founding board will be appointed under the existing appointments procedure in June or July before the States summer recess. Appointments will therefore fall to be made by the States following a debate on the nomination of candidates by myself, as the Minister for Economic Development. Following the undertaking given to the Economic Affairs Scrutiny Panel during the course of the D.C.S. debate last November in order to cost the potential extension to protection under the D.C.S. to deposits held by small and medium-sized enterprises, S.M.E.s (small to medium-sized enterprises) my department has undertaken a business deposit survey under the guidance of the States Statistics Unit. The survey was sent to 1,000 businesses on the Island in January. In order to address the initially low response rate the deadline for responses was extended several times. My department enlisted the assistance of Jersey Finance and the Jersey Chamber of Commerce in raising the profile of the survey. Sufficient responses were eventually received and the necessary statistical analysis is currently being undertaken. I hope to be able to consider the findings of this analysis and report back to the States in May. In order to ensure that the required loan arrangements are in place to allow the States to provide liquidity to the D.C.S. immediately in the unlikely event of a bank failure the department has instructed a local law firm to draft a necessary loan agreement. Separate legal advice is being prepared for the Treasury and Resources Department on this particular draft agreement. Having investigated options for promoting public awareness of the D.C.S. my department has decided to expand the current content of the web pages on the States website. This will provide a one-stop shop of up to date and readily available information. In addition, the Jersey Financial Services Commission is currently undertaking a consultation on amending the banking code to provide for banks to disclose relevant information about the D.C.S. to their customers. It is intended that any changes to the banking code, in this respect, would take effect on 1st July 2010. Given the progress to date, I am confident that the implementation of the D.C.S. is progressing satisfactorily and I will keep Members posted of future developments. Thank you.

The Bailiff:

Does any Member wish to ask questions? Deputy Higgins.

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

Would the Minister agree that the questionnaire that was sent out has not had a good response, primarily because of the nature of the questions, which members of the small business community believe to have been somewhat intrusive. For example, we have an email from David Wall from the Small Business Group that: "The information being requested was highly sensitive and in many cases the businesses I spoke to were not prepared to divulge confidential financial information to an unknown email addressee, which they had no guarantee was not going to be copied to all and sundry." That is number one. Secondly, there is the question why it received a poor response. The answer was: "With regard to a better response, I think the questions were being directed to the wrong people. It was obvious to those who I spoke that the banks, who are at the very heart of the problem, could easily provide the information required in a very confidential way. It either was not prepared to disclose the data or was never asked. Every small business has a bank account. Banks will no doubt categorise these as business accounts for marketing or any other purpose. They in turn can very accurately provide the information that is required. The approach taken to collecting this data from small businesses totally ignored the sensitivity of the data being requested and, in my view, got the level of response it deserved." Would the Minister care to comment on those statements and about the validity of the exercise carried out to date?

Senator A.J.H. Maclean:

Yes, I would. The banks, during the course of the Depositor Compensation Scheme debate last November, when the issue about S.M.E.s was raised, had been spoken to. We did seek the opportunity of getting the data from them, but unfortunately it is not available in the correct format to give the necessary level of information required. That, we were told, was not feasible. Yes, I agree with the Deputy in one respect and that is the fact that the information requested was highly sensitive, or is highly sensitive, it is confidential information, as Members would appreciate, but clearly such information is required to be able to properly assess whether or not small and medium-sized enterprises should indeed be included in a depositor compensation scheme. We had several attempts in order to get the necessary information and I am pleased to say that we have now got it. In terms of the organisation that collected the information, the Statistics Unit, they have done so in a perfectly correct and professional manner and I am satisfied now that we have not only the correct data, but indeed any of the concerns initially felt about the sensitivity of the information were properly and rightly addressed.

10.1.2 The Connétable of St. Ouen:

The Minister in his statement said sufficient responses were eventually received. Of the 1,000 sent out, how many were received?

Senator A.J.H. Maclean:

From a statistical perspective it is necessary to get a minimum number to be statistically acceptable. The number that were received was in excess of 250, which was acceptable for the purposes of the exercise.

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

In the statement the Minister talked about a one-stop shop to provide up to date and readily available information. Can the Minister inform us about the status of a simple bit of paperwork, like the template of how to apply? The Depositor Compensation Scheme requires the proper paperwork in order for it to work and the department wanted to bring this in last July. So basic bureaucratic processes should have already been done.

Senator A.J.H. Maclean:

I would hope that the necessary information is available on the States website, which is the primary source of information relating to the progress and information relating to the Depositor Compensation Scheme. But certainly, information would be available in that particular source. Indeed, as I mentioned in my statement, the banks themselves are looking at changing their

requirements so that they can ensure that their clients are properly informed about what is available from a depositor compensation scheme requirement perspective.

10.1.4 Deputy M.R. Higgins:

Could the Minister then give us an indication, now that he has had these responses, when he expects to be coming back to the States with proposals for compensation arrangements for small businesses?

Senator A.J.H. Maclean:

Yes. As I said, I believe, in my statement the information that is now currently being analysed, I would certainly hope that we will have enough information to be able to come forward by the end of May with a preliminary view on whether indeed, or how, the small and medium-sized enterprises can be included, if indeed that is deemed to be appropriate.

The Bailiff:

Very well. No other questions? Then brings that matter to an end. So we move on then to Public Business. Before we do, Members will know from their Order Paper that there are certain extra items which Members wish to have debated. Would it be useful to consider at this stage which ones Members are going to take so that Members can then know what is to come? If Members agree, I would suggest we take them in 2 bites. There appear to be 3 fairly minor matters: projets 37, 41 and 43, where the 2 days notice has been given. Are Members content to add those 3 items to the list? Anyone dissent? Very well. So those matters are taken.

PUBLIC BUSINESS

11. Jersey Competition Regulatory Authority: proposal to grant a Postal Operator's licence (P.44/2010)

The Bailiff:

Then we come to projet 44 in the name of the Deputy Southern: Jersey Competition Regulatory Authority: proposal to grant a Postal Operator's licence. Here, Deputy, you need to ask for 2 things, I think. You first of all have got to ask the States - and I think we had better take them in 2 tranches, although you can no doubt address them at the same time - whether Members are agreeable to reducing the lodging period and, if they are, then, secondly, whether they are prepared to take it without the notice. The second may be rather shorter than the first. Deputy, do you wish to speak to that?

11.1 Deputy G.P. Southern:

The point being that the matter of urgency, before I start, is ruled a matter of urgency, or is that still a moot point? The question of a matter of such urgency? The States is a body that rules on that, or is it the Chair?

The Bailiff:

No, the States rules on whether it is a matter of such urgency and importance that it would be prejudicial to Jersey to delay its debate. That is a matter for Members, not me.

Deputy G.P. Southern:

Well, it is certainly a short order in that I am sure Members in this House are not aware of the full panoply of the arguments for and against the privatisation, the opening to competition of this particular sector of the economy. I am sure they have been made aware that this is the only significant profit-making arm of Jersey Post's activity and that it occurs so that the universal service obligation is effectively supported by the profits in this particular fulfilment area, which are of the order of £5 million. The question is whether the wellbeing of the Island is threatened by

what the Head of Jersey Post says: “This opening of the business mailing market could result in substantial cuts to future services, including a reduction of deliveries to every other day and the existing post office network being halved.” It seems to me that certainly is a striking threat to the Island, which I believe, since we are only 11 days away from a potential decision on that issue, one which is sufficiently urgent in that if we were to wait until the next meeting we would have passed the deadline and decisions might have been made. That is despite the assurances we were given today by the Minister for Economic Development, who went some of the way to meeting that, saying that he would have expected the results of the efficiency survey to have been assessed before any decision is made, but feels he has no power to insist on that happening. So I believe it still could happen; the 31st of the next month we could have a decision made and licences granted and the post office and its entire structure being put under serious threat. The other thing is that the second thrust that I was seeking this morning, and I have emailed the Minister for Economic Development, I expected him to make a full statement today, saying this is the way he wanted to proceed. The second thing is that while we might talk about: “Let us see the results of the efficiency survey” the other thing is - and I asked him this morning and I still have not received a satisfactory answer on that - whether he would use the space which he thinks he has created - and I seek assurance that he will create that space if this is not to be debated today - to open up wide talks and produce a document at the end of which between all the stakeholders in the issue, the Minister for Economic Development, Jersey Post, J.C.R.A., Communication Workers Union, Members of the States, and residents, users of the post office, and the fulfilment companies themselves who appear to be dominating this particular aspect. They say: “That might do us some good, so let us go ahead and do it.” Certainly, from what I have seen of the J.C.R.A.’s argument, I do not think this House can allow this sort of decision to proceed now without serious debate on the issues and that is the basis of my request. I obviously await hearing from the Minister for Economic Development to see what assurances and what guarantees he has that we do not have to debate this today because he will make sure that this decision is not made in what appears to be somewhat of a hurry and that we can rest assured that we will get some time to fully inform ourselves as to the risks, and they are heavy risks indeed, that we risk if we allow this decision to go ahead at the end of this month. So, that is the case I am making. I hope Members agree with me, but will listen to the assurances. Let us see how concrete the Minister for Economic Development can make that to let this through and not debate today is a safe thing to do. Absolute safety is what we are looking for.

The Bailiff:

Is that proposition to reduce the minimum lodging period seconded? **[Seconded]**

[15:00]

11.1.1 Deputy J.A. Martin:

As seconding that, can I just say a few words? I do think Deputy Southern has proved the urgency to the Island, because we have heard discussions this morning and different interpretations from the Minister for Economic Development and the Minister for Treasury. Now, Jersey Post in 2005, myself and Deputy Southern were on the scrutiny panel and we had long discussions with the then J.C.R.A. and they said: “If there was any change there must be full consultation with the public”, anything that was likely to affect Jersey Post profitability and to carry out their universal service obligation. Well, we have discovered this morning that the Minister feels he does not have the power. This is all that the Deputy’s proposition requests, that the Minister requests the J.C.R.A. to extend this consultation period. It is for the Constables to let the people know what will happen to Jersey Post for the competition to let people know what they are prepared to take on. So, I really urge that it is urgent unless the Minister for Economic Development stands up and agrees to use some of his authority. It is social and it is economical. If he cannot do this we have a debate in the House. There are 10 days left to consultation. As the Deputy said, most of us have been away for Easter and we have not been able to ... I was not away, but the constituents I would like to let

know, even if it means myself and other Deputies going around. But St. Helier will not be affected as much this time as the country Parishes. I really do not think we have got out there. If the Constables went today and asked some of the very many elderly constituents in their Parishes if they have got any idea what this could mean to the future in Jersey of their postal deliveries and it might sound that it is not a lot, but some people only see the postman. They do not have milkmen any more; they do not have anything. I am sorry, it is something that really needs consideration. Unless the Minister for Economic Development can convince us today that he is prepared to use his full force and lean very heavily on the J.C.R.A., we have to request him to do it and that is all this proposition is asking and it is urgent. Thank you.

The Bailiff:

Minister, I think the Senator is hoping to hear from you.

11.1.2 Senator A.J.H. Maclean:

Yes, and indeed I am going to say a few words. I would like to urge the Assembly to oppose the Deputy's proposition on the grounds that there is a properly defined process underway that should not be interfered with. The J.C.R.A. have not made up these procedures; they are a legal requirement. While the Postal Law provides me as Minister for Economic Development with certain duties and powers of direction, these duties would support the provision of competition within the constraints of the universal service obligation. These are noted in the set process undertaken to date by the J.C.R.A. The powers to direct are limited and only cover certain services, mainly relating to social and environmental policies. While guidance could be issued I believe this would not be compatible with accepted practice or indeed with what I believe to be my duties under the Postal Services Law. Under Article 24 of the Postal Services (Jersey) Law 2004 the J.C.R.A. has issued 2 initial notices which propose to award postal operator licences to 2 companies which have already been mentioned. Under the law these initial notices are not final J.C.R.A. decisions but proposed courses of action. You will note that paragraph 6 of these initial notices sets out the J.C.R.A.'s reasons for its position that the grant of additional postal licences will not, in its opinion, threaten Jersey Post's ability to continue to provide the universal service obligation. The Postal Law requires a 28-day notice and consultation period with respect to the J.C.R.A.'s proposals set out in the initial notices. That period has commenced and is due to expire on 30th April 2010. If Jersey Post, the Communication Workers Union, or indeed any other person, including of course Members of this Assembly, disagree with the J.C.R.A.'s proposed course of action, including the effect of additional competition on Jersey Post, they should of course respond now to the J.C.R.A. during this particular consultation period. I have no doubt, having spoken to Jersey Post, that they will be responding strongly and directly to the J.C.R.A. It is also likely that others will do so as well, including the C.W.U. (Communication Workers Union). The Postal Law requires the Jersey Competition and Regulatory Authority to consider all comments received during the consultation period, and based on the J.C.R.A.'s prior experience this period of consideration takes at least a month. If the J.C.R.A. still intends to proceed with proposals in the initial notices the law requires the J.C.R.A. to issue a second document called a final notice. The final notice then requires a second 28-day waiting period before the proposed licences can take effect, during which time any person may appeal the J.C.R.A.'s decision to the Royal Court. As I have already stated, this proposition is, in my opinion, not necessary. By operation of the Postal Law any final J.C.R.A. decision in this matter is at best at least 2 months away. The Postal Law already provides for full rights to be heard by Jersey Post, the Communication Workers Union or any other interested party. Simply extending the consultation time will not affect this and the Assembly should not seek to interfere in a legally-binding statutory process. Considering this proposition before the standard 6-week lodging time will not affect that course of action. It would be wise for the Assembly to consider awaiting the outcome of the process, including the comments of Jersey Post and the J.C.R.A. I strongly believe that supporting this proposition is inappropriate as it would infer that legal processes can be undermined. If the Assembly, having seen the outcome of the process,

believes that the law needs to be amended then that is the time to act and that could be achieved, but the lawful process itself should not be interfered with. The Postal Services (Jersey) Law 2004 sets out a required legal process for companies wishing to provide postal services in Jersey and I believe that it is right and proper that it should follow that due process. I would also add that in questions earlier on today I mentioned that the efficiency review is also being undertaken. I did give an undertaking to Members that that efficiency review would be unlikely to be concluded before the summer and that that should be included as well as part of the consideration for the J.C.R.A. I do believe therefore that there is plenty of time between now and the consideration of the consultation period and the efficiency review for Members to be satisfied that there is time for full and proper consideration before the J.C.R.A. indeed make their final decision. I would, on that basis, urge Members to reject this particular reversal. Thank you.

11.1.3 Deputy J.A. Martin:

Could I just ask the Minister a point of clarification? He said that the J.C.R.A. have posted 2 notices; they are very small notices not telling them what the outcome means. In the first 18 days he said 28 days of consultation. Can he please inform the Assembly how many replies they have had? I am told that it is very few. If the public understood what was going on there would be a lot more. What happens is after the 30th none of the comments will be taken into consideration. This is the point the Minister is missing. Clarify how many are on the website, please.

11.1.4 Senator A.J.H. Maclean:

I do not know, is the short answer, the number of replies that have come to the consultation; it is not our consultation. It is the J.C.R.A.'s consultation, so I do not have to hand the number of responses that have been received at this particular point. I would add that this particular issue has been well flagged-up in the media and, indeed, the exchanges that have occurred today will continue to further bring to the public's attention this particular issue. There is still considerable time left in the consultation and anybody who wishes to respond, of course, has plenty of time to do so.

11.1.5 The Deputy of St. Mary:

Can I also ask a point of clarification on what the Minister has said. I understood but I was not sure I got it right that once the J.C.R.A. has considered the consultation, which closes on 30th April and that will take at least a month, they then may issue a final notice if the consultation leads them to do that, or they must issue a final notice with then another 28 days for people to appeal? I was not clear on whether that final notice is an obligation or whether it is an option.

11.1.6 Senator A.J.H. Maclean:

It can issue a further 28-day consultation period. Of course, there is an opportunity to appeal and that is the purpose. Indeed, should, for example, Jersey Post, the most likely party who would appeal against the decision, decide to do so then that would indeed extend the period. It would also give the right for appeal to the Royal Court as an ultimate fallback position.

The Deputy of St. Mary:

Am I right that that is an option and not an obligation? It is "can"?

11.1.7 Deputy G.P. Southern:

Could I ask a further point of clarification of the Minister. The question is it sometimes happens, does it not? [Laughter]

The Bailiff:

It will come to you again, Deputy. Deputy Tadier.

11.1.8 Deputy M. Tadier:

I think if we look at the actual proposition that Deputy Southern is lodging, I do not think it is asking for anything particularly radical; it is something that we probably would all like. It is just simply asking for the consultation period to be extended. It is asking for the Minister to approach the J.C.R.A. to extend that period because we, of course, know that is not the Minister's decision. It is simply asking the Minister to do that. That is something that the Minister could agree to now, but I do not think we are quite at that point yet. I think there are a couple of issues why this does need to be debated now, today. First of all, the consultation period started on 31st March, which is not that long ago at all. This is the only opportunity at which this can be debated in a meaningful way because it is the only sitting that we have had between 31st March and that we will have until 30th April. This is the only opportunity. I was certainly one of the politicians that found out, I think it was on 10th April, when I attended a meeting with I think 5 other colleagues with the Jersey Post. That was the first opportunity at which we found out about it, certainly that I found out about it. So even then there was not enough lodging time for a proposition to be put in. I think it is something that is prejudicial to Jersey. It certainly has the potential to be very prejudicial. Senator Ozouf is shaking his head, but simply if we are outsourcing or looking to outsource the most lucrative parts of Jersey Post and just be left with the dregs, the things that cost lots of money to run, then certainly that is something that will prejudice Jersey, ordinary Jersey people. The second point is - it is not the second point, sorry, it is a point - the Minister seems to be underplaying the seriousness and the worthwhile nature of a consultation period. A consultation period is either worth having or it is not. It is one thing to say that there is plenty of time after this consultation, but the point of any consultation is to take soundings from the stakeholders and I would say that there is nobody ... the major stakeholder when it comes to Jersey Post is ourselves, the States. We are the shareholder and by extension it is the Jersey public. I do not think Members of this House feel as if they have had enough information or enough time. We know that the Easter period is a very busy one. We have effectively been in recess and we are coming back now and more time is needed. I think this is not good government. We should accept this proposition for debate today and I think we should just go ahead.

Senator A.J.H. Maclean:

Could I just clarify a point? I think I was not entirely clear with the Deputy of St. Mary when he was asking about the second 28-day period. If I may, I would just like to clarify. What I was trying to explain was that we have a 28-day consultation period which is currently underway now. If at the end of that particular period the J.C.R.A. are of the opinion that they still want to proceed as they are proposing to do it is at that point that under law a 28-day period - a further 28-day period - of consultation then would commence if they decide they are going to proceed as they initially intend. So that is contained within the law and would have an affect.

11.1.9 Deputy G.P. Southern:

The point of clarification has come to me now. The 28-day period; is that a minimum consultation period and is the J.C.R.A. permitted to extend the length of that period if it so feels fit?

Senator A.J.H. Maclean:

As I have just said, yes, if they are proposing to proceed then, yes, there would be a 28-day extension period.

Deputy G.P. Southern:

No, the Minister is misunderstanding my question.

[15:15]

Without going through the second stage, we decided; so we need to consult again, so either this stage - 28 days - is that in the law, is that a minimum period and does J.C.R.A. have the flexibility to extend that period on request, following a request from anybody?

Senator A.J.H. Maclean:

No, I do not believe I have the powers other than to ask them to extend that period.

The Bailiff:

Minister, I think the question was if they are asked can they extend it?

Senator A.J.H. Maclean:

I cannot answer that question; I do not know.

The Bailiff:

Is the Solicitor General in a position to comment on that?

11.1.10 Mr. H. Sharp, Q.C., H.M. Solicitor General:

Yes, the answer is yes, it is a minimum period and, yes, they can extend it. [Approbation]

The Bailiff:

On behalf of Members, perhaps I can thank the Solicitor General for his first contribution. [Approbation] If I may say so, endorsing Deputy Southern, a model of brevity and clarity. [Laughter] Very well. Now, the Deputy of St. Mary, I had seen your light on; was that for clarification or did you want to speak on this? Very well. Deputy Green.

11.1.11 Deputy A.K.F. Green:

I would urge Members to allow this debate to take place because this is in the best interests of the postal service. I do not really want to stray into the debate that might come later, but you do have to touch on it. We are not talking here of true competition because true competition looks at all aspects of the business. What we are looking at here is cherry-picking the profitable bits and leaving the non-profitable bits, the social service bits, the bits that are required by the Island. This is about survival of our postal service and we are going to remove the very lifeblood of its income and Deputy Southern is not abusing the process. This is urgent. This is very important and I think we should debate it today. [Approbation]

11.1.12 The Deputy of St. John:

The proposition is quite simple: to request the Minister for Economic Development to request that Jersey Competition Regulatory Authority extends the period. We are only asking. That is all we are doing is to ask and I do not see why the Minister cannot accept this today and then we can all move on but, for some reason, he is not reading what it says. That is what it says. We are requesting him to do something. All he has got to do is say yes.

Senator P.F.C. Ozouf:

I discharge the functions of the shareholder for Jersey Post and, certainly, I regard the fact that I do have an interest in this matter, particularly as it relates to the universal service obligation and I may surprise some Members who have suggested that I have a particular view on this issue that are surprised of the fact that I regard the fact that I have got to ensure that Jersey Post can continue to fund the universal service obligation very seriously and that is something that I am engaging. I can tell Members that I have already engaged in discussions with Jersey Post and the Minister for Economic Development about this, so I can say that I understand very well the powers that the J.C.R.A. has and the Minister for Economic Development and this Assembly have in relation to the post. I have got all the powers here. As Deputy Martin thinks she knows, I know what the powers are. If I may say to Members, this is not really the issue about asking for an extension of a consultation. The issue is the issues that follow further as to if the J.C.R.A. make a decision. Then the States could make certain decisions in determination. The consultation is simply the consultation. This is not the debate. The debate really is about whether or not they are going to

make the decision and the debate about the universal service obligation and we do have to have a debate about this and I would welcome one.

11.1.13 Senator A. Breckon:

Just as a way of background, I think this should be given an airing today because, as someone else pointed out earlier, there will not be another opportunity for the House perhaps to express its opinion. I say that because my understanding is that the 2 operators have been seeking a licence for nearly 2 years and that is the approaches that were made to the J.C.R.A. and I say that because this window of 28 days, to me, seems unhealthy when somebody has been in discussion and negotiation for nearly 24 months. It is a fraction of that. Also, Deputy Martin mentioned a former Economic Development Scrutiny Sub-Panel looking at fulfilment and I was also a member of that panel and I can tell Members if the Post Office lose their fulfilment business, they are a basket case. That is the consequence of what we are talking about. Now, what we have not had from the Minister for Economic Development or the senior team at the Post Office is a quality paper that outlines the significance of what could happen were they to lose a part or all of this business. Competition is okay but this might go to somebody who is operating outside the Island who might employ some other people, give them less money and pay no tax in Jersey. Somebody should tell us exactly what this is all about and some of that, I will say to Members, will not be in the technicality of the J.C.R.A. consultation paper which, in the main, with respect to some present in the House, is sometimes a bit legalistic and can be complicated. I should say that but I have personally responded to many of these consultation exercises over the years but Members should know the significance of what this will be. Will it be deliveries every other day, twice a week, collections when and what will it do to the Post Office? It is okay being simplistic about competition but it is not about that and, as others have mentioned, people in the community have come to rely and indeed look to their posties for support and that is part of the social network especially in the country Parishes. I can tell Members now agencies creaming-off do not want the last mile. They do not want Daffodil Farm. They do not want it. It does not pay. What they want in cities is they want the nucleus of the population. It is easy and this is what this is. Somebody is having a look and I think that is why this should be debated today because it is of significance to a service to the community and I do not think Members are fully aware of it, which I think the Minister should ask for for the good of the government of this Island and for the people that we represent, and I think it is good that it will be debated today. An extension of this, I think, would be worthwhile and it is something the J.C.R.A. would be minded to take notice of if it was the wish of this House. Thank you.

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

I just wonder can we all just vote because I think we all feel very strongly about this and can we just get on with it and vote for it please?

11.1.15 Senator T.A. Le Sueur:

I am aware that we are debating a motion to consider Standing Order 26(7) about the matter of such urgency and I do think that we tinker with our Standing Orders at our peril. So the question is really is this a matter of such urgency that would be prejudicial to Jersey? Members will have different views on that one. Certainly, if this were the final step in the process, I would say it is quite right and it would be a matter of extreme urgency which could be prejudicial to the Island but what we have heard from the Minister is that this is not the final step in the process; this is one more step in a very long process. On that basis, I am not sure it does fall within the merits of being prejudicial to the Island of Jersey and I do urge Members, whatever their views may be about the position itself which is another matter, is this a matter which is currently prejudicial because it will result in something detrimental to the Island? Of itself, the proposition will not. It is the end result which is much further down the line which could have that situation and, on that basis, I do urge

Members to consider this in the light of Standing Orders rather than in the light of their own particular views on competition or otherwise.

11.1.16 Deputy J.A. Martin:

Just on a point of order from what the Chief Minister said, if I could count in the last year how many times Ministers have asked the House [**Approbation**] on even the very minor amendments to ignore Standing Orders. He set the precedent.

The Bailiff:

Deputy Martin, I think that is a second speech.

Deputy J.A. Martin:

Thank you. Well, it was my point of order. Thank you, Sir. [**Laughter**]

The Bailiff:

I would invite Members to consider whether everything that could be said about whether to debate this has been said. This is simply a question of whether to shorten the period. Now, does any other Member have something new to say?

11.1.17 Deputy M. Tadier:

Sir, I have got a point of order. Obviously, we do not have Hansard here but I think the Chief Minister talked about a matter of extreme urgency and it does not say that in Standing Order 26. It talks of a matter of such urgency and that is for us to decide whether it is of such urgency. It does not say “extreme” so I think that is what I heard.

The Bailiff:

Well, certainly, your quotation is correct, Deputy. The wording you have used is the correct wording. Very well.

Senator A.J.H. Maclean:

Sir, if I may, can I just add to the comments which I think might help the process?

The Bailiff:

I do not know if you are entitled to a second speech either.

Senator A.J.H. Maclean:

It is not a speech, Sir. I was simply going to make an offering to Members that might help to solve the problem.

The Bailiff:

I would be tempted by that then.

11.1.18 Senator A.J.H. Maclean:

Yes, I thought you might be. [**Laughter**] It is quite simply, Sir, that I have explained several times today that there is going to be this efficiency review and decisions will not be taken until that. That is going to take until the summer. I think to alleviate any further pain over the discussion of this particular proposition and whether to take it, I am more than happy to have a discussion with the J.C.R.A. about extending the consultation period, Sir. It is going to come to the same thing, quite frankly, but having listened to the comments of Members, I can see there is some element of concern. This is a long process, Sir, but if it would make Members feel more comfortable, I am more than happy to have the conversation with the J.C.R.A. to extend that period.

The Bailiff:

When you say “have a discussion”, does that mean “request”?

Senator A.J.H. Maclean:

Yes, Sir.

11.1.19 Deputy G.P. Southern:

Oh! [Laughter] When bringing this proposition, I really wanted people to reject it on exactly those grounds to get the words from the Minister for Economic Development that he would do what was requested. I thank the Minister for doing so. I just wish it did not take this sort of palaver to extract those teeth [Approbation] every time from every Minister.

Senator A.J.H. Maclean:

Could I ask Deputy Southern not to ...

Deputy G.P. Southern:

I will withdraw provided the request goes in.

The Bailiff:

My clear understanding is that you are withdrawing and the Minister has undertaken that he will request the J.C.R.A. support, he informs, with the terms of the proposition.

Deputy G.P. Southern:

I assume, Sir, that it will then revert to being on the Order Paper for 11th May and I expect any minute now to hear positive news between now and 11th May that the delay has been requested and granted.

The Bailiff:

So you are not withdrawing the proposition. You are withdrawing your request that it be taken today. Very well, so, technically, it having been started, do Members agree that it should be withdrawn for today? Very well, so then we revert to the Order Paper and to public business and the first item of public business is importation ... sorry, could we have silence please? Can we have silence please? Can I just say this from the chair, there is an increasing amount of background conversation going on in this Assembly all the time. It is courteous, surely, that Members who are now speaking, whoever they are, should be listed to. That is the whole purpose of this Assembly and I do ask Members to desist.

12. Importation of Waste: approval by the States Assembly (P.17/2010).

The Bailiff:

I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to agree to agree that the importation of waste into Jersey for treatment in the Island's Energy from Waste plant shall not proceed and that no discussions or negotiations on this matter shall take place until the principle of waste importation has been discussed and approved by the States Assembly.

The Deputy of St. John (Chairman of the Environment Scrutiny Panel):

The Connétable of St. Peter will be the rapporteur, Sir.

The Bailiff:

Very well.

12.1 Connétable J.M. Refault of St. Peter (member of the Environment Scrutiny Panel - rapporteur):

P.17/2010. This proposition is not about whether we agree to import solid waste from neighbouring Channel Islands or not. It is simply about ensuring that any arrangement for importing solid waste has been debated and approved by the States Assembly. At the time of preparing the proposition, Guernsey was still hotly debating the issue surrounding their proposed sewers energy from waste plant and it was felt that any tacit or direct implication of waste being accepted by Jersey would tilt the debate in the direction that it has now gone. Having read the Minister for Transport and Technical Services' amendment to this proposition, it is clear that formal discussions have taken place as a result of written requests from both Guernsey and Alderney States to our Chief Minister. However, time and decisions have moved forward. Guernsey States have cancelled their sewers contract and the need to step back while they were deliberating has fallen away. Therefore, the Environment Scrutiny Panel accepts the Minister for Transport and Technical Services' amendment. The Environment Scrutiny Panel recognises and applauds the principle of States departments looking at generating new income streams to mitigate the impending structural deficit and would welcome more initiatives of this type coming forward.

[15:30]

However, we remain deeply concerned on the issue of generating an income stream from technologies that cause current concerns, whether they be real or imaginary. Given that waste industry directives on emissions from E.f.W. (Energy from Waste) plants may become more stringent in the light of new experience, this could leave Jersey saddled with a contract with neighbouring islands that is difficult to break. After all, the Bellozanne incinerator was at the leading edge of its technology when it was first commissioned but I do not believe that we would be satisfied with its performance today. While not wishing to stimulate a debate on whether to import solid waste or not, it would be useful to explore the headlines of how we find ourselves in this position. Around 2004 to 2005, the then Minister for Transport and Technical Services engaged in significant dialogue with our neighbouring islands on co-funding and operating an Energy from Waste plant in Jersey to process all the islands' solid waste and, to achieve that a 140,000 ton incinerator was proposed. The deal was never struck. According to media reports from that time, the Guernsey States felt that the added cost of transportation would be too expensive and withdrew from this potential joint island venture and concentrated on planning their own E.f.W. As a result, the Jersey E.f.W. was downsized to 105,000 tonnes per annum capacity solely due to Guernsey withdrawing from a potential partnership agreement. Indeed, in more recent times, there has been much evidence of a cross-island partnership deal in taking Guernsey's solid waste. For example, a report in U.K.W.I.N. (United Kingdom Without Incineration Network) which had in its report regarding its support for Guernsey anti-Energy from Waste supporters and I quote from their report: "Senator Alan Maclean, the Minister for Economic Development, reiterated the public service in 2009 saying that Jersey could take 30,000 tonnes of Guernsey's waste for 10 years." More recently, we have seen the move in Guernsey to develop the Longue Hougue proposed incinerator site as a commercial site for light industry *et cetera* realising not only a reduction in Guernsey's carbon footprint but, at the same time, realising the significant land value that will be achieved by not building their £94 million Energy from Waste plant on that site. It may be useful for Members to know that the site's value without an Energy from Waste plant would be in the region, as a commercial site, of between £3 million and £4 million and up to 10 times that amount if a residential development could have been considered as we have done on the west of Albert reclamation site and that is not taking into account the bottom ash into the equation. I am going to stall slightly at this point and refer to the Minister for Transport and Technical Services because we have worked very closely on this and he has agreed to make an undertaking to the House. So if I can, Sir, I would like to make the proposition and refer now to the Minister for Transport and Technical Services.

The Bailiff:

Very well. Is the proposition seconded? **[Seconded]** Very well. There is an amendment lodged by the Minister for Transport and Technical Services and I will ask the Greffier to read that amendment.

The Deputy Greffier of the States:

Page 2 - after the words "shall not proceed", remove the words "and that no discussions or negotiations on this matter shall take place."

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

Thank you. Some of the report of P.17/2010 is based on media reports which were not strictly accurate and of course, as the Connétable of St. Peter has said, subsequent to the date of lodging, there have been changes in policy in Guernsey. The States of Guernsey and Alderney have expressed interest in utilising available spare capacity in the La Collette Energy from Waste facility and, to repeat what the Constable has just said, a practical solution for importing waste from Guernsey was previously considered. A joint feasibility study for a joint Channel Islands solution including a Waste Transfer Station in Guernsey was completed in January 2005. However, in February 2006, the States of Guernsey considered their Environment Department's report *Waste Disposal Joint Facility with Jersey* and resiled that the joint Channel Islands incineration facility did not present an acceptable long-term strategy for Guernsey. In the summer of 2009 in the run-up to the debate on the States of Guernsey's own waste facility, my department was approached by officers in Guernsey to confirm whether we have capacity within our plant and to provide an approximate cost for the receipt of Guernsey's waste for the available period. Members will be aware of a circular which was put about at that time from States Members in Guernsey. My then acting Chief Officer responded to this request in July 2009. However, the States of Guernsey determined to build their own plant and discussions relating to the importation of waste therefore stopped. In January 2010 a request was lodged in Guernsey States to defer the approved Guernsey facility and I understand that the States of Guernsey have now abandoned their own proposed waste facility and are developing a new waste management strategy and wish to discuss the opportunity for exporting waste to Jersey as well as France and the U.K. In the summer of 2009, the States of Alderney also expressed interest in disposing of their approximate 1,000 tonnes of waste within our facility. Members need to consider importation of solid, combustible waste from other Channel Islands for the following reasons. First of all, strategic. The States approved the Solid Waste Strategy P.95/2005 ...

The Bailiff:

Minister, I do not want to stop you unnecessarily but this obviously is not a debate on whether there should be importation of waste. It is a debate on whether it should not proceed until the States have decided, so I do not want this to be ...

The Connétable of St. Brelade:

I shall become succinct, Sir. The States approved the Solid Waste Strategy P.95/2005 that recommends that investigations continue with the States of Guernsey to identify the cost advantages of a joint facility for an E.F.W. We then proceed on to legal and operational matters and I think, in practice and of course the most important, the environmental issues. Most of this, Sir, is outlined in my comment of the report to my amendment, so I will leave Members to absorb that. I think, in summarising, I would suggest to Members that offering capacity to neighbouring Channel Islands has mutually beneficial advantages of supporting those islands in optimising their sustainable waste management arrangements and also would enable investment in Jersey's own recycling capacity without detriment to our own waste disposal service. The La Collette facility is sized for Jersey's future needs. There has always been a window of opportunity for other Channel

Islands to use the spare capacity in the early years of operation. I fully support that any agreement to import waste must be ratified by both Jersey and the exporting jurisdiction's decisions as well as the competent authorities who regulate such transfers and I would suggest that any proposed agreed financial position would come down to a politically-led negotiation between the islands. The final negotiated financial value, quantities, guarantees, timescales and engineering solutions would be brought back to the States of Jersey as a report and proposition to sanction the importation of waste from any other Channel Island. No waste will be accepted in Jersey until the importation of waste is approved by Members of the States of Jersey. I believe that the potential advantage of such an arrangement justifies further consideration of this and therefore I would ask Members to accept my amendment to P.17/2010 today. Thank you.

The Bailiff:

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

12.1.2 Deputy S. Pitman:

I would firstly like to say that I am rather surprised and very disappointed to hear that the scrutiny panel is supporting this amendment. The information that I have gathered for this speech has all come from the Council of Ministers' Strategic Plan and the Minister's proposition and I start with the Minister for Transport and Technical Services' statement which is on page 5 of his proposition. He says: "The acceptance of waste for treatment will generate vital income that would enable investment in Jersey's own recycling capacity, income for which there is currently no revenue source. By investing income in recycling, Jersey would benefit both environmentally and financially. Without this investment, alternative means of funding, any increase in current recycling levels would be necessary." The benefits of recycling have been covered 5 times in this report and of course we know that this will be true and is one positive thing from this proposal. Jersey will be able to recycle more because we will be bringing in more waste. The argument could not be more compelling but will anything bad happen if this proposition is successful today? I will explore. Firstly, I refer to the 2009 to 2014 Strategic Plan. In the section entitled "Protect and Enhance Our Natural Built Environment", it begins: "A growing population will increase the pressure on natural resources and make it necessary to find ways to maintain our quality of life while consuming less and creating less waste. Our climate will change and we will need to respond to this in many areas of life." Under the heading "Why We Must Do This", there are a couple of relevant points. Firstly, the provision of long term secure, affordable and sustainable energy supplies is critical and we must become more efficient in reducing current levels of energy consumption if we are to achieve this. The second point is Jersey has signed-up to a number of international agreements to demonstrate that it is a jurisdiction that takes its global environmental responsibility seriously. This means that the Island has pledged in the international arena that we will continue to reduce CO₂ omissions and other forms of pollution and to continue to protect those habitats and species which are important to the Island, and I will speak of international agreements later. Under the heading "What We Will Do", the first point is to implement a range of measures to reduce waste, energy use and pollution. So we will be bringing in more waste and more pollution and will be providing for more energy use in the Island. The second point is to persuade people out of cars by providing practical alternatives such as improved bus services, cycle tracks, *et cetera*. We will be saying to people: "Reduce your carbon emission but we, your politicians, will create more carbon and pollution by burning more rubbish." The third point is to introduce an integrated energy policy to secure an affordable and sustainable energy supply to meet the changing world's energy challenges. Since when was importing and incinerating another community's waste part of a credible, integrated energy policy? The fourth point is to ensure that environmental education is taught in schools so that pupils are aware of issues and are able to understand environmental choices based on balance and impact.

The Bailiff:

Deputy, sorry, can I just remind you what we are on? This is the amendment as to whether there should be any discussions or negotiations before a decision by the States.

Deputy S. Pitman:

Yes, I am aware of that, Sir, but what I will be explaining in my speech is how this decision potentially is already made up and how that will impact on this Island. This decision cannot, in my view, go ahead and I am trying to explain that.

The Bailiff:

The proposition will say that no decisions can be taken until the States approve them.

Deputy S. Pitman:

I will explain that in my speech if you give me the opportunity. The fourth point is - and, again, I go back to the teaching in schools - that we will be teaching this to our young people but we, as a government, will not be understanding environmental choices based on balance and impact if we import and burn waste from another jurisdiction for money. What kind of example are we setting to our young people if we teach one thing and practise something entirely contradictory to that and we will be teaching them that money is more important than your environment. On these pages, I see in big letters: "Protect our environment for future generations; reduce waste; save energy; cut pollution; plan for climate change."

[15:45]

I go on to some of the problems if we were to import. By incinerating other waste, there will be more emissions of carbon dioxide that will be attributable to Jersey's carbon inventory. This is reported annually to the U.K. Government as, through them, we are signatory to the Kyoto Protocol. This will impact on Jersey's environmental statistics and make it more difficult to achieve carbon reduction targets in line with our obligations under this protocol. Furthermore, the effect on Jersey's energy provision and forthcoming energy policy needs to be accounted for as we recently agreed to P.206/2009 Climate Change: Copenhagen Conference - Petition. The proximity principle in respect of the E.C. (European Commission) Waste Directive 2006/12/E.C. advocates disposing of waste as close to as possible its source. The potential effect on air quality of the combustion of additional waste - in particular assessed against the need and impact of the ability to achieve the E.C. Waste Incineration Directive 2000/76/E.C. - are all reasons why we should not accept the Minister's proposition and all set out in his proposition. I think we States Members have to ask why the Minister for Transport and Technical Services wants to delete in P.17 that no discussions or negotiations on this matter shall take place until the principle has been approved when we have so many international laws to abide by which I believe we could not possibly meet. We will not be meeting our own strategic aims, let alone any international agreement, and I will outline further why. The Minister, in his proposition, aims to enable discussions or negotiations on this matter with Guernsey before the principle of waste importation has been discussed and approved by the States Assembly and, as we know, that has already occurred while he admits later in the reports there is no established policy in Jersey against the importation of waste. So what does the Minister for Transport and Technical Services have in mind to deal with this? I quote from page 13 of the report: "Implement a mechanism for assisting in determining political and public acceptability." So how much Ministerial spin could persuade our Jersey public that this is to their benefit and the right thing to do? None. Are they really going to be persuaded that we should become Guernsey's litter bin for 10 years, as is alluded to in the report? I believe the Minister for Transport and Technical Services, and most probably the Council of Ministers, have already made up their minds on this. On page 8 of the report, the Minister says: "There is nothing within the approved Jersey Sustainable Solid Waste Strategy that would mitigate against the importation of waste for energy generation, nor would the import of appropriate amounts impact detrimentally on the delivery of the Solid Waste Strategy." So it would not affect our sustainable waste strategy and,

apparently, will not conflict with our strategic plans. I do not believe this for one minute. We do this while we are importing and burning Guernsey's waste and producing more carbon emissions and pollution into our air. While we are doing this, we agree to wait for Guernsey while they find a modern, sustainable waste strategy and, in addition, the Minister's report at page 10 describes how we could import and incinerate Guernsey's waste. I also think this is evidence that the Transport and Technical Services Minister and Council of Ministers have made up their minds about this. This could be found in the Minister's report at page 9 and it says: "There is projected to be sufficient capacity in La Collette's Energy from Waste facility to permit at least 30,000 tonnes of waste to be received for at least a 10-year period. This is because the La Collette facility has been sized to allow for the growth in solid waste projected as a result of anticipated economic growth."

The Bailiff:

Deputy, I am sorry. I have given you considerable leeway but this is a debate about whether to in fact allow discussions to take place pending a decision. If everyone speaks as you are, we will have a debate about whether there should be incineration and that is not the debate.

Deputy S. Pitman:

I think it is highly relevant. This is a very serious matter and has serious implications for us locally and globally and we just cannot afford to go there. This is what I am explaining. This decision has already been made. It is very clear that it has.

The Bailiff:

The proposition is not to in fact do it. The proposition is that it could not be done until there is a decision of the States but, in the meantime, negotiation can take place. Now, if you want to argue negotiations should not take place, that of course is what this amendment is about.

Deputy S. Pitman:

I am nearly finished. I hope that you could bear with me just for a few lines. Sorry, and I go back to: "This is because the La Collette facility has been sized to allow for growth." If this proposition is successful, it will have profound implications on our international obligations, not to mention our reputation, public opinion, the example we will show to our young people, the effects of more pollution, the provision and consumption and expectation of consumption of energy will rise and, finally, the cost of changing laws so that we will meet them, the independent and in-house studies into our obligations to international agreements, environmental impact assessments consultation. All this, of course, because we have agreed in principle and then we will find out we should not be doing this. Lastly, if this amendment is successful, I have no doubt that, within a few years, Jersey will be importing the extra waste of 60,000 people with the consequential increase in carbon emissions and pollutants. How can this be a step forward in tackling our environmental problems? Thank you.

12.1.3 The Connétable of St. Helier:

I am going to stick strictly to the amendment. Ordinarily, I would not argue against having discussions. It seems almost irrational to say that no discussions shall take place in any kind of proposition and, therefore, when I got the scrutiny proposal, I was quite interested to read their arguments for that point of view. They say in their report at page 3: "The panel believes that to embark on discussions that might put pressure on the States to accept a future agreement to import quantities of waste for Guernsey for incineration, even before our plant has been completed, let alone commissioned and tested, to ensure that its performance meets design criteria, including required environmental standards, would be irresponsible." I read that I thought: "Well, they have got a point. Well done, Scrutiny." So, therefore, I was quite surprised to hear that they had changed their minds and they think now there is no harm in having those discussions which formally they thought could be harmful. I thought of amending the proposition myself because it is a bit inaccurate. It says that no discussions or negotiations on this matter shall take place and what

they should have said is of course no further discussions or negotiations should take place. But I thought that is a point I would make in the debate that it did not really need an amendment and the point I want to make to Members is that, clearly, we have heard that discussions have taken place and negotiations have been ongoing for some years and now it is time to make an in-principle decision about whether we want to import waste from other jurisdictions. Why spend more money, more officer time and more travel time on having these discussions with possibly leading Guernsey up the path here? Why spend that time and that money without taking the in-principle agreement? Let us have that debate, let us have the agreement and let us call a stop to these negotiations and discussions that of course, to begin with, we were not sure if they were happening or not because some people were trying to say they had not spoken to Guernsey and so on. Let us face it, we know they have been going on. Let us call a halt to discussions about this very important matter to Islanders and let us give Jersey people the respect of hearing their Parliament debate whether we are going to import waste from Guernsey. I have to remind Members I was in a house in St. Brelade recently for dinner, a fabulous house above the harbour, and the first thing the host said to me was: "Well, of course the view is rather spoilt now by the incinerator." Islanders as far away as St. Clement and St. Brelade are waking up to the enormity of the decision that this House made last year and I think it will be thoroughly disrespectful to say to Islanders: "Well, we have not even built it yet or tested it yet but we are already talking to Guernsey about shipping in lots more waste for our incinerator." Let us not go there. Let us reject the amendment and let us have an in-principle debate about whether we should import waste or not before we lead anybody else up the garden path in terms of importing their waste.

12.1.4 The Connétable of Grouville:

If I may take a slightly opposite view to the Constable of St. Helier, I do not see how we can possibly have a debate about whether we should or should not import waste without having the discussion first to discuss the upsides and the downsides of the proposition. We know that we would be paid for it. How much are we going to be paid? £4 million has been trotted out. We do not know what the downside is. We do not know the environmental problems attached to it. There are a load of things we want to know and we will only get to know these by having these discussions and then coming to the States with the results that we have. We must discuss and discuss and discuss and then come to a conclusion so that we can all make our minds up having been educated. Thank you.

12.1.5 Deputy J.A. Martin:

I can see where you are coming from. There is a bit of a difficulty in debate and I think I have been in the House long enough to see where this amendment is coming from. Now is today an in-principle debate? Everyone is saying no. We have not had, as the Constable of St. Helier said, an in-principle debate as to whether we want investigation. Do we want to take Guernsey's waste? We heard from the Constable of St. John that we were in discussions with Guernsey. They had every opportunity to join us but who is mug enough to build the £100 million plant? Jersey. They have rescinded on it then and of course they want to jump on our band wagon. The words in this amendment might seem ... and I would just say I have had a talk to, I would say, a naive Deputy of St. Mary because he is on the panel and he is accepting this amendment and he thinks it will all come back. I said: "Read the amendment. Read the information already in the amendment. If you believe that this is not in principle, if this amendment goes through, there will be discussions." The Constable has just said it. When it gets back here, it will be so far down the line. Guernsey have been stockpiling their waste. They have got nowhere to put it. Who is going to help them out? Good old Jersey and we are going to get £4 million. You want to start being heavy with them. If you are going to go into any discussions after the in-principle debate and they want to buy half of our incinerator, £50 million upfront please. No, I am very sorry. They were prepared to spend their own. This is ridiculous. £4 million a year with the extra revenue and the extra workers all on Jersey's side. Now, as I said, I cannot possibly because of the way it has been done as well ... there

are more experienced Members in the House than me saying: “But this is not the in-principle debate.” It is about stopping it now and having the in-principle debate. We have got the information in the amendment. T.T.S. (Transport and Technical Services) have told us everything we need to know; what it is worth and a transitional period of 10 years. Transitional. Well, sorry, no, and in that time, we are going to grow our own population and our own waste. We are being led up the garden path over this amendment. If T.T.S. wanted to be honest, they should have brought their own amendment for an in-principle debate on does Jersey want to take Guernsey and the other Channel Islands’ waste? Upfront and honest. This is not what we have got. We have got to stop and this is it.

[16:00]

I am not accepting this amendment and please believe me, the next you will hear will be: “We are desperate. We must do it. We are obligated to help Guernsey out” and it will take months and it will be when our incinerator is working. I am nobody’s idiot and I am certainly not going to be fooled by this amendment and I really hope people read between the lines. I know that you were strong on Deputy Pitman but she had hit the nail right on the head. I cannot believe that the people who want to stop this have accepted this amendment. Be honest and bring that in-principle debate to this House. You have got the information. You have been speaking to Guernsey and you have been speaking to them for many, many months.

The Bailiff:

Through the Chair please, Deputy.

Deputy J.A. Martin:

Sorry, Sir. I did not mean anyone personally. **[Laughter]** I meant they had been talking. Treasury knows how much they are going to get. They know the capacity and how much it can take. They know what Guernsey wants to ship out. They know which sort of waste we are going to take. It has been done. The only decision this House has got to take is, in principle, do we want to do it? This is not the debate we are having. I am not accepting this amendment and I will not be fobbed-off. Thank you.

12.1.6 Deputy M. Tadier:

I think it is important that we do not criticise Guernsey unnecessarily for what they are trying to do. First of all, I believe and it is my opinion that Guernsey have made the right decision for their island. They are trying to do what is right for their island and I think it is also quite sensible, if you are a Guernseyman without an incinerator, to try and put your rubbish and dispose of it in a way which does not pollute the island and which is acceptable to your islanders and I think it is dangerous if we start going down almost nationalistic speeches saying that Guernsey are trying to take liberties. I think each island tries to do what is best for each other’s population. Guernsey seems to do it more successfully sometimes. The second point is, in my view, the wording of the proposition is wrong and the amendment does not do much to solve that and I think I agree with a lot of what the Constable of St. Helier said. But I also think that the intervention from the Constable of Grouville was also relevant in the sense that of course discussions can be useful in making up one’s mind but, on a practical point of view, do we really think that if we say in a proposition that no discussions can take place that no discussion will take place? This is something which you cannot legislate for. Politicians on both sides will talk to each other anyway. We have got no way of enforcing it and I think that is only healthy that we do communicate. So what the actual wording should be, I would venture to say, is that the negotiations part be taken out - and of course it is too late to do that now - but it should read that no negotiations on this matter shall take place until the principle of waste on the very reason that the Constable of St. Helier said: on a pragmatic viewpoint, what is the point in negotiating over something if you do not know if you want to do it? What is the point in wasting all that time and energy on something which we, as a

States, may well be rejecting anyway? So, on that basis, I cannot accept the amendment because it is not the correct amendment. It removes the option for discussion but it also removes the part of negotiations which I think needs to be there. I would say, just in a more general sense, we need to be making sure that we do not put the cart before the horse. Members will be aware that I have recently resigned from P.P.C. and I will be making the exact reasons known - there is perhaps more than one - but if I can comment on the Freedom of Information law, much as I am a supporter of that particular law and much as I will give it my full support when it comes to the States, I know just as much as any other Member in here or on P.P.C. that the F.O.I. (Freedom of Information) law will not be going through. I know that the amount of time that we have been spending over the last weeks and months will be completely in vain because I know that, ultimately, the States will not accept the law and it will not accept it on the cost grounds. So I would say why do we not simply have a debate initially and then agree things in principle and then go on to make the laws up, and I think the exact same principle applies here. I do not like to partake in futile work and I also think that it is not necessary. Well, it should be avoided at all costs. We should make sure what we want to do first and then we should put the ball in motion afterwards. That seems the logical thing to do. So I will be rejecting the amendment and I reserve the right to speak again, if necessary, on the actual proposition.

12.1.7 The Connétable of St. Peter:

I just felt it necessary to explain a little bit more why we accepted the amendment and, basically, we have recognised that talks have already been opened with Guernsey. They have been ongoing since 2004 and are continuing and it seems to stop it now would be much like closing the stable door after the horse has bolted. I am afraid it is already there. It is out in the public domain but, furthermore, I would like to add, just as a sort of blue sky thinking idea for Members to consider, I would like to say to stall any negotiations and debate with Guernsey would deny opportunities that have not already surfaced. For example, would we look eagerly at a deal with Guernsey to take all - and I mean all - our toxic bottom ash from east of Albert to be disposed of in their Mont Cuet landfill site and reach potentially valuable reclaimed land to the east of Albert which will be sterile for many years after many of us have long left the Chamber, overall contributing to the environmental betterment of our community? If that was on the table today, would we have a slightly different argument of shipping out our bottom ash in compensation for taking some waste? I am not saying that that is what we would want to be doing and I am not saying the Environment Scrutiny Panel is making that proposition. What I am saying is I think there is benefit in allowing the Minister for Transport and Technical Services to explore other opportunities, not just a financial opportunity but opportunities which will have, at the end of the day, an absolute environmental benefit to Jersey. That is why we have accepted that amendment. Thank you.

12.1.8 The Connétable of St. Ouen:

I think the thing that came to mind when the Connétable of St. Helier was speaking is that a week is a long time in politics because it seems to me in the 16 years I have been here that I have heard the Connétable of St. Helier on many, many, many occasions propound that we should be talking more with Guernsey and, yet today, he sees it fit not to talk with Guernsey. The danger here is that we try an in-principle debate on the importation of waste and that is not what is before us and we cannot change what is before us. What is before us is a simple question of whether or not we discuss with Guernsey any future scheme. Whatever happens, this House will ultimately make the decision of whether we import or not and I think that we should be mindful of that and vote accordingly.

12.1.9 Deputy S. Power of St. Brelade:

I have do not have an awful lot to say. I think, picking up on where Deputy Tadier left off, we almost got to the farcical situation in the Channel Islands some months ago where 2 islands with a combined population of 160,000 people were going to spend over £200 million on 2 E.f.W. plants

and I think that was a place that none of us wanted to go. I believe that the Guernsey public have said no to incineration in Guernsey and thank god for that. There is one large incinerator being built here at the moment and whether they are for the rights or the wrongs of the thing we are where we are and we have to move forward. But I get the impression in the Chamber that some Members seem to think that Guernsey does not have choices. Guernsey does have choices. They are talking to Jersey about their waste option but I can also assure Members that they are also talking to the French and I will remind Members that there is a very large fairly new incinerator in Le Havre called Saint Jean de Folleville. Now that is within trucking distance and rail distance of the port of Cherbourg and I am sure - I do not know exactly what Guernsey are doing as it is not within my remit and I am sure T.T.S. know - that Guernsey are exploring all options at the moment. So these negotiations that our Minister has been undertaking and his predecessor, I am sure that is part of the overall picture that Guernsey is exploring, so I would say to Members - and I pick up on the words of the Constable of St. Ouen - we need to work more with our neighbours, there needs to be more co-operation between the islands and let us not tie the hands of the Transport and Technical Services Minister I will be supporting.

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

Deputy Power has said quite a bit of what I was going to say. This is absolutely crystal clear. The Minister for Transport and Technical Services has always made it known that nothing would be done until it had the full approval of this House. It has been brought forward by the Environment Scrutiny Panel which is fine and I congratulate them for that. If the amendment is accepted, the main proposition will read that the States will have to decide whether they are of the opinion to agree that the importation of waste into Jersey for treatment in the Island's Energy from Waste plant shall not proceed until the principle of waste importation has been discussed and approved by the States Assembly. That is absolutely crystal clear and I advise Members to vote for the amendment so that we can proceed. Thank you.

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

I would like to give some assurance to Deputy Martin and Deputy Shona Pitman that I will need some convincing - real convincing - that Jersey should become the dumping ground of the Channel Islands. In other words, I will need some convincing and Members will know that I fired-off an email recently when I heard there were all sorts of rumours going around and, as I say, I think I am as passionate as those 2 Members in the view that Jersey should not become the dumping ground of the Channel Islands but I have to say in the spirit of co-operation, I have been convinced and I think that the argument is right that the Minister be allowed to talk to our neighbours but the final decision will be this Assembly. But I forewarn the Minister and others and the Minister for Treasury and Resources it might sound a huge sum - £4 million in income - but, at the end of the day, the environment and our quality of life must be the number one consideration and the financial aspects. I will be supporting the Minister in allowing him to speak and to discuss various issues with our neighbours.

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

I think it is time that Members in Jersey got realistic and look at moving forward with discussions with our sister island, not only on this issue but on many other issues. I am sure that we could benefit by working together on many things and I will be supporting this amendment.

12.1.13 The Deputy of St. Mary:

I will be brief. There is a problem here, is there not? The problem is we are doing it back to front and here we are talking about effectively allowing T.T.S. to enter into discussions which have already been taking place with Guernsey and then we are going to decide the principle of whether we accept Guernsey's waste. It is absolute nonsense. We should have had the principle debate first, we should have tied T.T.S. down during that debate and then they would have gone off and

negotiated with certain guidelines from us. I had to smile when I heard, I think it was Deputy Power, say: "We must not tie the hands of T.T.S." That is exactly what we must do. We have to tie the hands of T.T.S. We have to make absolutely sure - and I will be addressing this in the speech on the main proposition - that if they are going to go ahead with this and if we are going to have an in-principle debate later, that it is all dotted and crossed and absolutely safe and I have not much confidence but that is the way this has to go. But I am just pointing out that this is all back to front. It is most unfortunate and that is why we are all sort of twitchy and not quite sure which way to vote. People are saying we should throw this out even though, on the face of it, it is sensible to talk with Guernsey about dealing with our waste in the most environmentally friendly manner that we can, given where we are, which was a mistake in the first place. So it is a mess, here we are and we are trying to find the best tunnel out of the mess. I would just add one thing which was that the Solid Waste Strategy in 2005 had this paragraph in and I remember it quite clearly saying that Jersey could not export its non-hazardous waste to anywhere, to France for instance. We had to deal with it ourselves and the reason we had to deal with it ourselves is we basically were not allowed to send it anywhere else under the Basel Convention and now suddenly it is okay to take shiploads of Guernsey's waste.

[16:15]

I just wish we were being honest. I wish we had started this in 2004 or even in 2000 or 1999 when this whole matter of waste and replacing Bellozanne was being talked about. We should have had those strategic discussions then and this is basically a mess. I shall probably vote for the amendment and try to tie T.T.S. down in the main debate but this is not the way to do government.

12.1.14 Deputy A.K.F. Green:

Much of what I want to say has been said by the Constable of St. Helier but you could read this a different way, could you not, this amendment: "No discussions or negotiations on this matter shall take place." You could read that as saying: "Discussions and negotiations will take place" if we accept this amendment and yet this House will not have set the principle and the principle we are talking about is - and there is no nice way of putting it - we should be working with Guernsey on lots of matters but the principle we are talking here is nothing short of the prostitution of our environment for £4 million [**Approbation**] and I urge Members to reject this amendment and get an in-principle debate so that the civil servants and the Minister for Transport and Technical Services know what this House wants to do.

The Bailiff:

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

12.1.15 The Connétable of St. Brelade:

I thank those Members who have contributed to this debate so far. I would emphasise once again that this is not an in-principle debate. It needs more information and it will come back to the States for this opportunity. I think, to pick up on some Members' points, we have had so many debates in this House about the devil being in the detail and debates being thrown back because the detail was not there. Does it go perhaps the other way round and perhaps put this first and come back with the detail later? I am probably in a no win situation, if we do it one way or the other but perhaps we have elected to do it this way on this occasion. I think the Members must appreciate that in this debate, which will follow there are principally 4 main elements. There is the technical, there is the environmental, there is the commercial and then there is of course the tribal aspect of the debate, and I think I would urge Members to consider those in their own little pockets because it is quite important. I think when it comes to the in-principle debate, look at the detail and make their minds up from that. So, I would urge Members to support the amendment so that I can proceed in the way, which I have shown on my paper.

The Bailiff:

The appel is called for then in relation to the amendment lodged by the Minister for Transport and Technical Services to remove certain wording from the proposition. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 34		CONTRE: 15		ABSTAIN: 0
Senator T.A. Le Sueur		Connétable of St. Helier		
Senator P.F. Routier		Connétable of St. John		
Senator P.F.C. Ozouf		Deputy R.C. Duhamel (S)		
Senator T.J. Le Main		Deputy J.B. Fox (H)		
Senator B.E. Shenton		Deputy J.A. Martin (H)		
Senator F.E. Cohen		Deputy J.A. Hilton (H)		
Senator J.L. Perchard		Deputy S. Pitman (H)		
Senator A. Breckon		Deputy M. Tadier (B)		
Senator S.C. Ferguson		Deputy of St. Mary		
Senator A.J.D. Maclean		Deputy T.M. Pitman (H)		
Senator B.I. Le Marquand		Deputy T.A. Vallois (S)		
Connétable of St. Ouen		Deputy M.R. Higgins (H)		
Connétable of Trinity		Deputy A.K.F. Green (H)		
Connétable of Grouville		Deputy D.J. De Sousa (H)		
Connétable of St. Brelade		Deputy J.M. Maçon (S)		
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				

Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				

The Bailiff:

Very well, so then we return to the debate on the proposition as amended. Does any Member wish to speak on that? The Constable of St. Helier.

12.1.16 The Connétable of St. Helier:

It is going to be possibly a short debate because a lot of people have given their speeches on the principle, inadvertently perhaps, during the first debate on the amendment but I think, given that the proposition has been amended successfully by the Minister for Transport and Technical Services, I want to highlight again the folly of being seduced by his arguments that the money, the revenue being talked about here, could pay for recycling. I would remind Members that the 2009 Business Plan debated in 2008, which was a spending spree by the then Council of Ministers, found £11 million to distribute among the Ministers and the then Minister, Deputy De Faye, stood up and advanced wonderful recycling plans which would use his share of the lolly, and I am very interested to know what happened to that. Equally, what happened to the money that was obtained we were told as part of the incinerator spend and which of course was used up on other things? The recycling facilities that were going to be part of that edifice - that carbuncle - that money was spent in other ways and so those recycling facilities so much wanted by the public and used as part of the argument for the incinerator were simply struck out of the plans. So, I think to say that now we need to look at this matter to pay for recycling, it really adds insult to injury. While we do not want to appear anti-intellectual, or anti-Guernsey for that matter, and okay discussions will continue but I think the Minister needs to bring this matter to an early resolution. He needs to conclude his discussions and come back to the Assembly with an in-principle debate so that we can have that debate, and in particular so that we can find out what additional environmental damage will be done to our Island if we accept waste from somewhere else, mindful of the fact that we have recently seen copies of a letter from the Ramsar organisation, a shot across our bows perhaps, as an Island that wants to be so up there with the front-runners in terms of environmental credentials. I know that lots of members of the public are concerned, as I said in my earlier speech, about the visual impact of the edifice, though obviously the visual impact will not be affected whether we have Guernsey's waste or not but clearly the emissions will be greater and there is of course the issue over what to do with the ash. The idea advanced by the Constable of St. Peter that we can send the ash back perhaps to Guernsey, I will be very surprised if the regulatory authorities allowed us to do that although I suppose they allow people to export spent fuel rods from Kojima so perhaps they would allow bottom ash and fly ash to be sent back to Guernsey. I would urge the Minister

working with the scrutiny panel, with whom he is now in cahoots, to bring this matter back to the House so that we can put this matter to rest as soon as possible.

12.1.17 Deputy J.A. Martin:

Yes, it is really along those lines, I would be very brief. When the Chairman of the Scrutiny Panel, the Deputy of St. John, is summing up I would ask him to inform the House if he has had this discussion in accepting this amendment. How long will this take? When will we expect this debate? I hope he can give us some assurance that is not too long because we need this in-principle debate. If he has not had these discussions I am very surprised because he has now given *carte blanche* to T.T.S. to talk to Guernsey about what will happen. So I ask him if he has had these discussions if not and also will he be scrutinising the findings?

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

A number of Members had highlighted the fact that this debate was back to front and that in essence really logically what we should have had is the debate in-principle first, and to be told or to decide whether or not in fact it was, or anything that was being proposed, was in line with our own waste strategy debate but that is not the case. We have taken a decision and discussions in whatever shape and form will take place with T.T.S. and the Guernsey relevant bodies. So I rise to make a plea that in those discussions that the environmental political dimension is represented. I think we would be doing ourselves in this House and the Island a disservice if in fact negotiations or discussions were to take place with T.T.S. and the relevant bodies in exclusion of the politicians who do represent the environment. If indeed that decision is not taken and an invitation is not forthcoming to sit on the discussion groups or panels or whatever to thrash whatever the issue is going to be, then I foresee a messier debate if indeed the Minister for Transport and Technical Services does pick up the cudgels and come back to this House for the in-principle waste importation decision to be taken. If we are going to work together with Guernsey, can we work together with our own politicians as well? That is all I would like to say.

12.1.19 Deputy S. Pitman:

I do not feel that I made my point clear in my speech and certainly not to you, Sir. Because of our strategic aims on environmental issues that we are obliged to adhere to because of the E.E.C. (European Economic Community) directives, *et cetera*, that we have signed up to, and because of our international obligations and standards that we have agreed to meet, we should not be discussing and negotiating with Guernsey on this particular waste issue and we certainly should not be doing this before an in-principle debate.

12.1.20 Senator P.F.C. Ozouf:

While there are clearly challenges on public finances and all departments are to find a 2 per cent efficiency saving, or have been asked to find a 2 per cent efficiency saving, I do not believe that there should be any reinvention of history regarding the undertakings of recycling. The Constable of St. Helier said that the argument was that this is about whether or not we do recycling. I do not think it is a debate about that. If there is a possibility of getting a revenue stream that we otherwise would not have then I think really this is a debate about not whether or not we do recycling but how we can do even better recycling.

12.1.21 The Deputy of St. Mary:

If I can refer Members to T.T.S.'s document on page 6, they say there: "There has always been a window of opportunity for other Channel Islands to use the spare capacity in the early years of operation." They have a chart, which shows that the present window under their current predictions is around 10 years but in fact if the recession continues, and if other lifestyle changes do happen in the sense that people (a) consume less and (b) throw away less, then in fact that window will be longer and we are looking therefore at importing waste from Guernsey. We will be looking at in the in-principle debate for 15-20 years. So, this is a very important issue. It is a long-term

arrangement. I just want to remind Members that when Guernsey's waste or indeed Jersey's waste goes into the incinerator it does not disappear. It becomes pollution of one kind or another and it either gets filtered out totally or it does not and there is the problem. How good is the pollution control going to be? Is it going to be 100 per cent? Because if it is 100 per cent then it makes sense to take £4 million and burn Guernsey's waste and thereby give them the option of arriving at a better solution than burning their waste but there is there the rider is there not? Is the pollution control going to be 100 per cent? We are looking at what comes out the chimney, we are looking at what goes into the sea through the discharge and we are looking now, I have just learned from the debate, about this issue of transporting the fly ash back to Guernsey possibly. If we do that then we are indeed in a very high risk situation, which will have to be, not managed, it will have to be done absolutely right every time because there cannot be any failures. Now, if you compare the need to be 100 per cent on pollution control with even what we are being told is going to be the sort of standards, then you have alarm bells ringing and if you compare it to past performance then you have even bigger alarm bells ringing. So if I can just share with Members, I think it is right to say that we were told in scrutiny that the current plans for measuring the dioxins are once a quarter. So, the dioxin level will be measured and the dioxins are long-term contaminants, they never go out of the ecosystem once they are there, and we are told that the monitoring was going to be once a quarter.

[16:30]

That is of course completely unacceptable. I was talking with the 2 people who came over from the Bretagne Environmental Group and they are worried of course because air pollution knows no boundaries. They were saying that that arrangement is completely inadequate and we should be pressing for far higher levels, far higher rates of monitoring on dioxins and other serious pollutants. Just to show Members that they are thinking of once a quarter, I think hopefully they are not thinking of once a quarter now but the point is that is the mind set and it is not good enough. So, I am really worried about the arrangements for pollution control, both in the chimney and the water and the fly ash. I do have a problem obviously with the way this proposition is couched, but if we do come to a principle debate and the Minister for Transport and Technical Services brings a proposition saying we want to do this and we want to do that, it will be unacceptable to this House I hope, unless it is absolutely watertight, how air pollution, water pollution and the fly ash are going to be dealt with. Not 99 per cent, not 95 per cent: 100 per cent. If we go back to T.T.S.'s response to the scrutiny panel's report on Ramsar, it does not give confidence that here we have a listening department that takes on board criticism. I am sorry to have to say that but the fact is that the reaction of T.T.S. to our report, their corrections to the original stakeholder when we sent out our report for stakeholder comments, it was quite extraordinary the sort of bristle factor in their reaction and then they tried to attack the credibility of our adviser whose qualifications were outstanding and so too was his work. So, there is a problem here that we are being asked to say: "Okay off you go and negotiate and then come back with a proposition." I am just saying that we as an Assembly, when they do come back, if they do come back, have to be really, really tough on them because if it is anything less than 100 per cent then we have to say: "Well thanks very much but the additional pollution is unacceptable." As Senator Le Main said, it is bad enough burning our own; if we are going to burn somebody else's as well then that makes it worse. The only way it is acceptable is if the controls are 100 per cent. The other factor that T.T.S. are going to have to come back fully dotted and crossed is the aspect of openness and taking people with them. The public must be able to know at all times. There must be a complete resumption of openness. The public, stakeholders, politicians, Members, all have access to the data that is coming out of the incinerator as the burning takes place and no holds barred. No: "Oh well, you cannot see that today." We have to have a complete sea change in the attitude of T.T.S. I think that it is on the way but I am just saying that if that again is not evidenced when they come back to us then we should show them the door. Just to show how worried we should be, if you look at page 14 of T.T.S.'s amendment, which is an

appendix provided by Planning and Environment, and if you look at the fourth paragraph on page 14, I am absolutely stunned to read this sentence, I cannot believe it. I thought this Assembly had voted that this was not negotiable: “Jersey is currently undertaking an exercise to look at the environmental and economic benefits of removing certain more polluting materials e.g. batteries, tyres, various waste electronic and electrical equipment categories, from the waste stream that enters the incinerator.” Jersey is currently undertaking an exercise to look at the benefits? My understanding was that we had voted in the Business Plan that those items are removed from the waste stream full stop, non negotiable, and now we read in a report 4 months later that it has not been done.

The Connétable of St. Brelade:

Would the Deputy give way?

The Deputy of St. Mary:

Quite happy.

The Connétable of St. Brelade:

I have confirmed that waste electricals are not put in the incinerator but tyres are.

The Deputy of St. Mary:

Well, I must say that was my understanding but I read this paragraph written by P. and E. (Planning and Environment) saying that they are currently looking at doing what the States instructed T.T.S. to do 5 months ago. But that is the point, is it not? There is no leeway in this, there is no leeway in taking 30,000 tonnes of rubbish from Guernsey and there are issues too of course of what is in the black bin bags and whether Guernsey people are less careful with what they put in their bin bags; bad Jersey people. But the fact is that we need quality control, what goes in comes out in the form of pollution and if there are toxic things like P.V.C. (polyvinyl chloride) and so on in the bags then that will end up as pollution. So there is an issue even of how we assure the waste that comes in. It is bad enough assuring your own waste let alone the waste from another jurisdiction. So, I am just pointing out that if this does come back and we have an in-principle debate on waste importation I am just making quite clear to T.T.S. that if it is not 100 per cent then I hope this House kicks it out where it belongs. So that is like, if you like, a declaration of intent and I hope that T.T.S. take that on board and realise that these negotiations and discussions will have to be watertight.

12.1.22 Deputy K.C. Lewis:

Talking of which, the Deputy of St. John and his panel as Members can hear, are meticulous in their scrutiny and I have to say are nobody's fool and really do hold us to account. Regarding the last comments regarding electrical items, I have on several occasions taken States Members on tours of the Bellozanne facility to show them the recycling units complete with a warehouse full of pallets and shrink-wrapped televisions and electrical goods to be shipped to the United Kingdom to be recycled. So, that is definitely there and I am not even sure why it is in the paper off to my right. Next Thursday and Friday we have the double-decker bus trials, which I hope Members will attend, but Friday week onwards I would be more than happy to take any States Member interested on a complete tour of the new Energy from Waste plant so they can see in detail if they approve. I was just saying we have double-deckers trials this Thursday and Friday but the following Friday onwards, if any Member would like to see...

12.1.23 The Deputy of St. John:

I took note of Deputy Martin's comments. Those will be swept up by the rapporteur from the proposition. Could I mention at this point now that we accepted the proposition about talking to Guernsey? Will the Minister and all those who do business with Guernsey take notes? I was some years ago on the Transport Authority between Jersey and Guernsey where we had joint meetings on the sea routes from the U.K. to Jersey in which we gave a contract to P&O Shipping

Company only to have it rescinded because Guernsey muddied the waters after an agreement between both Islands had taken place. They changed their committee overnight and all of a sudden everything went out the window. So, when doing business with Guernsey please take notes, make sure that you dot the i's and cross the t's and do not leave the room without the money in your pockets because at the end of the day history has shown that our cousins from over the water do things in a slightly different way to us. That is a warning. Secondly and the Vice-Chair is absolutely right, anything that is agreed between the 2 Islands we would like to make sure is 100 per cent. We do not want only like; it must be 100 per cent secure when we are supporting this material from Guernsey to Jersey and they must take back their bottom ash. There are no in between; it is a must. Likewise, when we see the proposition come to the House we will decide at that time whether or not we scrutinise it and it will be for the panel at the time to decide but over and above that the Assistant Minister for Planning was absolutely right in his comments in relation to dealing with Guernsey. Anything to do with the environment must have a person, a member from either my panel and also from the environmental department, the Minister for Planning and Environment involved, so that at least we are fully informed of exactly what the negotiations take part, that are going to happen. We want to be fully informed all the way through because it is important that the environmental side of any discussions with Guernsey takes place and that is me saying that as the Chairman of the Scrutiny Panel but I am reiterating that of the Minister with responsibility for the environment. I can accept the proposition as it stands with the amendment and I am sure the rapporteur will be pleased to see that he has got me on board. Needless to say it was a baby of the Connétable that we move forward with this and I am pleased that he brought it to the House. That said, I sincerely hope Members will give the scrutiny panel the support on this particular one because it is an area, and I believe you know that we worked hard and we were severely criticised over the work we did on the Ramsar issue but at the end of the day we came out on top because we were supported by Ramsar themselves - the Secretariat - in the recommendations we made, and contrary to what may have come out of Defra, which we will be discussing with the Minister for Planning and Environment next week, we stand by those decisions. We had a first class adviser, we have got a first class adviser within that area and we will not have anybody's name sullied because officers do not like what goes in our reports. As far as I am concerned, our reports are solid, they are 100 per cent evidence based and that is the way we work, on evidence.

12.1.24 Deputy M.R. Higgins:

In the incinerator debate I spoke against building the Energy from Waste plant at La Collette. I described the plant, in that debate, as a monstrous slab-sided box, which no amount of landscaping or architectural input from world class architects like Hopkins, so favoured by the Planning Minister, will be able to change. I also said that we will have to explain to our children why the States took the decision it did in approving that plant. The box is now standing and it is starting to dominate the skyline and people are now realising what De Faye's folly really looks like. I do not think that we should compound our past errors by importing Guernsey's waste into the Island by having garbage scows bringing the waste into the harbour, our second most important gateway to the Island for visitors. I have seen the barges in New York transporting waste down the Hudson River and the gulls following them and it is something I do not want to see in Jersey. I think the States are making another foolish decision in even entering into discussions or negotiating with Guernsey on this matter before an in-principle debate as I believe that we are being led down the garden path blindfolded, and I believe we will end up with a *fait accompli* and placed in a situation in which Members will end up approving the importation of this waste. I will be voting against it.

[16:45]

12.1.25 Deputy M. Tadier:

I was quite interested in the comments of Deputy Green earlier when he was talking on the amendment using the analogy of prostitution. Of course this is an analogy, which is more often

used to debate things like arms trading and other disreputable trades, which governments seem to like to engage in if the price is right and if enough profit can be generated. It did remind me of a joke I heard a while back, which I will moderate for the States Assembly so as not to offend any sensibilities. It was basically a guy was in a bar, a young lady there and he says: "Will you come home with me tonight for £1 million?" She says: "Oh yeah, for sure" and he pauses a moment and says: "Will you come back home with me for £5?" She says: "No, what do you think I am?" He says: "I know what you are but I am just trying to establish a price." The point is with prostitution or whatever you want to call it, I think it is an unfortunate analogy, but I think ultimately we all know that if the price is right we will probably take Guernsey's rubbish. That is the bottom line of this. What I find particularly interesting is when certain Members stand up and say fervently that we are not going to take Guernsey's rubbish implying that in some ways it is okay for us to take Jersey's rubbish. That is the other point I think I was going to make, in the sense that if we are to continue the analogy, are we saying that it is okay for us to prostitute ourselves so long as it is Jersey people who are the ones engaging in the act but we are not going to allow any outside clients to engage? It seems very strange and I am not particularly attacking Deputy Green for that, it is just they were very strange arguments that almost insinuate that Guernsey's quality of rubbish is somehow not up to the high quality of Jersey rubbish that we like to burn. But of course I think, as I said before, Guernsey should be commended, in fact. They are doing something that we should be doing now because our current incinerator is not safe. We know that the emissions from the incinerator are toxic and they are harming residents in Jersey now. I do not think anybody has had the courage and certainly the Minister, even though he has told us that the emissions are not safe at least they cannot be verified, nobody is willing to take the steps. Until the new incinerator is opened we are endangering the health of our Islanders. At least Guernsey is trying not to do that. They should be commended for this. Now, to return to the wording of the proposition, you could argue it is strange how this has become such a controversial issue because I think if we read through the wording here: "To agree that the importation of waste into Jersey for treatment in the Island's Energy from Waste plant shall not proceed until the principle of waste importation has been discussed and approved by the States." That is how it stands in its amended form. That is quite sensible, I certainly do not have any problem with that and I am sure most Members probably do not have any problem with that either. The only difficulty is the psychological difficulty. It is like we have been dangled a carrot or a cake in front of us and then we have had that cake taken away from us because we have had this second element introduced into it, which was in there before but it is no longer in there, and this is the whole area of negotiations on this matter taking place. So, while I would have been quite happy if the original panel had put forward the current proposition that we are debating now, I would have had no problem but the fact that I know that negotiations were in there before and the Minister for Transport and Technical Services has now succeeded in taking that word out, I am minded to think that what it means is that we are giving permission for the Minister for Transport and Technical Services to have negotiations take place on this issue and that is where I think the rub is for me. So, I am going to reserve my right. I need to maybe hear one or 2 more arguments but that is the problem I have. If we voted for this in its amended form I think that negotiations will start to take place because otherwise the Minister would not have amended it in such a way and negotiations will necessarily lead I imagine to this discussion of what is the right price: "We want to use your services we think, yes, your services are quite good for our Island." Maybe that does need to be done but I think again we are putting the cart before the horse. To sum up, we are putting the cart before the horse not simply in this way but that we must deal with the underlying problem, which is that of packaging and general consumerism in Jersey but also globally because at the end of the day we are using products and we are disposing of rubbish that does not need to be there in the first place. Until we get to grips with this and until we have an integrated recycling policy in place all this is futile in many ways. We should have addressed this years ago. We know that places like Canada - I think Deputy Le Claire who is not here today has told us in the past - have had recycling schemes and separation schemes and separation at source and collection schemes for over 20, 25 years now. Jersey, if they want to

be a world leader, as we do aspire to be in so many areas, should be catching up in this area and also setting a good example in the area of waste.

12.1.26 Senator F.E. Cohen:

While I fully support discussions, we do need to be sure that our environmental credentials are not damaged in any way. It is all very well promoting energy grants and putting public money into energy grants, promoting eco-active campaigns and promoting eco-active business opportunities but we do not want to ruin the good reputation that we have gathered by damaging it through being anything less than cautious in this respect. There should be a way of achieving this but we do need to be cautious to protect our environmental reputation. In this respect I would expect that the Environment Department should be fully involved in all discussions at all stages and I look forward to receiving a commitment in this respect.

12.1.27 The Connétable of St. Brelade:

I would just like to make a couple of points with regard to points Members have mentioned, particularly, I think, Deputy Martin mentioned the fact that scrutiny would be involved in looking at the findings of any proposals she might put forward. I would suggest that it is up to me to come up with a policy and it is up to scrutiny to scrutinise that and I would fully expect that would be the way in which it would be undertaken. Likewise, with regard to not only Deputy Duhamel but also Senator Cohen, I would fully expect the environmental department to be involved. In fact my amendment indicates several areas that will need looking at and we are fully aware of that and would expect them to do so and come up with the opinions, which they will do. I also understand Deputy Pitman's concerns regarding international obligations and agreements and quite clearly these will need to be looked at, and of course Deputy Wimberley's comment regarding 100 per cent controls over emissions. I think to all of us that is an essential ingredient of this policy, and would need to be fully available to the public so that they can be satisfied and any concerns be out in the public domain so that they can easily be read. With regard to Deputy Higgins' comment about the design of the E.f.W. plant, of course that is subjective and I perhaps would refrain from making any comment myself on that but effectively it is a large building, there is no question about it, but I think his comment regarding rubbish barges would probably not occur in that the upfront suggestions at the moment, which are by no means finalised, would be that it would come on a ship as part of the regular shipping from Guernsey. So there would not be any change there, from what I understand. I thank Members for the points they have made because they will provide me with information with which I can inform the full debate as time goes on.

12.1.28 Senator T.J. Le Main:

I would just like to reiterate again, currently I cannot see any pluses for Jersey in accepting Guernsey's waste. The only plus that has been shown that could be beneficial, to me has been the financial one, which has been outlined that there is a monetary contribution that could assist us in our income but I will need a huge amount of persuasion from A to Z that Jersey should become, as I say, the collection point for the refuse of the Channel Islands. We have, at the moment, one of the most beautiful islands possibly in the world and to think ... I realise now that I should have known better, I am sure I should have known better but I am quite horrified that I did now support the placement of that incinerator and the size of it exactly at our doorway to Jersey. **[Approbation]** I will say that because I have had considerable experience on the planning department but I am shocked and everyone I speak to is shocked at the size and how it stands up on the gateway to Jersey. So, I am going to need a considerable amount of persuasion that the benefits are going to have to far outweigh the financial consideration of accepting the rubbish, the refuse from the Channel Islands when in fact France is probably as close to Guernsey as Jersey is to there. I do support the Minister for Transport and Technical Services in a very, very difficult job. I do support him that he should be allowed, as I say, to speak to our Guernsey counterparts but I am going to need a lot of persuasion. I can imagine the headlines, the summer advertising for tourism. How

beautiful the beaches are in Guernsey, how wonderful clean, how beautifully clean it is and all the issues about going to Guernsey. In Guernsey, if they shift their rubbish to Jersey and I can picture that. Yes, I can picture it. I can picture the adverts. Well, I do not want to be second best. I want Jersey to be the best in the Channel Islands and I do not believe that I am convinced at the moment that Jersey could stand up as being the best if we were to go down the road of accepting Guernsey's or the Channel Islands' rubbish to be disposed of in Jersey. So, as I say I stand alongside the Minister for Transport and Technical Services and his quest to get information for this Assembly but he is going to need to do a lot of work to convince me that this is the road to go down for Jersey. [Aside]

12.1.29 The Connétable of St. Clement:

Unlike Deputy Higgins, my inclination is to vote against this proposition so that the importation of rubbish from Guernsey can go ahead without any further States debate.

12.1.30 Deputy M.R. Higgins:

Sorry can I just interrupt? I made an error there in what I said. I accept that I will be voting for it because I want the in-principle debate.

The Connétable of St. Clement:

I thought Deputy Higgins and I had come to an agreement at last. [Laughter] Foiled again, but the reality of course is that I will be supporting the proposition but I do recognise that our cousins and brothers and sisters have got a problem across the water there in Guernsey. Okay, it is of their own creation but we could have equally created a similar sort of situation and we can help them, genuinely we can help them. I would like to think that if we had made the same sort of mistakes that they have made and they could help us out that they would be prepared to do the same thing. But, as Senator Le Main pointed out, there are some presentational and some perception issues, which need to be considered and that is why I think it is important that we do have a debate before any contract is issued. One of those issues that I think we really need to discuss and look at very, very closely is that Guernsey will have very few options on what to do with their waste. Therefore, the question that arises when I look at the report of Transport and Technical Services is where the heck has this price come from that they are suggesting they charge? I really feel that that is getting the most modern incinerator, Energy from Waste plant in Europe, very much on the cheap and I think a lot of work needs to be done on what would be the cost of Guernsey's other options before we start entering into a contract. That is why I think it is very important that we do have this in-principle debate and therefore I will be agreeing with Deputy Higgins after all and supporting the proposition.

12.1.31 Deputy T.M. Pitman:

Thank you for the talk of agreements. Apart from standing alongside the Minister, I would like to endorse what my good friend Senator Le Main has said. [Laughter] I expect that Christmas card this year. I would particularly like to endorse the fact that he really should have known better but then so should a lot of other Members in this House and we would not be in this mess.

[17:00]

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

I am the one, of course, that they all blame for getting the new Energy from Waste plant down to La Collette. In fact, the decision at the time was not whether it was what type of plant or anything, it was the principle of moving the new facility, whatever it was going to be, down to La Collette from Bellozanne. It was not meaning that we were going to get necessarily a better environment at Bellozanne out of it, although that was obviously behind the scenes that we would be able to get rid of the incinerator we have got down there at the moment, which should have been closed down in 1996 if it was under E.U. (European Union) rules. The bit I do not like about the last proposition,

which was adopted, or the amendment and this one, although I shall perceive I have to go for it, is that I do not think we are doing Guernsey a favour either because they are going to and fro with their decisions. It is like a bad day in the States here really, is it not? All they are doing is delaying what inevitably they have to stand up and do. At the moment their current system is inadequate - it is woefully inadequate; it is out of date; it is running to its capacity. What they are looking for is a miracle and they perceive that £4 million a year will be the miracle that will get them out of their current troubles. I think we are leading them down a garden path because I do not think the Island of Jersey is going to accept it in any shape or form and certainly not for £4 million a year anyway. Certainly when we were looking at all the for and againsts with La Collette I remember this great big thick report that the Environment and Scrutiny Panel - in which is now the Assistant Minister for the Environment - looking at all the options and all the various facilities that could be considered and one of which was a facility at Le Havre, if I am not correct, which could cater for our waste. That was looked into subsequently by Public Services and although our tonnage I think was above their capacity it might well be that Guernsey should be looking for long-term opportunities through Le Havre, which is a port like Jersey except it is already there. It already has a huge alternative market than what we do and at the same time we also must recognise that although Guernsey is one of our sister islands, we seem to have difficulty in getting agreements for anyway. We have heard about some of them already but the ones we seem to have forgotten about is the fishing agreement that they could not come on board with the other tri-partites' agreements and the argument about who could fish where, *et cetera*. So that is right, at the moment we are looking for an agreement with a fair travel price for a Green Paper for sea travel. The hold up at the moment, I think, is probably due to the fact we are trying to get both Islands to agree a single document because we are both linked by the same sea routes and the suppliers of the service but we are still waiting, which does not bode well for getting agreements. I think at the end of the day that this proposition; is it required? Yes, I think it is the wrong way round. I think we should have gone farther down the road but I also am very concerned that we are letting down the people of Guernsey as well as the people of Jersey because, believe you me, if you go down to our current facilities at Bellozanne they will suffer the same sort of pollution and everything if they do not get to grips with making a decision that is going to give them a long-term solution to their problems. I suspect that if they leave it to go too long, like we have left it go too long, not only will we suffer but they will suffer as well. The current example is clearly illustrated in a bigger way from the volcanic ash from Iceland. This is a small world we live in and we have to work together but let us make no illusions of the fact it is easier to take a short-term, quick, cheap solution. It is a lot harder to agree the long-term one that in the long term is a cheaper but a much better option.

12.1.33 Deputy M. Tadier:

Could I seek some clarification from the last speaker? Just a point, he said that Jersey would be letting Guernsey down in some way. I do not see how by having this debate today as to whether or not we should have an in-principle debate we are letting Guernsey down. Could the speaker clarify that bit? I do not know what that meant.

12.1.34 Deputy J.B. Fox:

What I am saying is that if we give a false impression that we are going down the road of being able to support them and then some way, way down the road we do not do it, they might have missed out on other opportunities like a facility at Le Havre. We in the district that I represent with 3 other deputies, and indeed the rest of you in the Island, are suffering the pollution, that the longer we leave things the worse it gets and the harder it is to get a solution that is to the benefit of everybody.

12.1.35 Deputy A.E. Jeune:

Like Senator Le Main, I believe many are surprised at the size of the new incinerator but we have it and, as I understand it, it is state of the art and it does have the capacity to deal with Guernsey's

waste. Therefore, I believe that we should move on, ask the Minister for Transport and Technical Services to get on with talking with our neighbours because I believe there will be other benefits for Jersey by going ahead with this.

12.1.36 Deputy G.P. Southern:

Just briefly, this seems to me, at the end of a very long day, to be a no brainer. This says we come back to the House to decide in principle whether we want to proceed down the line. Now, it makes absolute sense to me and should happen more often than it does. Apart from learning that at night me and my neighbours are only breathing rubber and not molybdenum oxide or tungsten carbide during the night is a great relief to me when the great big black smoke goes up from the chimney and I see it as if it is almost like a signal in the Sinai Desert or something. It is funny how they only burn the real dirty stuff at night so nobody notices but, never mind, we will cease doing that I am sure in the near future. I think it is absolutely appropriate that some 400 years on, the royalists should shake hands with the parliamentarians, and agree a truce at last even if it is over an incinerator. It is no good bemoaning the fate of the incinerator; we knew at the time it was over-big, it was over-priced. We chose to pay for it in one lump sum and empty the contingency fund. Well, never mind, we have got it. As the infamous Senator Walker used to say, we are where we are. It is a big monstrosity that is over-capacity but we have got it so let us get on and use it in principle if we so choose.

The Bailiff:

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

12.1.37 The Connétable of St. Peter:

I am not going to attempt to answer to everybody's comments, just a few of them. Deputy Martin was asking about a timeline and when is the debate going to be had. I would say that there would be no decisions or debate until the Jersey's E.f.W. has been proven in operation before we could even think about possibly engaging with Guernsey. The Constable of St. Helier made a comment, he just said what we cannot do with bottom ash rather than to explore whether it can be done. Equally to my colleague, the Deputy of St. Mary, I must say to him if we can contain and move asbestos safely why not bottom ash? After all we are doing it now from Bellozanne to La Collette, so what would be the difference? Deputy Tadier, the price is right, he made a good point there and I have already written some notes on that here. I think as a member of the Public Accounts Committee I recognise that a £4 million income is something worth considering, especially at a time when we are suffering increasing difficulties in balancing our books, although we must not allow ourselves to become seduced by the lure of lucre. Irrespective of any possible environmental threats, as a result I think indeed the Chief Officer of T.T.S. has advised the cost of operating the incinerator is £100 per tonne therefore the cost of incinerating 30,000 tonnes of Guernsey's solid waste is £3.4 million leaving a residual profit on a recommended £120 per tonne of only £0.6 million. So, coming back to Deputy Green's point about prostituting our environment, are we prepared to do that for £600,000? So let us not just focus on the money, just look at the bigger issues on that one. I would like to return quickly, before I come to my final point, to the proposition itself and remind everybody what we are voting for here right now. It is: "To agree the importation of waste into Jersey for treatment in the Island's Energy from Waste plant shall not proceed until the principle of waste importation has been discussed and approved by the States Assembly." If you vote against this proposition you are giving T.T.S. a free hand at determining whether we import waste or not. If you vote for it, you will be making the final decision. My very last point, just in case somebody wants to suggest that Jersey is not prepared to work with Guernsey, I would like to read this out: "The States voted on Thursday against plans to have a joint incinerator with Jersey or to export waste there. The Environment Department is to investigate shipping rubbish to Europe for the time being but, despite the export bans, Home Minister Mike Torode said the Island should not rely on other places to dispose of the Island's waste. He said:

‘We have got to solve our own problem, we cannot rely on others. It is immoral anyway. Why should we send our rubbish to be burnt somewhere else and pollute their air? We have got to do something about it and we must not take for ever because time is running out’.” This is the BBC news on 26 January 2006. That is all I have to say, Sir, and I would ask for the appel, thank you.

The Bailiff:

Very well the appel is called for in relation to the proposition of the Environment Scrutiny Panel. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 47		CONTRE: 2		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy J.A. Hilton (H)		
Senator P.F. Routier		Deputy A.E. Jeune (B)		
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
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 G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

13. Draft Sea Fisheries, (Fisheries) (Jersey) Regulations (P.20/201-).

The Bailiff:

Very well, now the next matter on the order paper is the Draft Sea Fisheries, (Fisheries) (Jersey) Regulations - Projet 20 - lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

The Draft Sea Fisheries (Fisheries) (Jersey) Regulations. The States, in pursuance of Articles 2 and 8 of the Sea Fisheries (Jersey) Law 1994, having consulted the Secretary of State and obtained his concurrence, have made the following Regulations.

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

Could I ask my Assistant Minister to take this proposition?

The Bailiff:

Yes, the Connétable of St. Clement.

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

The existing Regulations, which these seek to replace, were first promulgated in 1998 when the aquaculture industry was really in very much an embryonic state. Over the last 12 years that industry has matured considerably and it now contributes something like £1.7 million to the economy out of a total of about £6.5 million by the fishing industry as a whole.

[17:15]

What these Regulations attempt to do, with the full support of the industry, is to protect the integrity and reputation of the aquaculture industry by ensuring that the operator of a fishery on the seabed has the ability to run and maintain a fishery in an efficient and proper manner. In addition, the fisheries granted under these Regulations will be protected by outlawing any activity which would be prejudicial to the fishery but at the same time allowing others' enjoyment of the area with traditional activities such as fishing with line and hook, with net and other activities such as walking and sand eeling, in other words, activities normally associated with the shoreline. As I said, these proposals have the full support of the industry and I commend them to the States and I propose the principles.

The Bailiff:

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

13.1.1 Deputy J.M. Maçon:

Can the Assistant Minister please outline how the proposals are fully endorsed by the industry? Can he explain the consultation process?

13.1.2 The Connétable of St. Brelade:

I am just speaking with the hat of the Marine and Resources Panel and I would like to say that we have been fully involved with this and consulted with this and approve it unanimously.

13.1.3 The Deputy of St. Mary:

Just briefly I want to draw Members ... Wait a minute are we talking about the in-principle first and then we come to the Regulations?

The Bailiff:

Very well, I call upon the rapporteur's advice.

13.1.4 The Connétable of St. Clement:

Really the only point is in the matter of consultation and it is quite easy to consult with the industry. They have their own association who were very enthusiastic that these Regulations were

promulgated as soon as possible. They have their own association, which these proposals were put to and they were unanimously in favour of them. I maintain the principles.

The Bailiff:

All those in favour of adopting the principles kindly show. Those against. The principles are adopted. This matter falls within the Economic Affairs Scrutiny Panel. Deputy Higgins, the Chairman, is not in the Chamber. The Deputy of Grouville, the Vice-Chairman, do you wish this matter referred to your panel?

The Deputy of Grouville:

No, Sir.

The Bailiff:

Very well, thank you. Do you wish to propose the Regulation *en bloc*, Connétable?

The Connétable of St. Clement:

Yes please, Sir, if I may?

The Bailiff:

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

The Connétable of St. Clement:

I had intended to talk to the Regulations but the president obviously wishes to move on and I am quite happy to do that. **[Laughter]**

The Bailiff:

Connétable, I certainly did not mean to stop before the other Regulations. Is it best though that any questions can be posed and you can answer them first?

The Connétable of St. Clement:

Yes.

13.1.5 The Deputy of St. Mary:

It would be a shame to be deprived of some brief explanation of what we are doing. Yes, page 8 of the Article 5 Licence, I just want to draw Members' attention to something which I think is quite important and also which I think is really good that it is in here. The third paragraph of Article 5, which talks about the Minister can impose conditions on granting a licence: "May also include conditions designed to ensure that the holder of the licence must continue to retain a sufficiently close association with Jersey to be able to run and maintain the fishery in an efficient manner." I think that is a good provision in that it means that the Minister does have the ability to not allow our aquaculture industry to vanish down the board of some great big corporation that has no connection to Jersey at all so I do think that is a good provision.

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

I also picked up on that but I would like to ask the Assistant Minister to give us a definition of the term "sufficiently close association with Jersey". Also, reverting back to Article 3(2)(b), I wonder why comments would be sought only from those who considered that they would be affected by the fishery were the licence to be granted. Why should it be only those and no other able to give comments to the Minister on application for a licence?

13.1.7 The Deputy of St. John:

I have one or 2 concerns in relation to licences, *et cetera*, given that I have been recently dealing with a number of fishermen who have been complaining that foreign fishermen are permitted to run fishing boats within the Island. Also I have a concern that if a licence is to be issued will the Minister confirm that it will only be issued to somebody who will be paying Jersey income tax because it is of concern that we are allowing companies to operate in Jersey and they pay tax off-Island? So if we are going to be issuing licences will you make sure that that proviso, or can you answer that proviso, that that happens because I would hate to think that we are giving licences to people who would be selling the produce off-Island and paying no tax whatsoever for the maintenance of our Island?

The Bailiff:

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

13.1.8 The Connétable of St. Clement:

The Deputy of St. John makes a point about income tax. It has always amused me that the States introduced a zero rate of tax and then is horrified and surprised that some companies do not pay any tax. It is quite ridiculous. We voted for that, so there will be occasions where companies do not pay tax. Of course companies will only pay tax on their profits so the industry obviously has to be profitable before tax will come into account. While this would probably be an issue which would be at the back of the mind of the Minister when he grants his licence, the most important thing is the integrity and reputation of the Island and its fisheries when granting a licence. I think that is far more important and that is why the clause that the Deputy of St. Mary drew attention to is in here because that does give the Minister the right to consider beneficial ownership. Clearly, as we do under the Regulation of Undertakings and Development Law in the more general and generic way, will ensure that ownership, where it is appropriate and depending on the type of fishery, will remain in local ownership if that is in the best interests of the Island and of the industry. The Constable of St. Lawrence was asking about consultation, the Regulations require the Minister to publish a notice for those which would ensure that notice of the application is brought to those who would be affected by the fishery but of course other people would also see this notice and if they wanted to make representations to the Minister they could well do. What it is there to do is to make sure that those who are affected are definitely made aware of the application; because of that others will be aware of the application and therefore will be able to make representations. I maintain the Regulations.

13.1.9 The Deputy of St. John:

Point of clarification, I notice the Assistant Minister's usual type of fluffy reply in relation to a company but will he please confirm that the registration will only apply to Jersey companies? If you start registering companies off-Island then any tax that might be made, any money that might be made that could be taxed, will be paid off-Island and that is important that we have income here.

The Connétable of St. Clement:

These Regulations are not about tax or income tax, they are about the reputation and integrity of our fisheries. The Article which this relates to: "May also include conditions designed to ensure that the holder of the licence must continue to retain a sufficiently close association with Jersey to be able to run and sustain the fishery in an efficient manner", that is a criterion that the Minister will have to make his judgment on. It does not talk about income tax; it talks about being able to run a fishery in an efficient manner. That is what is important under these Regulations.

The Bailiff:

Very well, the appel is called for? Can I just ask this, Deputy, do you ask for an appel on just a particular Regulation? Sorry? Regulation 5. Are you happy to take not an appel on Regulations 1 to 4? All those in favour of adopting Regulations 1 to 4 kindly show. Those against. Those

Regulations are adopted. Now, an appel has been called for in relation to Regulation 5. I invite Members to return to their seats and the Greffier will open the voting on Regulation 5.

POUR: 39		CONTRE: 1		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy of St. John		
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. 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 J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

Deputy, are you happy on a standing vote for the remaining Regulations? Yes, all those in favour of adopting Regulations 6 to 11 kindly show. Those against. Regulations 6 to 11 are adopted. Do you propose the Regulations Third Reading? **[Seconded]** Does any Member wish to call the appel in Third Reading? The appel is called for in relation to Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 38		CONTRE: 1		ABSTAIN: 0
Senator P.F. Routier		Deputy of St. John		
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				

Connétable of St. Brelade				
Connétable of St. 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 J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

Now, before the adjournment can I just inform Members of 3 matters, which have been presented. R.44, the Waterfront Enterprise Board Limited Annual Report and Accounts; R.45, States of Jersey Complaints Panel Annual Report for 2009; and R.46, Land Transactions under Standing Orders 168(3), Grève de Lecq Rockface and Headland on North West Coast, and one cession to the public. It is now 5.30 p.m. Is the adjournment proposed? The adjournment, I think is proposed. Very well then the Assembly stands adjourned and will reconvene at 9.30 a. m. tomorrow morning.

ADJOURNMENT

[17:27]