

# STATES OF JERSEY

## OFFICIAL REPORT

WEDNESDAY, 13th JULY 2011

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

[09:00]

### **PUBLIC BUSINESS - resumption**

#### **1. Migration and Population Policy: Review (P.104/2011) - resumption**

##### **The Deputy Bailiff:**

We therefore return to P.104 and the Deputy of St. Mary who has 10 minutes left to speak, I am told.

##### **Deputy P.V.F. Le Claire of St. Helier:**

Before the Deputy begins his 10 minutes, through the Chair, may I just notify people that I will be attending a hospital appointment this morning and may be gone for a small duration of this morning.

##### **1.1 Deputy D.J.A. Wimberley of St. Mary:**

I just want to advise Members that there will be arriving on their desk shortly a brief single sheet with details of house price inflation, but I am going to touch on that later. I was dealing with the problems caused by this never-ending increase in population and I mentioned the treadmill, I mentioned the list on the back of my proposition of a huge number of developments that were set in train from 1999 onwards, large developments, small developments, and I asked the question: "Where do we go next? Where do we build the next 4,000 units? Then when we have reached the end of this Island Plan, where do we go after that?" I pointed out that the figures on house bills and waiting lists just marched in step. The more houses we built the waiting list simply did not go down and I pointed out the spiralling house prices and spiralling rents that result from these policies which get paid for either by individuals or do not get paid for because they simply cannot afford them, or by the States as it picks up the tab. I mentioned the town versus country divide which is cemented by this constant pressure and also the ageing population, which does not get solved by increasing the population. It will have to be solved in other ways. I want to touch on 2 more things, one is the pace of change and with respect to this I just want to remind Members about the large-scale changes. We received on the Town Park Support Group a timeline from an officer in T.T.S. (Transport and Technical Services) and I think it is going to be part of the opening celebrations. I was very struck by one of the items in that timeline: "1861 Population 60,000." It leapt out of the page because as we know in 1961 the population was 60,000. So, over all that period no doubt there were ups and downs, especially during the war obviously with people going and then coming back, but nevertheless the population stayed steady and then from 1961 to 2010 we saw an increase of half. Half the population again and this gave rise to the comment of one of my parishioners sadly saying that he no longer knew people in the parish. We can shrug, or we can say: "Well, what does that matter?" but I think the issue that raises is the pace of change. We can all manage a certain amount of change in our lives. It is probably a good thing, but there is a difference between novelty and challenge and a sense of loss that simply carries on because change is too fast and cannot be managed. There is another issue which is about the stress of living at high densities and of course we have heard in the Island Plan that the intention is to increase those densities and as the paperwork has not quite reached us I will move on to paragraphs (b) and (c) of the proposition and then possibly come back to the point I wanted to make about inflation. So, if Members want to turn to the paragraph (b). I will read it out because it was some time ago: "I want to request the Council of Ministers to commission an independent review into why the population policy of the last Strategic Plan, 2006 to 2010, was not adhered to, how the mechanisms for controlling the population failed, and the implications of that failure to comply with the decision of the States and to report the findings to the States." Now, why is this so important? Why do we need to look at this failure? For anyone who doubts the failure they just have to look at my appendix 2 where we see that the increase in the workforce I think is targeted at 1 per cent. The

increase in the workforce in the year before June 2006 was 1.18 per cent, June 2007 2.23 per cent, over double the target, and in the year up to June 2008 2.72 per cent, nearly 3 times the target. Now, the Chief Minister has said in questions that that is all right because it averaged out in the end, but frankly the Ministers were saved by the biggest recession the world has seen since 1929, otherwise where would those figures have gone? 1.18 per cent, 2 something per cent, 2.72 per cent, and on and on. They completely missed the target of 1 per cent. Completely missed the target of 1 per cent for 3 years running and that is what we need to look at. I would refer Members to my page 9 where I quote from the Strategic Plan 2006: "Inward migration matched to the Island's needs" this was a goal: "indicated by" and there are 3 bullet points: "minimal number of unemployed local people, net growth in the working population of less than 1 per cent per annum, and net migration contained within limits that can be accommodated within existing projections for housing need and the release of land for development." I would just like to comment on that first bullet: "Minimal number of unemployed local people" and I wonder if this is the reason why the targets get systematically missed. We do not want a close match between the numbers in the workforce and the numbers of jobs available. I wonder if that is the reason. We all know that if there is a certain number of unemployed, if there is a larger pool than just the normal pool that is always in a modern economy waiting to be re-employed, or reallocated, if you like, the labour. However, we are now well above that and one has to ask whether the reason for having more people than we need, if you like, is to put downward pressure on wages. I will just leave that thought with Members. Why is it that we miss the target so much? The second bullet point I think I have covered: the net growth in the working population, the staggering missing of the target, and I have the actual numbers if Members want them. So, the policy was not carried out and the question then is, what is to stop it failing again? What is to stop the population spiralling? Whatever policy we have, whatever policy, whether it does 150 or my no population growth, what went wrong? I point out that the level of population is not trivial and we need to find out. Are we prepared to nod and grin, or are we going to look at this? Was the failure operational? Was it because the mechanisms do not work, as I know some people in this House believe, that we simply do not have the tools, that the tap for controlling inward migration is so leaky that it cannot work? Or was the failure political, as I have just hinted at? Were the Ministers distracted? Do they just tear up the policy of this House when someone waves enough pound notes? Or are there other factors which led to the political failure, if there was one? What are the implications of this Assembly setting a target brought to them by the Council of Ministers as part of their Strategic Plan of 1 per cent increase in the workforce and then missing it by over 100 per cent for 3 years? What are the implications of that?

[09:15]

I think that if we are not to regard ourselves totally as a toothless tiger then we have to have this review to find out whether it is the tools that are simply totally inadequate, or whether it is a political failure. Paragraph (c) I think is non-controversial. It requests the Council of Ministers to lodge its 3-yearly revision of the policy on population for States debate. They have to review the population policy in 2012 and what I am saying is that that has to come to the House for debate because otherwise it will be possibly a simple exercise of blowing off the dust, saying: "We will carry on as before" and simply not doing any proper work on this topic. We know the possible failings that we have in this area. We have the astonishing omission of thinking about births over deaths when we are thinking about population policy. We cannot do that again. The Council of Ministers has to come up with a properly-thought-out policy with the implications and bringing it to the House with proper data, without airbrushing out 2,600 people as they did in 2009. So, to quote the Corporate Scrutiny Panel in S.R.3 2009 when they were talking about population and they did a report on population: "What we need is the elements of the policy package clearly researched and analysed by Ministers." Well, Amen to that. So, going back to paragraph (a), and I would refer Members to the sheet that is now being distributed, to make the final point about problems caused by increasing population. I was trying to research the level of inflation in house

prices going back ... we know the recent inflation 40 per cent to 50 per cent, I think, in the last 8 years or so, but I wanted to go further back than that and I found this table. I always look at the source first, and the source underneath the table: "Jersey House Price Index Statistics Unit for England, South East, South West and U.K. (United Kingdom) average. Nationwide Building Society weighted national average and regional indices." So, I think these are reasonable data. If you look at the left-hand column: "Jersey" with an index 100 at 1985 in the following 17 years house prices went up by over 5 times: 5 times in 17 years. The corresponding index for England was 3.25 in that same period. House price inflation was running at an annual average of 25 per cent basically because of a policy of boom economy and population outstripping the supply of housing. The point to make about that is not just that house inflation running at 25 per cent a year (which of course has an impact on all other industries in the Island because somehow people have to be housed in that environment of massive inflation) it is not only that, but it is also the impact on every other aspect of our society. That inflation in house prices will creep through and become a factor in the cost of living and then you come to the fact, as Deputy Martin pointed out yesterday, that we have the highest economic activity rate for women in Europe, I think maybe in the world, but certainly in Europe. We have 2 breadwinners in each family, in a family with 2 parents, and whether that has social consequences I would leave with Members, but I would remind them that we have the highest incidence of alcohol problems, we have the highest suicide rate, and we have severe problems of, if you like, children who are not looked after adequately and I would bring Members back to this hyperinflation in the housing market and wonder whether some of those social issues do not come back to this issue of incredible inflation in housing.

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

Sir, just on a matter of clarification, the speaker is suggesting cause and effect, has he found any research studies which link those social problems to the housing inflation situation?

**The Deputy of St. Mary:**

I have a note in my notes in response to Deputy Le Hérissier which says that pressure breaks some people. No, I do not have any, and how would one research the connection between the house price index and social stress in the home? But clearly hyperinflation at that level, and it is hyperinflation, it is an astonishing rate of increase, will put pressure on families trying to meet those bills and that pressure will work out with social consequences. Fine, if Deputy Le Hérissier wants to do some research or try to find that research, but I think it is evident that inflation at that level is going to have consequences for the whole economy and for individuals within the economy. So, I believe we should go to a policy of a steady population and I believe that the consequences of this are ... and I will just run through the pluses because it is nice to have a bit of positivity around this debate. We could at last solve our housing problems, instead of chasing, chasing, chasing something that is running away from us we could solve the issues. Our dear Minister for Housing over there could find spaces for people with different needs; he would not be, as I say, chasing afterwards. We could look at clearly usable sites, build enough housing, build the downsized units and so on and solve our problems. Land values would fall back and the inflation has been so great that I do not think a fall-back of land values and land prices and house prices would not be unacceptable. We would have to manage that but the fact is that with a rate of increase like that people have to accept that the bubble (rather than bursting) should be slowly let down. The pressure we have in our Island on every aspect of policy would ease, we would not have this mad-cap: "We have to solve this, we have to solve that, we have to solve the other" and it is running away from us all the time. So, that is basically why we should steady up and have a policy that I am advocating and the other side is as follows: "Why wait until the Island is damaged beyond repair, field by field, headland by headland, each loss contributing to the overall sad decline of what is still one of the most beautiful places in the world?"

**The Deputy Bailiff:**

Deputy, in the course of your speech you suggested that the numbers of those coming into the Island had gone up if: “Enough pound notes” were waved at Ministers. Can I just ask you to clarify what you meant?

**The Deputy of St. Mary:**

Yes, Sir. What I mean by that is that if for example, a new bank wishes to set up, they wish to have a licence for 30 or whatever ... I do not mean that the Ministers will pocket the said money, what I mean is that those pound notes they think: “Growth, economy, wonderful” and so they lose track, or I am suggesting that possibly one of the reasons for failing to hit the targets is that they regard the growth of the economy as more important than all the other factors I have mentioned.

**The Deputy Bailiff:**

Thank you very much.

**1.1.1 Connétable P.F.M. Hanning of St. Saviour:**

I know the proposer is very passionate about this and he has spoken about field 528 in St. Saviour. I feel I must inform Members that while I am more than happy for the parish to provide the good Deputy with moments of inspiration I must correct his statement. What was being suggested for the field was a community centre, a park and allotments. The Deputy is right that the parishioners gave a very strong and very clear decision that they did not want any development in that field, very clear decision on that. There was never, I repeat never, any suggestions of housing. Not one house was being proposed for that field. This had absolutely nothing to do with population increase. I am afraid if this is the defining moment for the Deputy it is based on error.

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

Sir, did you ask for the proposition to be seconded, or did I miss that?

**The Deputy Bailiff:**

Deputy, you are absolutely right.

**Deputy J.A. Martin:**

I will very kindly second it. **[Seconded]**

**1.1.2 Senator S.C. Ferguson:**

Too many early mornings for all of us, obviously. Sadly, I think the Deputy has missed the point of last week’s debate. He has read the first report of the panel (as one would expect since he was on the panel) but not apparently the second. As my panel pointed out the problem is there is no mechanism for pulling up the drawbridge. We missed the target because there is no barrier to people just getting on a boat and coming here. The only barriers are the 5-year wait for benefits and under the new law the limit on employment which does imply that we need to strengthen the mechanism. We have heard a lot about how we have to look at why population is growing and so on, but it is quite simple, people can just get on a boat and come here. I think we need to look at the Guernsey thinking because they are, as I understand it, proposing permits for manpower for lower-order skill shortages. I mean, the Minister for Housing has mentioned during hearings the totally unchecked number of unskilled and semi-skilled workers coming into the Island and even under the new law we do not have a genuine mechanism to stem the flow. We do not want to cut it off entirely, but we do have to filter it. This influx is what is making a housing treadmill. We have J-cats, which do have some degree of control and will do under the new law, but we have a totally uncontrolled influx of semi and unskilled workers and it is this cadre who put the pressure on social security, social housing and low priced private housing in the future. All desirable small islands have this problem. Guernsey have the same one, they are going through exactly the same process and we do not need a big expensive review, we need to manage opening into the Island and we

need to speak to the other islands and see how they are managing it. We said last week that there needs to be some more work on the Control of Housing and Work Law. I happen to prefer Guernsey's approach of calling it the Management of Population Law, or the Proposed Management of Population Law, which I think is rather less sort of 1984-ish. But we all have the same problem. If you live in a nice place, a super place, an absolutely fantastic island with plenty of work, and our unemployment rate is I think only 2 per cent to 3 per cent, even in America you are talking about 10 per cent, so it is very attractive but there are problems. It reaches a point where you have to look at the mechanisms and I think this is the answer to the Deputy's proposition and it is very simple and very direct and I do not think we need a very big, expensive review.

### **1.1.3 Deputy P.V.F. Le Claire:**

I have tried that position once before and I am not going back, Sir; voluntary as well as otherwise. It is obviously a difficult proposition because we all know the fragile state of the economy and I will try not to make too long a speech because I do have to go, but in (a) I do not think there is any chance at all that the Deputy is going to win this because the economic desires and needs of the Island outweigh any kind of idea that we can freeze the policy.

[09:30]

It is a bad idea in any event because we need to maintain a certain amount of fluidity. We have 10,300 people more at the end of the Island Plan period of 10 years that will be over the age of 55. So we have a very clear demographic shift which has been brought about by an ingress of people in the 1970s. We had 2 waves: we had the baby boomers and then we had the babies of the baby boomers and then during the 1970s we also had a large swathe of people that came as a result in the increases in the tourism industry and also the beginnings of the finance industry which were led by people like Senator Le Marquand at the time. So, those have caused us to have a very large and growing proportion of our population that are elderly. In order to be able to manage that the Deputy has put forward some good statistics about what difference there will be in any event if we do or do not allow people in, what difference that will make to the elderly, so we are talking about communal living, et cetera. I was criticised by somebody in a letter recently. I have been criticised by a lot of people recently, but I have been criticised in particular by one person who said: "How dare you suggest that we can let 750 people into the Island a year, do you not know how bad things are, how cramped things are, how overburdened we are, the traffic congestion?" The lady was understandably upset and I do not fault her for writing to me in that vein, but the reality is that my comments were taken out of context. What I was saying, and that harkens back to web streaming so we can have things said in context. What I was saying was I do not mind if the Island needs are such that we need to grow the population because of demographic shift and a financial squeeze. I do not mind if we need to do that to provide the social services, the nurses, the doctors, the school teachers, the firemen, the policemen. I do not mind if we need to do that to provide for our community, but what I was saying was if we are going to do that we need to provide the infrastructure for those people to live decent lives and I am sorry to say the previous Minister for Planning and Environment, who I have great respect for, did take into account a lot of things as he made his mind up about the Island Plan based upon new information, but one thing that was thoroughly overlooked was the fact that the plan was worked up, as I have said before, on a head of household number of 150. So, we were basically providing the houses and the infrastructure through all the policies in the Island Plan for 150 heads of households while we were experiencing ... and it had been published, in the Statistics Unit, the Deputy circulated some of his own statistics and I am going to leave him this little book so he can refer to it later, our own statistics published by the Statistics Unit, independent professional and objective. I cannot remember the last one that the Chief Minister said. Independent people that published statistics told us quite clearly that the numbers of people that were coming into the Island over the last 4 years were 725 people every year for the last 4 years. Now, those 725 people equate to 325 heads of households, heads of



households being the family leaders, and you get the numbers of the people by timesing heads of households by 2.2; the same methodology which is used by the Housing Department in placing numbers on their waiting list. For example, at the moment they have 461 families waiting; that is not people, that is 461 heads of households. Those households may be either one person, or 5 people but they count as heads of households. We took, during the Island Plan debate, an Island Plan through this Assembly which is woefully inadequate to provide for the needs of the people that were coming in. At the same time we conducted a Scrutiny review and I was very pleased and I was not pushing it personally, that the outcome of the Scrutiny review from Senator Ferguson and the other Members, Deputy De Sousa and the Deputy of Grouville, and Deputy Maçon and myself, were quite clearly, having taken evidence on board, that the new system was going to do nothing to address controls and it also recognised that further work (and the President stated this in her statements ahead of the housing debate) needed to be undertaken by Scrutiny on an ongoing basis and we had to look again very hard at work permits. Now, just taking on board what is happening in this proposition in paragraph (b) the Deputy is asking us to request the Council of Ministers to commission an independent inquiry. While I think that is notionally a good idea, I think from practice I would rather stay away from the Council of Ministers setting up anything to assess whether or not they are doing something in one way or another because I do not think that will be objective, and I think that the States Assembly needs to recognise the fact that there is nothing stopping us as Back-Bench elected Members setting up our own group to monitor these things. Now, the Deputy of St. Mary has done an extremely good body of work in his report. He has pulled together the facts and the figures and he has analysed them in an academic way, in a much better way and a much greater way than I could do, but he has recognised the issue. He is able to break down the numbers and if you listen carefully he is able to put across the message about what is happening. Unfortunately, that information was just totally walked over, or smoothed over, during the Island Plan debate. So, I would say to that lady that I am as concerned about overpopulation as anybody but what I am concerned about more than overpopulation is the inability for us to be able to clothe, feed and look after our children and our elderly people and provide the services and the jobs that sustain this Island. It is in extremely uncertain circumstances at this stage of global economics that we are now being asked as an Assembly to introduce a zero-growth policy, it is possibly the worst timing that we could ever think about doing such a thing. Members are aware of what is going on. We have Greece in a position where it could default; we then have issues with the euro, France and Germany holding the bonds underwritten by America. America is about to go into another section of quantitative easing; in 2 or 3 years they are probably going to default on their currency. We have all kinds of economic problems coming down the tracks and, while we are trying to introduce a growth strategy that will help us manage our finance industry into the future from this wreckage, the last thing we need to be saying is we are going to grow our economy by introducing a freeze on migration, you just cannot do it. So, we have to get real. We have to start to diversify and we have to support the finance industry. Now, how do we do all of these things and still achieve the same outcome for people, which is basically job security, the ability to be able to afford your own home, and the ability to have a good income so you can have a decent type of life? Now, I have already gone on too long so I will not go into the density paper that I was going to go into. I will just say to the Deputy of St. Mary the density in town under the new Island Plan is going to increase massively. The new Minister for Planning and Environment is going to introduce supplementary planning guidelines to outline what those new densities are going to be. We are going to see a change in standards, we are hopefully going to see a greater standard of living and a standard of accommodation, but we are not going to be able to magic out of the air, out of the ether, more amenities space; the Island is only so big and there is only so much amenities space to go around. So, I think we have a real job of work to do. I would like to offer my support for the Deputy of St. Mary. I may not be here for the vote, and I apologise for that, but I would be willing to support him in looking at these things on an ongoing basis. I think Scrutiny needs to take it up, which has been spoken of, and the previous Scrutiny report has been tabled and we need to keep a watching eye on these facts. I will pass this book as I leave to the Deputy of St. Mary. He

has it and he has read it but just in case somebody starts rubbishing his statistics on house price inflation, this is the States of Jersey Statistics Unit's booklet issued to all States Members and the public and it is online, Jersey in Figures 2010. On pages 44 and 45 it talks about house price inflation. On page 45 it says: "The most recent change, the overall average price of property sold in 2010 being 2 per cent below that of 2009 represents the first decrease in property prices on a calendar year basis in Jersey since 1993", and if you track back on page 44 one can see, and I have spoken to the Head of Statistics, that property prices in Jersey never lost and it only went down marginally there by 2 per cent, just for that quarter. It is the first time that there has been a real drop in property prices for over 30 years. For 30 years property has been growing in price and the bottom rung on the ladder has been rising well beyond the reasonable accessible means of any ordinary people. In finishing, the Council of Ministers in (c) is going to do their work anywhere. They are not going to be told or advised by us about what they are going to do regardless. There is some information in the Deputy's report about the projections from the Housing Department and it is interesting because those projections have proven to be pretty accurate. In the document it said the projections for 2011 midterm were going to be 456. We are at 461 right now. So we are above the mid-term projections and even at their best-case scenario, at the end of the Island Plan we have 1,488 families on that list, but the worst-case scenario we have 1,852 families on that list. As I evidenced before the last time I could find those sorts of numbers the average waiting period was something like 3.5 to 4.5 years. At this time the transfer waiting period within housing is 33 months in some instances. So, we have a lot of people that are going to experience a lot of hardship, increased hardship in this Island over the next 10 years and I do not think it is right for us to abdicate our responsibility to an independent group. We should be doing this as Back-Bench Members and we should be bringing the evidence forwards for debate. We should be introducing again, and I will be doing this, another debate on work permits. I was astounded the first time that I introduced my proposition for work permits that it was put across that work permits were illegal, they were against the Convention of Human Rights. What was put across was the Law Officers' recommendations at the time. Now, obviously Law Officers' advice changes and I am not going to go into what the advice was, but suffice to say the Law Officers' advice came on 4 pages. What was transferred over to the media and to the politicians sitting in this Assembly, and to myself, were elements of those 4 pages with the page numbers removed and the conclusions removed, and when one saw those 4 pages in full there was no problem at all with work permits. Indeed, how could there have been problems with work permits when we employed them so readily with the Europeans, especially the Polish in most recent years, when we wanted to do that? So, then we had no opportunity to debate them fairly, in my view, because I was thwarted by somebody cutting up the Law Officers' advice and misrepresenting it, in my view, and I have stuck by that, and I will stand by that; so much so that I went to see the former Bailiff about it. The second time I introduced them I was told, and so was the Assembly: "We do not need work permits because the new laws are coming." Well, now we have had the new laws and it is fairer for everybody that is coming but it is not necessarily fairer for those who are already here. What we were told when I had my second work permit proposition was: "We do not need this work permit thing again, Paul, because we have the new laws coming." Then what did we hear from the rapporteur, Senator Routier, when he made the proposition? In response to the in principle speeches, and it will be on *Hansard*, he said: "We did not look very deeply at work permits because the States had decided on 2 previous occasions that they did not want them." I would remind Members, and it is going to come up in the next session, currently we are using work permits for every other country that is not within the Commonwealth or the British Islands. We have about 400 people on work permits at the last count and their families are also with them and they can also work. Now, I am asking the Minister for Home Affairs in questions coming up, and we will see those at the next session, how is it at a time of unprecedented unemployment, that we are able to run this dual system? We have access now to European markets of millions of people where there are high levels of unemployment, highly skilled people, and yet we are still having a submarine service, a silent service of work permits being employed to stock this employment market when there is

unprecedented levels of high unemployment and also unprecedented levels of long-term unemployed? Long term unemployed is a key indicator of trouble and the Minister for Social Security is nodding his head. He knows this as well as I do because he is clever. I am not, I was told this by the Head of Statistics.

[09:45]

One of the key indicators of trouble is long-term unemployed and it has doubled. Long-term unemployed people have doubled and through no fault of their own they are going to become dependent upon society. They are going to be harder to get back into work, they are going to feel less valuable, their lives are going to become stuck in a rut, through no fault of their own. So, I would say to the Deputy of St. Mary, he has weathered my speech. I am sorry I am not going to be here for the votes but I think whatever he decides to do, if he is going to go through with this and if he loses it I would say this to him: "Let us get together as Back-Bench Members and start working on this in the round." Let us try and put together some strong workable propositions, like work permits, let us bring some true analysis to the table and let us debate it in a fair way" because at this time, and up until this time, it has only been me. I have been getting thrown down on the floor quite heavily by people who are unwilling to address the issues and I am sorry to say everybody thinks that we can build housing on States sites. We only have so many States sites and the population is going to continue to grow. After the States sites have been used we are going to go back to the fields. That is inevitable. The only other way we can do it, and we have decided not to do that, and it is a preference of the Minister for Planning and Environment, the only other way we can get around it is if we build a massive skyscraper and put everybody in there. Now, if Jersey wants that then let Jersey elect politicians that want that, I do not want that. I would rather have a work permit system that said: "You can come for a set period of time, provide the work, have access to all the facilities and the services that you need, and when the work dries up and when our own resident population has no work then your work permit will not be continued."

#### **The Deputy Bailiff:**

May I say to Members who are listening to this debate in the precincts that the States currently has 27 Members so we are quorate, but it would be helpful to enable Members to come and go for comfort breaks, or for any other reason, if other Members were to return to the Assembly Chamber.

#### **1.1.4 Senator A. Breckon:**

This is an old problem and it is a very, very real issue but of course others have examples and I am thinking in particular something I had information about 3 or 4 weeks ago is the island of Ireland and how the ebb and flow of people there does have some effect on the economy and what they do. Of course we have issues that should be addressed (and indeed could be addressed) but then the question is, does this proposition do it? Well, maybe it does in part but then I have a problem with some of the wording of it because it talks about suspending the present policy. If you asked anybody what the present policy is it is a bit like knitting fog, I would suggest. I do not know what it is and the thing is it also talks in the Deputy's proposition about the mechanisms for controlling the population have failed. What are they? I do not think there are any. It was said in reports from many years ago there were the Housing Law and Regulations and the Regulation of Undertakings. Has that done that? The answer must be no, but then what were we trying to achieve? I am not sure anybody knows that either. We talked about economic growth which comes with population growth, which comes with quality of life issues and things like that. But then what we are trying to do now is gather the information but then act upon it and we need to do that, we need to be nosey, we need to have the information for reasons of health, housing, education, parking, drains, dealing with rubbish, all sorts of things; the things that people are going to need and generate and that we will have to deal with. So, it is about the quality of life issues. Not that many years ago we were having a similar debate about whether the population should remain at 80,000 and that was in a

strategic policy debate. I think it was in 1994-1995 and there were amendments done at that time to do that. The other thing the Deputy says in his proposition in paragraph (a) is to aim for zero population growth. We already know that we have an increase of births over deaths so I am not quite sure how we would deal with that and in fact we cannot deal with that. So, therefore what we have been asked to do again in this proposition and I am not sure in its entirety how it is worded, we can do that. The other thing in paragraph (b) it talks about commissioning an independent review. Straightaway Members may think that this is going to cost £250,000; that need not be the case if we are going to review something. There are many very able and interested local young people, especially students, who are very keen to get involved in some of this work and indeed would, and I would suggest to the House that some of them would do it for fun to be part of it, to research what we are, so we need not have somebody with 3 names and lots of experts. We can do things like this and we should do that, whatever the outcome of this debate. The other thing is Senator Ferguson mentioned Guernsey. Guernsey have had a Right to Live and a Right to Work Law since about 1990. Now, Members may well remember they had a policy where the C.I.D. (Criminal Investigation Department) used to stand waiting for the mail boat coming in. If somebody got off there with a haversack or a rucksack they would say to them: "Any connections with the Island, sonny? Any relatives? Are you returning here?" If not, whether it was human-rights compliant or anything else, they used to put them back on the boat and say: "Go to Jersey" and it was, from Guernsey's point of view, very effective. Now, it probably does not comply with all sorts of rules and regulations and whatever else now, but that is what they did. That was it. So, regarding controls about regulation that probably was not written down anywhere, but it was done and from their point of view it probably achieved, along with the right to live and right to work law ... the other thing when it was suggested many years ago doing something similar here they said: "Oh, you need a number of civil servants and people to administer this then we cannot do it." But the fact is by not doing it there is probably a cost the other side which the Deputy of St. Mary has demonstrated, certainly in housing availability and inflationary costs. The other thing is, and we have just spent days and weeks discussing the Island Plan and I asked the question in the summing up of that: "How many people is the Island Plan for?" Nobody answered the question because we are putting in place a 10-year plan so okay, that is what we must do now, but where are we in 2 years' time? We have talked about that we can do extra things, but where is the economy at that stage? For me some of this stuff has not been linked up. I appreciate the sentiments of what the Deputy of St. Mary is trying to do, but I am not sure that this policy as worded sends out the right message about aiming for zero population growth and doing various things. So, I have a great deal of sympathy with it but I am not sure I can support it as it stands.

#### **1.1.5 Deputy R.C. Duhamel of St. Saviour:**

There is no doubt in my mind, and indeed I suppose among other States Members, that there is a natural requirement that comes up over fixed periods of time to discuss population and migration and indeed the proper place for doing this is at the beginning of an Assembly through the Strategic Plan. We decided a number of years ago on what our Strategic Plan was going to be for this particular period and I consider that (a) is a knee-jerk reaction to a problem that we are going to be considering next time around. The 150 households policy was introduced in 2009 in response to what happened during the period where the Strategic Plan was based from 2006 to 2011. There was a response if people cast their minds back in terms of the population growth and over the figures, the missing 2,600 or whatever the number was, and the extent to which in the absence of a census that was going to be undertaken. A number of Members wanted it to be done around that time, but it did not happen, whether or not we needed to change our population and migration policies and indeed in 2009 that is exactly what we did and we brought in this new policy to limit the net growth to the numbers that have been mentioned. So, I think (a), the way it is worded, is something that we cannot do very easily. We are going to suspend our policies and we have already heard from Senator Breckon that we do not really know how they are being applied, which is probably an overreaction, but we are being recommended to suspend the policies at this point in

time before we have the census figures which are about to be released, before we are going to engage in our new strategic policy for the next 3 or 4-year period, and to stop everything in its tracks, issue a new set of rules and regulations to the officers who are carrying out the policies that we agreed a number of years ago and just put everything on hold. What for? It has been put on hold to have a debate. Now, we are stuck in a period where there is no time to have a debate between now and the election, so when will this debate take place? Well, the debate I think will take place after the election when we consider the new Strategic Plan. As I have said earlier the new Strategic Plan will in essence have to embody the arguments as to what we are going to do with population and migration, or otherwise there will not be a very satisfactory plan put forward by the new Council of Ministers and, indeed, I would suspect in fact as a betting man, and I am not, but I would put good money to suggest that this House, which does have a say in how the Strategic Plan is agreed to or not, would kick out any proposals in a strategic plan which did not, to all of our satisfaction, address the migration and population issues in the way that we all agree they should be looked at. So, this debate is going to take place, so I think (a) does not really make sense at the moment. It is a knee jerk reaction, which is unfortunate, because I think the Deputy of St. Mary's heart and head is probably in the right place, but this does not really add up to much at the moment. Coming to (b), I think is an ideal subject for a Scrutiny review and I am not really sure why the Deputy is suggesting that we request the Council of Ministers to commission an independent review when it is something that could take place within the mechanisms and bodies that we have to review policies. I look back to why we changed policies from 2006 to 2009. I think it could be done by Scrutiny. I am not really sure why we are suggesting that it should be the Council of Ministers to commission independent reviews when indeed, as I said, we have the mechanisms to do this in-house. That brings me to the final point, (c). That is to request the Council of Ministers to lodge its 3-yearly revision of the policy on population, as stipulated in the current Strategic Plan in 2012. We are going to do this, so if we are going to do this I, again, would suspect if I am a Member of any Council of Ministers at the time, as others might be, I would want to have the policies coming to this House to get the endorsement of the House because that is the way we have set up our Standing Orders and our States of Jersey Law to give the assurances that we are all singing from the same hymn sheet in terms of overall strategic policy. So, (c) is going to happen. I think it is merely underlining a thing that is going to happen, I suspect, anyway. So, it seems to be a little bit superfluous. It will be done and it will be done after the census results have been released, so we will all be supposedly, if we have read the reports, having at least some prior knowledge as to what it is we are talking about and I am hoping that the debate, which I am looking forward to, will be able to be a very good one that does address the problems in a way that they will need to be addressed in order to go further into the future to the whole of the Island's benefit. So, that leaves me with just one other point and that is in making presentations by any States Member on reports and drawing rabbits out of the hat. I think it is unfair to give snippets of information and the information that has been sent around by the Deputy of St. Mary in relation to the indices for house price inflation, it mentioned that the source is Jersey House Prices Index, so presumably the figures have been taken from our own sources. It also has that it has been attributed to the Nationwide Building Society, so presumably they have been playing with them or they have just taken their figures and put them in and maybe done something, but it does cite, which is misleading, that the Jersey annual average change in percentage terms is 25 per cent over the period from 1985 to 2002, whereas for southeast England and west England, and the U.K. in general, it is around about the 13 per cent or 14 per cent mark. Those figures are not the normal practice in terms of quoting statistics.

[10:00]

It is usual to give a figure for compounded growth and the compounded growth for Jersey would be around the 10 per cent mark year on year. Likewise, for the English figures it would work out at around about 7 per cent. Now, if you have 10 per cent for Jersey and 7 per cent for England, those

figures do not seem to me to be as alarming as Jersey 25 percentage points, if you take the total increase and divide by 17, as opposed to 13 if you do it for the U.K. The other thing that is missing from this particular schedule is that it only goes as far as 2002. It is usual practice to, if you are quoting a past figure (which is 1985) to at least bring it up-to-date and that has not been done. So as Deputy Le Claire referred to in the current statistical digest (*Jersey Economic Trends 2010*) there have been decreases in prices which might be of relevance. The third point is that again, in quoting house price inflation, it would be entirely useful to show in a similar chart, or alongside, the increases in the same terms of the wages that are paid to people. Because I think if we put the 2 together, we will find that as part of the economic success (as some people have quoted) of the Island over the period one of the things is that the amount of money that we pay to people has gone up substantially from 1985 to 2011 and, indeed, if I cast my mind back when I first left university and started work, I was earning ... I think my first wage was round about £1,800 a year, so there we go, and £1,800, I certainly could not have afforded a house in terms of £450,000, so we can see what has happened. Wages have gone up - people have got wealthier, perhaps there is an argument to be looked at - but in trying to make the point that these things need to be looked at, it would be helpful if all the figures relevant to the case are presented for Members to look into and analyse rather than just taking snippets which appear to prove a point but, in the wider analysis, perhaps might suggest something different.

#### **1.1.6 Deputy S. Power of St. Brelade:**

Much of what I was going to say has been said, so I can speak very briefly. I am not going to support the Deputy of St. Mary, although his intentions are good. I think next year we will have a new Assembly, we will have a new Council of Ministers and we will know the results of the census and from that we will be able to extrapolate further as to what we need to do in terms of controlling population. One of the issues we have and one of the reasons we are where we are is that, in spite of all the soothsayers of doom and gloom, this is a very nice place to live, it is a very good place to live and it is up to this Assembly and the next Assembly to make sure it stays that way and it is beholden on all of us and our successors to do that. One of the problems I had last week was in the debate on P.37, the Control of Work and Housing, I felt that there should be one man, one woman, a Minister who had responsibility for population, and I tried to explain that in a number of ways and I felt it was a mistake last week, with all due respect to our Chief Minister and the Chief Minister's Department, to move control of population into the Chief Minister's Department. I feel that at some time in the future this Assembly is going to have to address how we control access to housing, access to work and I do not believe it can be done the way we approved it last week, however, I respect the decision of this Assembly right now but I think my words will be prophetic and I think we will be revisiting that at some time in the future. There needs to be a department, a Minister, a Ministeress, a man, a woman, who takes charge of population and migration. We have proven since 1971/1972 that the Regulation of Undertakings Law was utterly ineffective in controlling anything, it was a waste of time, and I believe now that where we are today the new Control of Work and Housing, by merging Control of Work and Control of Housing together, simply will not work. You cannot control immigration, you cannot control migration in any department of the States that is an economic driver, you simply cannot do it. It is a bit like statistics, it is a bit like data protection, they have got to be controlled separately and I believe that the correlation and the mixing of the new panel that will control housing and work simply will not work. That is all I need to say.

#### **1.1.7 Deputy J.A. Martin:**

The last Deputy who spoke said that we are a very nice and a very good Island where we can all live, my question is: for whom? The same Deputy is always speaking about the many people he knows who are in terrible hardship and that the best way to help them is to go for schemes where they part-buy and, at the same time, probably not rezone green land or even old glassfield sites. Again, the Deputy behind me, Deputy Duhamel, and Senator Breckon all spoke about the Deputy

of St. Mary's timing (and if Deputy Fox spoke he would probably say this is piecemeal) and I think it was also Deputy Duhamel who said: "And next year when we have the Strategic Plan, if the migration is not what we want, we will kick it out." I am very sorry, this is at least the third debate I have had. Deputy Southern tried to amend it, bring down the heads of population in 2005 when we were Shadow Scrutiny, there was another debate and then, as the Deputy of St. Mary said, in the 2000 Strategic Plan and he was supported by I think 10 or 12 people (and I will pass round, I have photocopies of who voted against the Deputy of St. Mary). I do understand, and it has always been a total fudge, and there is only one thing that me and Senator Routier do agree about, the new Right to Work policies and the Name and Address Register - that is exactly what it is - up until it was brought in it was called a "migration control" policy, and it is not. But what I think the Deputy is asking today is ... and this definitely goes back, I cannot stand hypocrites; you either decide and you be honest (and as I said the only honest speech I got yesterday for the candidate for Planning was Senator Le Gresley) and say: "We have these people here, we will need to build on these fields, and we are going to have to do it" or we work around a way that we have to work within the population. If you did listen to the Deputy of St. Mary when he said we have approximately ... and it is not him, it is in the statistics (you know, we have all got our little book, like Deputy Le Claire) it is around 2,500 in and 2,500 out. Strangely enough, Senator Breckon mentioned births over deaths but in the last 10 years the whole school population has only increased by 405 but, funnily enough, primary schools have only increased at much less than secondary schools - primary schools is 563 and 968 in secondary schools - so where are all these people being born? A lot of them are leaving because their families cannot get a decent home. They are going somewhere in the U.K. or abroad, so you are losing those sort of people. The whole fundamental 150 heads of households, as Deputy Le Claire says, is double it and add on point 000 for a child. But we do not get immigrants coming in with that amount of children, they have more children and then they go on to have more children and our policy has always been "do not shut the door", the economics do not stack up. Deputy Le Claire voted in favour of the Deputy of St. Mary's proposition last time. The Council of Ministers say that: "A sudden shift to zero population" and it is not zero, it has been about 2,500 people leave, we have got the selection now, have we not? We have control over the licences, what people work, so that extra 500 ... if you want to have 500 coming in, we select, let alone that we have got in this same book in February in 2011 we had locally 1,480 registered unemployed. Now, in our great system of education, surely some of these ... and many of them are school leavers or between 16 and 20-year-olds, why are they not being given a chance in the local workforce? Why are they not being mentored? **[Approbation]** Absolutely ridiculous. We have done it for years and years and years, and I ask the question, we are now looking in Health, are we not? Who is going to maintain the elderly population over the next so many years? Now, the statistics go, we have at the moment working population supporting non-working, and I think it is around - this is top-of-my-head figures - 3.2 or 3.7 ... maybe 3.1, and it goes down to when we have all these elderly people, to 1.8 working population. So my question was quite simple to all the experts: if the 1.8 working population have got to be bringing in the taxes to pay for the people who we are looking after, who are the people going to be looking after the elderly people? Nobody had the answer, because this is not the answer. Unfortunately, it is going to have to go back the old way. You cannot stick your elderly people in a nursing home, the money will not be there. But it will go back to where the family were looked after, and I am sorry to say it that is the only way, unless you keep bringing in and bringing in and bringing in and in the end it still does not solve the problem. The Deputy of St. Mary has concentrated on housing and I think I am not trying to make a friend out of Senator Le Gresley, but I felt his frustration yesterday because him working through the Citizens Advice Bureau, myself many years before being in the States working through STAG(States Tenants' Action Group), were dragged into talking shops and saying: "We have never planned 10 years ahead for housing, we are always running behind 10 years" and we are still there. The same people who voted against the Deputy of St. Mary's amendment in the Strategic Plan were told: "Oh, no, the world will end, finance will go away and we must have these people" we do not know who they are, we have set a figure, some bring their families, 5 years people live in a room - I

mean, different cultures and horses for courses - youngsters will live in a room. After 5 years they benefit from anything, they can work anywhere, for some people it is not a hardship. I totally agree with Senator Ferguson, the mechanism is not there so I agree when people say: "Let us examine what went wrong with the mechanism" I have always said we do not have one, I have always been told we do, and we do not, and let us be honest. I really think that today is the day that we stand up and say we know we are heading ... I am all right, I am a town Deputy and I was just looking at the statistics of land mass, and the biggest is St. Ouen and then St. Brelade, and we go down to St. Helier, we are right in the middle, our density in St. Helier: the schools, the children and everything that comes with it ... Deputy Le Hérisier asked: "Do we have any evidence to say that because we have many working families, it affects our children?", well, I know we have children with severe problems, latch-key kids from all different sorts of families, low-end workers to high-end, does that create a problem? Well, for head of population, our so-called ... you know: "We have a very good economy and it is a great place to live" for these kids, no, it is not. He asks for evidence; well, you just see how many of the silly crimes, petty crimes are dealt by youths, because they are bored, they have got no family, there is no one to go home to at night.

[10:15]

They are not children of an age that need to be looking after, because I think by law it is up to about 11 or 12 if there is a law, which would probably surprise me ... there is not, and it is not 14, there is no law in Jersey that says you have to be looked after at 14, it is all mythical, you can leave your children as long as you feel they are okay. Many people, for the cost and for other reasons, do do this and they have to work, and it is not 9.00 a.m. to 5.00 p.m. anymore, the pressure out there on working families ... like us here today, we are families, I have not seen my children all week, and we have to shop, we have to do everything else. They put up with it very well, I am not saying they have not suffered for it, they probably have, and I have suffered a lot as well because I have missed a lot of them growing up, but that is what you do when you are trying to work and support yourself. So really, I think today I have heard all the: "This is the not the right time, the Deputy of St. Mary has got it wrong" well, the Deputy of St. Mary, in my eyes, did not get it wrong in the Strategic Plan, he got 12 ... or maybe more, maybe 14, I think ... oh, 16 sorry, yes it is at the top. The usher will bring this round because I have had 60 copied and a copy each for the media, because it would be very clear to see that the people who said: "No, no, no, let us keep increasing the population" were the same people who voted against building on Samarès, field 1248, field la la la, "let us protect our greenfields, but let us carry on shoving and shoving and shoving into St. Helier." Thank you. I am just thanking the usher, if you would just read ... just to remind people where they were on population. We do have a big problem, I have been promised for 11 years that we have an immigration policy, the late - I nearly said "great", I do not mean "late" in late - ex-Senator Pierre Horsfall told me: "We do and you must wait and we are going to have this debate and we will stop people coming in" I am now 11 years down the line and I am frustrated but I am more frustrated with the hypocrisy. You cannot have it both ways, if you want to carry on increasing, I will go with you, I will go along with it, but you provide the houses in Trinity, St. Ouen, St. John ... I have probably missed somebody ...

**Female Speaker:**

St. Clement.

**Deputy J.A. Martin:**

No, these are the biggest land masses with the smallest population, absolutely biggest, so do not laugh at me, I know that St. Helier is the centre and: "Let us all come to the centre" no, let us all move out, let us move all these people - and just finally, I will finish - let us wait for the census. I had no faith in the census in 2001, I had no faith ... we found, in 2009, 3,000 more people nearly, through the Statistics Unit. Now, the census, and I have spoken to lots of people who live in, let us



say, the unqualified sector, they do not know whether they were included, they never signed it, they do not know if, when they were living in someone's back room, were they put on it? I have no faith in the census. In principle, I want this whole thing looked at, I now know what Senator Routier has brought in is not immigration control, I think it was all quite clear, the only time I probably ... well, I do agree with Senator Ferguson sometimes, but she is spot on, we do not have a mechanism but do we want to carry on growing and growing our population? I quite easily support the Deputy of St. Mary because I have always said: unless you get real and get honest and be honest about the 10-year plan - and it will not be 1,000, it should be nearer, 2,000, 3,000, 4,000 homes we need probably now - I cannot go along with "keep the growing the economy." As I say, be selective, get the right people in, just get your head round it, somebody do some work and make sure that we are not the fall-off of Guernsey and: "Oh, go back to Jersey" that is exactly what we are, we are turning into ... I really do not know what, we are just absolutely failing many, many people on this Island, and I will not say it is a good place for all to live; it is a great place for some to live, but a very bad place for lots of people to live.

### **The Deputy Bailiff:**

Does any other Member wish to speak? Senator Routier.

### **1.1.8 Senator P.F. Routier:**

Very briefly. The Deputy of St. Mary in his opening comments yesterday said that this was not a debate about the mechanism that we have to control our population and it was more about the numbers and I have to say I agree with him, because that is what he is proposing. There have been a number of comments made about the current mechanisms that are available to the Migration Advisory Group and also the new legislation which we passed last week. I think, to put any doubt out of people's minds ... I hope I can because I know, sitting on the Migration Advisory Group and those people who sit with me and those who have sat on it in the past, we refuse people coming to this Island. We do it on a regular basis. The applications that come into us to ... well, I think Senator Ferguson is probably making the point we do not refuse them coming to the Island, there are no jobs being allowed to be created to warrant them coming to the Island is probably the correct way of saying it, so licences are refused on a very regular basis and people do not come to the Island because those jobs are not available to them, and that is a fact of the matter and we have evidence of that, certainly. Senator Breckon made the comment that Guernsey used to just push people off to Jersey and that was the way that they would not let them into Guernsey and they would come to Jersey. Well, another myth, that Guernsey have managed to control their population. Their population has grown exactly the same as Jersey's, it is exactly the same. They have a smaller Island than us and their density is far greater than Jersey's and so I think to hold up Guernsey as having a good system of trying to control their population is probably not a brilliant one to put forward as a suggestion. The Deputy of St. Mary in his opening comments talked about that we had completely missed the target that was set in the Strategic Plan and we had been fortunate, we had been saved by the recession. Fair enough, that is a point which can be made that recession has probably made for less applications for people to come to the Island but, as I said earlier, the Migration Advisory Group during the recession have had applications which have been refused and they have been refused consistently. We have allowed some jobs to be established and people have come to the Island but on a regular basis we have refused applications for new jobs because of the current situation with regard to unemployment within the Island. It would be interesting to know how the Deputy would deal with an application if, for instance, a renewable energy company wanted to start up in Jersey and wanted to bring a number of migrant people to set up a renewable energy industry, I think he would have a challenge in his own mind to how he would deal with that, because I believe he would be very supportive of having a renewable energy company established in Jersey. So those are the sorts of challenges which are there before the Migration Advisory Group that have to deal with these matters. The final point I would like to just pick up on is that the Deputy has furnished us with a table of house price inflation - well, I think it

has already been identified that it is 9 years out of date - but I think it would have been useful also to have had the Guernsey equivalent figure as well because they also have had price inflation at a similar sort of level to Jersey and, in fact, I think in the last couple of years they have outstripped our price inflation. So I think figures can be used in all sorts of ways but, to use those figures as supporting his argument, I think they do not do that effectively. I will leave it there, other than to say that what is being suggested by the Deputy is, to my mind, unworkable. I think that after the census - I know that Deputy Martin does not have much faith in the census, but that is what we have - we do have the census and we know there is a certain amount of error recognised, the census figure does go out and there is a margin of error in that and that is statistically acceptable for the Unit. We have a lot of faith in our Statistics Unit and I think we should continue to have that faith in them because they do do a very good job and they give us information which helps us make decisions. So we will have that information from the census and I think it will be down to the Council of Ministers of the future to come forward with a population target which is appropriate. I think this proposition is too early and I think that we should enable our information to be gathered clearly and satisfactorily so that proper decisions can be made.

#### **1.1.9 Deputy T.M. Pitman of St. Helier:**

I am scribbling away - 4 or 5 pages, I have - but I have to say that I think Deputy Martin's speech was brilliant and well done ... oh, she has gone. She could not take the praise, but it was an excellent speech and really she said so much, I think she has hit so many nails on the head, I am probably not even going to use my speech. I would like to know when she comes back which parish in the Island Plan "field la la la" was because I must have missed that one; it has probably got houses on it already. But all I would conclude, and I am going to support the Deputy, is to say that really I think that the real nub of this is that we do not have a plan on population. This growth and the way we look at things it is part of the Achilles heel of free market capitalism and as any true economist would point out, the Achilles heel is that ultimately our never-ending growth is unsustainable and sometimes it is going to have to be faced up to (and it is probably going to be the next government now who is going to do that) and, until we do so, we are never going to have an answer. I just think we cannot keep putting things off and criticising people like the Deputy for bringing this. I think fair play to him, it is a proposition well worthy of support and I am going to do so.

#### **1.1.10 Deputy G.P. Southern of St. Helier:**

I always enjoy it so much when the Assistant Minister for Treasury and Resources, I think he is, or Assistant to the Chief Minister, Senator Routier, stands up saying that he is going to make things clear because, invariably, he singularly fails to do so. It is a bit like knitting with fog, finding his words. His evidence he said that the Deputy of St. Mary is wrong was that we have refused on a regular basis some permits for people to come here, he did not say how many, he did not say how consistently, he did not say over what time period and he did not use any evidence to say: "And the end result is ... we met our targets." Why did he not say that last statement? Because we singularly have not met our targets. We have it from the Statistics Unit in very clear terms that the Strategic Plan was to restrain the net migration to 150 heads of household. Over the 3-year period 2007 to 2009 - part of which was already in the recession, jobs were hard to come by - we had a net migration of 325 heads of household, we absolutely failed to meet our targets. But the Assistant Minister could not demonstrate that because his figures belie the sentiment that he was coming out with that it is all right. He then went on to a completely spurious argument about: "And if an alternative energy company were to try and set up in the Island, we would have a problem." We might well have a problem, except an alternative energy company is already in existence, it is part of J.E.C. (Jersey Electric Company), and they are working on things and they have a lot of engineering skill and they have the expertise to develop initiatives in this particular area already.

[10:30]

Then the Assistant Minister went on to say: “But we have got the census coming soon and that will show that everything is all right.” Oh no it will not, it might show us an accurate, to within plus or minus 3 per cent, picture of our population. What will that show? That will show that when we had a target of 200 heads of household we overshot that by a mile and in some years something like 650 heads of household were arriving in the boom years and that that will add to the net births over deaths of around 250, which has been occurring over the past few years in the decade that we are surveying, and that will add to that and it will show, I think, that population has gone up quite significantly in the time where we have set these targets for heads of household net immigration. That is what it will show, it will show we have got a problem. Whether it is housing, whether it is roads, whether it is education, whether it is a hospital service, that is a demand on our resources and it is no good, time after time, whenever people come to this Chamber saying: “We have to do something about our population” because we are an Island state and that we have limited resources and we are using up those resources daily and the key element is land and housing. The Deputy of St. Mary is absolutely correct to concentrate on land and housing because that is where the crunch is and it is no good this Chamber, this Assembly, hiding its head in the sand time and time again or uttering the words: “Yes, we must do something about net migration, immigration, yes, we can control jobs and housing and therefore control immigration”, no we cannot. They even abandoned the use of the word “control” in terms of migration, it is jobs and housing control. It is no good this Assembly hiding their heads in the sand uttering the words: “We must do something about it” it is time to act and we can act before the census comes out and tells us we have to act, or we can wait for the census if you wish, which will say, “You have to act, and you are already late in acting, you can get on with it.” This is a highly commendable proposition and should be supported.

#### **1.1.11 Deputy D.J. De Sousa:**

I will be brief as always. I really want to echo the words of Deputy Martin and Deputy Southern. Senator Routier made much play on the fact that J-cats have been refused and some jobs have been refused and that there is control there, but this is an absolute fallacy. There is nothing stopping somebody turning up today on a boat or an aeroplane and staying, there is absolutely nothing to control that. I grew up in Australia in the 1960s and way back then, and even today, this vast land mass of Australia has control over who can and who cannot go and live and work there. It is an absolute fallacy to say that working to control all permits is against human rights, people do it all the time to control. I have been consistent in my vote on the population and the increase and I will be consistent today and I will be voting with the proposition. The only thing I will ask is that the Member will split the vote on parts (a), (b) and (c) because I do agree that (b), we really do not need to go there. I was part of the Scrutiny Panel that looked at the new housing and work controls and we have said that we will continue to monitor this and I do think that we do not need to set up an independent review commission and that Scrutiny can keep a watching remit on this.

#### **1.1.12 Deputy R.G. Le Hérisier:**

I was just going to echo the final words of Deputy Southern, it is indeed highly commendable, and I know the Deputy of St. Mary will find all these people who keep saying that utterly patronising, but I have to say that. I would also echo what Deputy De Sousa and Senator Ferguson have said, the elephant in the room is the totally unlimited flow of people from Europe; of course, we cannot control that. Although we alleged that we control jobs, the inducement to stay, particularly at the 5-year point where we now have better access to social services, particularly income support, not to housing at that point (although I am told there has been an improvement in the unqualified sector, despite my statements, but I think it is still a very variable matter). That means there is a different dynamic at work, and immigration systems across the world and in places, particularly like Britain where we see so much discussion of it in learned journals like the *Daily Mail*, immigration sets up its own dynamic: the more people come of one group to a place, the more other people wish to come and a massive critical mass develops and so forth, and it is often nothing to do with employment opportunities, it is often to do with people being there already and being comfortable

with the situation and so forth and so on. It all starts, as I think Britain has discovered, spinning out of control, and that is what happens. I have often wondered, we had an answer recently about the fulfilment industry where the Minister said (and I have got a further question in this regard) that I think about 280, 290 employees were on licence and the rest were locally qualified, the rest up to about 900. I suspect when you analyse the fulfilment industry - it is like our old industry, so to speak, tourism and agriculture - it is very labour-intensive, it brings in a lot labour and I suspect a lot of that labour, because of the working conditions, gets a lot of social support and I really question the net economic benefit ultimately. I know there will be talk about the cross subsidy to the post office and so forth, but that is a strange rationale to set up a whole industry which demands a whole lot of social support and which I think creates a lot of issues further down the line because people work very hard in it, they sweat and work hard and then they see the prize of the 5 years at the end and who would not say to themselves: "I am going to work towards that prize"? So we do set up a massive pressure in the way we handle that industry and that is where I do not think people look closely. But the real elephant in the room which I revert to is unlimited immigration from Europe. It was noticeable when that Mrs. Duffy was interviewed, the woman who derailed Gordon Brown's election campaign, she mentioned that she had not understood (although she understood a lot of things, it should be said) because she said: "Why are all these people coming in from East Europe?" and of course, they cannot control them under the current agreements, and we face a similar situation and I do not think we have ever taken that seriously. I got very involved ... and it was a bit of a dodgy issue in the sense that it could lead to some unfortunate xenophobic expressions and feelings with the passport issue which, of course, is the other side of the unlimited issue. I think it is basically an unbelievably unfair situation where we say there must be unlimited access to the Island but we do not give Islanders a reciprocal right [**Approbation**] that is unbelievable, and it has always been justified in that, basically, in order not to upset the finance industry we dare not reopen that agreement, that is essentially the rationale that is unspoken, shall we say, and it is a terribly unfair one. But I have to end, and I am going to disappoint the Deputy, I do not like radical changes of policy, although a lot of people will say this has been a long time coming and it needs a desperate shake-up, I really believe this should be for a new House. They need to bring some fresh thinking, it would be so wonderful if fresh thinking could be brought here, if things could be revisited by, hopefully (and of course, that may spell Armageddon for some of us) by a new bunch of people who are looking at this with fresh eyes and, as Deputy Le Claire said, against the backdrop of a rather serious economic situation. But new people instead of a lot of us who are just sort of justifying, almost by rote, tired old policies.

### **1.1.13 Senator J.L. Perchard:**

There is not much more really that one can say, I think everything has been said, and I know every Member of this House wishes to ensure that we do not allow the population of Jersey to grow without control and that we recognise the consequences of that would be to ruin the character of the Island and to place pressures on the infrastructure of the Island that are just unacceptable. That said, I cannot support this proposition, albeit I understand why the Deputy has lodged it. It is not reasonable to say that we should aim for a zero growth in population. I believe our generation have binged like drunken sailors for 20 or 30 years. We have a run-down infrastructure. We have a road network and liquid sewerage network that needs massive investment. We have a Victorian hospital. We have unsustainable public sector pension provision that our children ... goodness knows how they will afford to square the circle on that one. We have proposals now to fund us in old age that our children will pay for. We cannot reasonably say we are going to do all this on a reduction in the number of people in the workforce because this proposition effectively says: "We will reduce the number of people in the workplace" because we are an ageing population, as we know, there will be less people working, and asking more of our children to fund the demands of our generation. While I understand where the Deputy of St. Mary is coming from, and nobody is more passionate about protecting their Island than I, this is not the way to protect Jersey. The consequence of a zero growth in population, in fact, will be to have a high cost of doing business,

wage inflation, businesses leaving the Island, unemployment for those that are here, an ageing population and no revenues to support that population. This needs to be managed very finely and carefully and it needs to be handled with balance in order to ensure that we protect what is best about Jersey but also protect the people that are here to live in the Island. As I said, there is not much more to say other than I do believe that we must place more control on the issuing of J-cats, or now the new licensed employee, to ensure whenever possible that those jobs go to our local unemployed and I think the Economic Development Department must question businesses more closely about employing a local whenever possible rather than issuing more and more J-cats, and if possible, we must be pulling back J-category licenses from businesses in order to ensure that we make an impact on our unemployment levels.

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

I am pleased to follow the last speaker because, before I say what I really want to say, I think you would be pleased to know that in 2010, we refused 300 J-cats and 565 non-local licences were also removed and in 2011, although I do not have the figures, it has been even tighter. But the trick in this is to work smarter, to only allow people into the Island that really are going to be net contributors and bring skills into the Island that we really need. While I entirely understand what the Deputy of St. Mary is trying to achieve, saying: “We are closed” is not going to achieve that because what it will allow is people with non-qualifications, or skills that we do not require, to still get in because of the arrangements we have currently with the E.C. (European Community) and the very skills we want to come into the Island: the doctors, the nurses, the teachers and perhaps other engineers and people like that that we want to train our local people, will not be getting in here. So we need to work smarter, we have got a lot to do because we cannot continue the way we are going.

[10:45]

But before we decide where we are going, we have to know where we are and we do not really have that figure yet and I do not think the census will tell us what we need to know, I think a year into the migration and the new law that we just passed (I cannot remember the exact title) that will tell us exactly where we are, that will allow us to make informed choices rather than emotional choices and, for that reason, I will not be supporting this particular proposition, although I do share its sentiment.

**The Deputy of St. Mary:**

Sir, can I ask for a point of clarification on the previous speaker? He said that ... or he suggested that my proposition was saying: “Sorry, we are closed.” Could he point anywhere in my report or proposition where this can be justified?

**Deputy A.K.F. Green:**

It does not say that in the proposition, but if you are not going to allow anyone to come into the Island, we are closed.

**The Deputy of St. Mary:**

That is misleading the House. That is a serious matter, Sir.

**The Deputy Bailiff:**

That is the Deputy’s view about your proposition.

**The Deputy of St. Mary:**

It is misleading the House, Sir, because there are 2,500 people coming in and out, so it is not closing the door.

**The Deputy Bailiff:**

He was not misleading the House in my judgment at all, but you do have the opportunity to answer these points in your summing up and being as direct about the contributions which Members have made as you feel is appropriate.

**1.1.15 Senator T.J. Le Main:**

I have great pleasure in following the last speaker and the previous one, Senator Perchard. I hear again today the same old voices from across the Chamber, the same old song: “Never-ending growth, never-ending growth.” Well, I can remember very well in the elections in the 1990s when we gave the message out to everybody, to the world, that we were closed for business, I remember riding high in the popularity polls in those days (those were the days) **[Laughter]** and at St. Martin being asked a question about the “closed for business” and I was the only one on the platform that stood up and said that I totally opposed that policy and it was going to be detrimental and, boy, was I found to be right; probably the first time also. But let me just say that I have sat with the migration working party on issuing of licences, the issuing of J-cats, and I am very, very well aware of what is going on at the present time and the policies that are being applied by the Minister for Housing and Connétable Norman on behalf of E.D. (Economic Development). Now, at the moment, it is new businesses that must be - and are being - promoted to settle and come into Jersey and to become involved and to grow, it is new businesses that are going to apply and employ skilled staff, paying decent wages. For many, many years I had a problem with allowing businesses to start up in Jersey where all they did was draw in unqualified, unskilled labour from other countries paying minimum wages, much to the detriment of the local population. I am very pleased to see the Minister for Housing and his colleagues in the Population Office now promoting and making sure that the business community are very well aware of the need to pay good salaries, good wages, promote their businesses and to be seen now that they are having their licences for unqualified being reduced and often being taken away because there are people in Jersey at the moment that are well able to do some of this work that is taking place. So people just cannot walk into the Island, yes, they can come if they are a member of the E.U. (European Union), they can come into Jersey, but they can only get employment if the employer has a vacancy within his licence, they cannot just walk into the Island and just get a job anywhere, that is absolutely not true. I cannot see this issue that the same old voices are saying all the time: “Too many people, too many people.” I walk up the town now, I think the town is buzzing at the moment. I think it is great to see the shops are buzzing, the amount of people round the town, sitting in the bars outside, walking around shopping, enjoying the restaurant outside - and great credit to the Parish of St. Helier who have allowed many more of these places to be sitting outside - and these issues. I very much agree with Deputy Le Claire with all he said but I still listen to Deputy Southern who keeps going on and on and: “Jobs, housing cannot be controlled by the new policy as we agreed last week”, absolute rubbish, I say. It is not correct, the ball is in our court, we have now got the legislation, the regulations will come into force in the next 12 months, and the Population Office through the Chief Minister’s Department, I would expect, will be able to control the type of business we need in Jersey, the accommodation that the employer will have and all that. I do not find ... I am sorry, I have been Minister for Housing, President, for a number of years, I do not find this beautiful Island over, over populated as exaggerated by so many people in this Island, and mostly by some Members of this Assembly. We are going to need some assistance with our ageing population, no question about it; as quite rightly said, the working population is reducing all over the Western world, more people are going into retirement, less people to take up the jobs and we are going to have to, whether we like it or not, take up that challenge and we are going to have to probably increase our population but manage it and I see nothing wrong, even if we have to manage it and it brings in a few more people to manage and to look after our elderly people, look after our businesses, then I have got no problem with that. The census is next year, as said by everyone, and I believe that the new Assembly, like Deputy Le Hérissier, must be the ones who are going to take forward this. But I just get a little bit fed up when I listen to propositions that come like this, just because ... oh, I do not know why, I really do not know why they come forward like this. No

thought to them at all. I understand the feeling of the proposer, but there is no thought about how this is going to be done and to say that we just want to put a stop, like we did in the 1990s, would be a catastrophic disaster for Jersey. I have children and grandchildren, and one granddaughter that could not get a job at the moment in Jersey, no vacancies as a teacher, now being employed in the U.K, so I am as concerned for them as anybody else. But she will come back eventually and I hope they all come back eventually but, at the end of the day, I think this is a flawed proposition and I believe that this Island has still got to live, breathe and work and we have got to show the world, like some of the Ministers are doing, that we are open for business, there is a tremendous amount of business out there to be done with the world, we are a reputable, well-regulated good jurisdiction to do business with. To turn round now and to tell everyone like we did in the 1990s that we are just going to close the door on the back of a fag packet, as suggested by the proposer, would be an utter disaster for Jersey and I rather hope that when the elections come along, this is going to be a major thing, because I know where I am going to stand with this.

**1.1.16 Connétable L. Norman of St. Clement:**

Senator Perchard was quite wrong when he said there is very little still to be said on this matter, quite honestly **[Laughter]** there is a huge amount still to be said on this matter and, as a member of the Migration Advisory Group and as the Assistant Minister of Economic Development responsible for the Regulation of Undertakings, I intend to say just a little bit. As I said the other day, population is a matter of 2 things: it is a matter of demographics, which is about numbers of births over deaths, and of course, people living longer - our population is going to increase even if nothing else happens - but it is also (and perhaps even more tellingly) about economic activity. In simple terms, people will want to come to this Island if there are jobs for them to do, that is the only reason, unless of course there are better-paid jobs, better standard of living and so on, in their own jurisdictions. But if there are jobs which are worthwhile doing, we want them to do them, they want to do them, then they will come because we will need them to do those jobs. But the real trick is we do have controls and we use those controls, we react to the economic and social conditions at any given time and we are currently reacting to the situation of coming out of a recession and the level of unemployment which we are not really used to in this Island, many other jurisdictions of course very close to us are used to much higher levels of unemployment but we are not, and we have got to deal with that. So just to give a little bit of information about how we have reacted to that, from the manpower returns in 2010, non-local employment reduced by a total of 320 and J-categories working in the Island reduced by 30. The Minister for Housing gave some figures, they were not J-category figures, but what I did with the advice of the Migration Advisory Group, during 2010 refused over 300 new non-local applications from local businesses and removed permissions that had already existed of 565 non-local licences from existing businesses. That, I think, does show some commitment and some reaction to the economic situation and to the unemployment situation. What I am really trying to say, the tools are there to do the job and we are using them, we are taking action to achieve the targets. This sort of wishy-washy green type of proposition does absolutely nothing to help the local population and indeed, in the medium to longer term, could be incredibly detrimental. We have the tools, we have the policy, we are using the tools and we are going to be achieving the policy.

**Deputy A.K.F. Green:**

Sir, can I just correct ...? The Constable very kindly corrected the statement I had made, it was Regulation of Undertakings, the 300 refused, rather than J-cats.

**1.1.17 Deputy M. Tadier of St. Brelade:**

The reason we are constantly redebating the issue of population net inward migration is because we have never had a real debate on it, we have never had a high-level informed strategic debate on population. Deputy Le Hérissier referred to the same tired old policies being brought forward. There is a reason for this, it is because we have the same tired old politicians who have been

running this States in recent years. It has to be said, for fairness, many of those tired old politicians are tired because they were playing cricket on Friday and they were remarkably flexible and agile, it has to be said, certainly more than we working-class politicians will be when we get to their age, I am sure our knees and our joints will be going. But there is a serious point there, I think, is that there is not a vision and I think the last speaker is quite correct, this proposition is not going to solve anything in the long-term, but what it does, it provides a hiatus for us to take a breath and look at the pseudo policy that has been put forward which says: "We are going to limit population growth" and, of course, in the States of Jersey Orwellian-speak "limit growth" means increase the population exponentially for the next 20 or 30 years by 150 heads of household, 325 overall population net increase. But, of course, we cannot even do that because we have exceeded that already.

[11:00]

The problem with part B is that the Deputy is asking to commission an independent review into why the Population Policy of the last Strategic Plan was not adhered to; the problem is, there is not even an acknowledgment that that policy was not adhered to. What we should be asking for is for the Council of Ministers or this Chamber first of all to acknowledge the fact that that policy was a complete nonsense, it was not stuck to in the first place, but we had a complete denial about that fact and we are having repeated denials about the current policy (which has already been exceeded) so we cannot even manage to stick to the rough policy and the rough figures which we, as an Assembly have agreed in the 2009 Strategic Plan. So there is a problem there. Another issue, I believe, is that we are constantly moving away from the direction the majority of the population want us to be moving in, that is, a sustainable population, maybe even a reduced population, but certainly keeping the population roughly as it is until we certainly manage to sort out the problems with infrastructure, with transport, with housing, before we go on to make the population increase even more. I notice one of the Senators who lives in a very large parish with lots of green spaces which is not built-up at all, is sighing there, but these are the realities for most workers and families in the Island. It is coming to the point where if the States persists in pursuing a policy of wanting to increase the population year on year while the minority of us seem to want to take a breath and say: "No, we have got enough people in the Island already", I think I am going to have to change my stance on greenfields, as has been implied already speakers, that if the majority of the States want to increase the population, if we look back to the vote of 3rd June 2009 when 11 of the Constables, apart from one, the Constable of St. Lawrence said: "Yes, we want to increase the population year in, year out" then they are going to have to go to those 11 parishes, apart from St. Lawrence. So first of all, let us start with Trinity, let us start with Grouville, St. Martin. "Let us redevelop all the greenfields in St. Martin because we know that agriculture is dead anyway. We do not make money from agriculture, we have to subsidise it, let us just concrete over all those fields, let us just concrete over St. Helier, build big high-rise banks, like in Monaco or maybe like in Saudi Arabia, because that is where the money is, we do not need greenfields to make money, we can import our vegetables from the U.K., we can import them from poorer countries like France, let us just forget this myth that tourism and agriculture are needed in the Island, it is nonsense, Jersey should be putting its money into one basket, into finance." I do not have the magazine with me but when I was flying this weekend, I picked up a magazine called *Chief Executive* business magazine and it had a quotation from Andrew Carnegie in it which I found quite interesting, it says that: "The shrewd businessman puts all of his eggs in one basket and then watches that basket", that is not something I agree with but that is something the States of Jersey seems to agree with. Thinking about it, I suspect that Andrew Carnegie probably had lots of investments anyway that were scattered around the place like a squirrel so I am not sure if the internal logic in that statement works. But nonetheless that is the way the Council of Ministers, I think, want to go and if that is the vision for the Island, if that is what the majority of the States Chamber wants then, as a democrat, I have to go with that and say: "I will be happy to be voting in the next Assembly to



concrete over greenfields in order to house the population adequately”; I suspect that is not what the population wants, though. Senator le Main came up with the remarkable comment that no thought has gone into this at all. On the contrary, I think that the Deputy of St. Mary has put lots of thought and lots of hard work into this, as he does with every proposition. The fact that it may be not achieving what it seeks to do is because he is trying to moderate the policy first of all which is not coherent in the first place, we need to take it one step back, we need to have the policy ... Senator Le Main made also an interesting comment about his grandchildren, that they will come back at some point, and that is exactly what does happen with young people in the Island, they will go away because there is nothing in the meantime for them, there are little jobs necessarily for them to pursue, they are not going to stay here and pay extortionate rental for all of their lives when they can go away and either buy or rent or travel and so they come back and inherit the family property when the parents or grandparents have pegged it, that is what they do. I am sorry, was there tsking there? That is what happens, they come back because they cannot afford to live here, they will inherit a property. In the mean time, we are having to force immigrant workers into the Island to live in harsh conditions without proper accommodation, minimum-wage jobs.

**Senator T.J. Le Main:**

On a point of order. Many of the children stay to have experience in the U.K. before coming back.

**The Deputy Bailiff:**

What do you wish me to say on that point of order, Senator?

**Senator T.J. Le Main:**

The Deputy was saying that they do not come back because there are no jobs. My point about my granddaughter was that she is gaining further experience by working in the U.K. prior to coming back.

**The Deputy Bailiff:**

I do not think that is a point of order. Deputy Tadier, please continue.

**Senator T.J. Le Main:**

I am sorry to wake you up, Sir. [Laughter] [Members: Oh!]

**The Deputy Bailiff:**

That is unfair, Senator. [Laughter]

**Deputy M. Tadier:**

That is unfair, I think that it is remarkable that the Chair manages to stay awake at all I would say in this Assembly, he does better than some of us. I think that is a good point which the Senator could have made in his speech. I think the point does need to be made, of course (and I made it before) that there is nothing bad about having new people come in and having Jersey people who leave, either temporarily or permanently, because the Island does not necessarily suit them for a temporary period in their lives, and this is not about us saying: “No, we do not want any immigrants into Jersey” it is not about that; but of course, we have to acknowledge the fact that anybody who comes here does make a valid contribution and it is because of that that we want to say that anyone who comes to the Island should be treated fairly and should be treated with the right to good accommodation and to a fair wage, not simply a minimum wage. But there is a contradiction there because in order to understand the problems with the population, we have to understand, basically, the market, we have to understand capitalism and the free market. We have to understand though that the 2 are not the same; in Jersey we, I think largely, like the rest of the world, have a capitalist model, we do not have a free market. The difference is that the capitalist model relies on waste; that is why we need to constantly have growth, growth, growth, because it is an unsustainable model. Free market, on the other hand, relies on efficiency and so if we had a true

free market economy, we would not need to be bringing in people all the time because we could make sure that the system was efficient, that only the work that needed to be done was done because there is not some fat cat at the top who creams off and exploits in the Marxist sense the worker in order to make his profit, which is producing nothing; that should be understood, unfortunately, we do not have necessarily that level of understanding. A lot of this has been said before and I would just like to read out a couple of quotes, *Hansard* is a great tool: “We have a Ponzi-scheme economy that has weathered some more and more and more growth; effectively, it is that you have to keep on growing the system but you cannot carry on growing the system because mathematically and inevitably, it is doomed to collapse one day, so people just hope that they make their cut of it during the good times and they are off the scene and their investments and so on are out of the way when the scheme invariably collapses.” It should be the voting public who decide on the policies of the Island’s government and, as I said towards the beginning of my speech, I think we are continually moving away from the position where the majority of the Island want us to be. Again, we have an ageing population, environmental destruction, just look at Portelet, I notice that the Planning candidates yesterday had surprisingly little to say in favour of Portelet; it happened nonetheless on somebody’s watch.

**The Deputy Bailiff:**

Deputy, could you come back to the proposition, please?

**Deputy M. Tadier:**

Sir, I think this is all interlinked to the proposition, I am trying to explain what it is that we need to understand when we debate to make a very serious decision here of whether or not to cap net inward immigration and I think I am making directly-pertinent statements to that effect, and I do not have long left, either. We have an ageing population, environmental destruction, economic vulnerability, Ponzi-scheme economics and population growth as well. As I say, the point I am making is I am also going to be consistent with those 16 who agreed that we cannot go on year on year increasing the population and leaving problems for the next generation. That is essentially what we are doing. Senator Le Main talked about his grandchildren and I know that, of course, he has great care and affection for those (and quite rightly, as any good parent and grandparent should do) but I think the unintended consequence of continually growing the population year in year out while many of us may not be here in a couple of decades to see the consequences, some of us will unfortunately still be here, though maybe not necessarily here; I think we will have to deal with these consequences. That is the point I would like to, I think, conclude on and so I will be quite happy to support this proposition, more so for the principle of it, because I do not think the debate has been had. I think this is a valid call, reality check, and unfortunately one does despair because I know the majority of my colleagues in 30 years’ time are not going to be here and I am going to be left picking up the pieces.

**1.1.18 Senator B.I. Le Marquand:**

I am not keen to see the population of this Island endlessly increasing but we must be practical in our approach to these things, we have to be real in terms of demographic trends for the future. The ageing population is a real problem which will not go away, it is going to be necessary to maintain our economy and social framework by having some net immigration over the next 30 years. However, we do not need the increased net immigration now, that is because of the current situation in which there is some natural increase in numbers, the births are greater than the numbers of deaths. But in the future, that will reverse and that is when the increase will be needed. The Deputy of St. Mary somehow implied in his speech that the fact that we currently have a net increase of births over deaths had been overlooked in the calculations; well, I can assure him that it has not been. However, where the Council of Ministers could be criticised in my view is in relation to not having made it clear that, although there will be a need for net immigration over the period, it

is not needed now. Having said that, a zero immigration policy is neither enforceable nor is it practical. It is in my view ...

**The Deputy of St. Mary.**

On a point of order, Sir ...

**Senator B.I. Le Marquand:**

I am not going to give way, Deputy ... it is, in my view, a knee-jerk reaction ...

**The Deputy Bailiff:**

Senator, a point of order at this time is being raised.

**Senator I.M. Le Marquand:**

A point of order, I give way, Sir.

**The Deputy of St. Mary:**

The Senator mentioned a zero immigration policy; that is misleading the House, would he withdraw that, please? That is a point of order because it refers to a Standing Order (and I do not know which) which says that we all have to behave honestly, et cetera, et cetera, and maintain the dignity and credibility of the House.

**The Deputy Bailiff:**

Deputy, you are able to deal with the views which Senator Le Marquand is advancing in your summing up.

**The Deputy of St. Mary:**

Sir, it is not a view, it is a fact: he said: "Zero immigration" and that is not what anybody is proposing.

**The Deputy Bailiff:**

Well, if I may say so, paragraph (a) of the proposition says: "And, in the meantime, to aim for zero population growth."

**The Deputy of St. Mary:**

"Population" not: "Zero immigration" and that is the whole point of this debate.

**The Deputy Bailiff:**

No, I rule against you on that point of order ...

**Senator B.I. Le Marquand:**

Sir, I am going to deal with that point straight away. The position of the Deputy is worse than that because his proposition refers to: "Zero population growth" at a time when we have a natural increase of population; his proposition is for a net decrease in immigration, he wants a net exportation of people, that is the way the mathematics leads. So his position is worse than what he is saying I should not be saying, with respect.

**The Deputy Bailiff:**

Either way, it is not a point of order.

**Senator Le Marquand:**

No, Sir. I have now lost my place, so I will just need to find my flow.

**The Deputy Bailiff:**

An effective, if improper, interruption.

**Senator B.I. Le Marquand:**

Indeed, Sir. I was just saying that in my view the proposition of the Deputy is a knee-jerk reaction and I most certainly do not do knee-jerk reactions.

[11:15]

My Department of Customs and Immigration deals with the issue of those people from outside of the European area to whom permits are given. I am currently in the process of reviewing that, indeed, I have 2 questions coming up, one written and one oral from Deputy Le Claire in relation to that, in which I will be explaining the areas in which we are seeking to make changes, and we most certainly are seeking to reduce the numbers involved in that. But, on the other hand, we must take proper account of the needs of business and the needs of the public sector where there are skill lacks, and there are lacks of specific skills in a whole number of different areas. We must be practical in our approach to this. But my involvement and the involvement of my department is solely with non-European nationals, for European nationals as we all know, they have a right to come and live here but they do not have a right to work and they do not have a right to housing, other than lodgings. Those aspects are controlled currently under the Housing Law and the Regulation of Undertakings, soon to become together the Control of Housing and Work. But those controls cannot suddenly be turned off, existing permits for non-5-year qualified people exist and will continue to exist so it is simply not practical. This proposition is far too draconian and does not take account, as I have already said, of births. The proper approach is to apply tighter tests in all areas, both in my area and in relation to the housing and other areas, but to do this sensibly. We need to put pressure on employers to train more local people to take a wider range of jobs but we also need to be prepared to support local employers and business, particularly in these current difficult times, in maintaining their business and their profits and so on. It is as Senator Perchard said a matter of balance and for those reasons I cannot support this proposition.

**The Deputy Bailiff:**

Does any other Member wish to speak? If not, then I call upon the Deputy of St. Mary to reply.

**1.1.19 The Deputy of St. Mary:**

Right. A few points to begin with that will serve to un muddy the waters, to clear the waters up, and the first point is the little scrap that I just had with the Minister for Home Affairs where he confused yet again the issue of controlling population with the issue of controlling migration. This proposition, paragraph (a), says that we should aim for a steady population until the review happens next year and until also the other review in paragraph (b). When he talks about stopping inward migration with its associated problems, that we would have some problem with filling the needs of business and the needs of the public sector, of course, that is completely erroneous; as others have pointed out in this debate, and I initially said as well, there are 2,500, roughly, people coming in and out of the Island every year. All I am asking for is that the numbers coming in are reduced to match births and deaths. The control mechanisms would be exactly the same, whether we let in 2,500 or 2,250. The same goes for Deputy Green who said: "Sorry, we are closed" and I rose to that like a fish to a hook; we are not closed, a closed door does not let 2,250 people through it unless they are phantoms or vampires, it just does not match what I am saying. Senator Le Main said on this same issue that the message goes out or went out in the early 1990s: "Closed for business" well, at that time, house prices were rising - and I will come to this clarification about the stats, but we will accept Deputy Duhamel's correction - 10 per cent year-on-year compound. That is still an astonishing growth in house prices which drove inflation across the board. That was happening when the good Senator said that there was a problem with sending out a message: "Closed for business." God knows what would have happened if we had sent out a message: "Open for business" what inflation rate would we have seen then in housing? That takes me to the point about house inflation figures. The reason that I took that figure straight away, 25 per cent is

indeed the average. If you just go to the £521,000, the fantastic 5-fold increase in 17 years, and divide by the number of years, you get 25 per cent; if you go compound, it is 10 per cent. But either way, it is a huge increase and I do not think it affects the point I am making. I now turn to the different parts of the proposition. We start with paragraph (b) which is the one calling for an independent review commissioned by the Council of Ministers. Now, we had various comments on this, for instance, one person mentioned an expensive review and Senator Breckon mentioned: "Well, why do we not have eager students or masters-degree people to do this?" I explicitly said in my financial and manpower statement that I do believe that this is a topic, as with Reg's Skips ("the Committee of Inquiry Reg's Skips Limited – Planning Applications"), where we could find keen and enthusiastic people to look at this issue. I do not think it is one we need to go outside the Island for but I do think it is one for which we need to harness some brainpower, some interested - probably retired - brainpower to this issue. There is a web of issues around this which are quite important. I have dealt with the cost of this, it is not a huge rate, add-on cost, I think it can be done by volunteers. But in this review, yes, one or 2 interesting points were made. Deputy Le Claire, I thought, made a quite interesting speech (and which sort of showed how problematic this area is) he talked about a fragile economy, the economy is fragile now and we have to maintain fluidity. Well, if it is fragile now then what follows is exactly what the Assistant Minister told us, which is that we are pulling up the draw bridge to some extent, we are reducing the number of non-local permits, we are being tougher on businesses to import new labour or to have spaces for new people. This idea that we have a fragile economy therefore we slow down the rate of immigration is already happening. The question the review has to address is why was the target exceeded and what does that tell us about either the mechanisms or the political will to enforce them? The other issue that was raised, particularly by Deputy Le Claire but other people mentioned issues around it, particularly the Senator, the Assistant Minister, when he challenged me to say what would I do if some people came along wanting to set up in renewable energy and therefore needed to import skills. But I will talk about what Deputy Le Claire said first, he said: "All kinds of economic problems are coming down the tracks" and I agree with that, I think that the world in 5 years time, certainly 10 years time, is going to be very, very different from the world now. He then drew the odd conclusion that we must have growth. To me, that means, taken at face value, that we have to have more of the same, make ourselves more vulnerable, go further up to the wall at the end of the cul de sac, and then slam on the brakes. That seems an extraordinary way to face this issue, and I have put: "No, an alternative is resilience and sustainability" and that is the correct way to go. In that context if a new industry was on the horizon about renewable energy (which it certainly should be, whether it is tidal or off-shore wind) then of course we would welcome that and we would take the necessary steps to have the key personnel, and if we cannot have them as returning locals then maybe we would have to import one or 2 people. So I think there are issues around the kind of economic growth that we are looking for and the other main point, of course, is the mechanics. Many people have, exactly as I predicted, said that we do have the mechanisms, we have heard Ministers give figures on how many licences they have refused, how many non-local spaces they have pulled, they have removed, so they tell us that they have the mechanisms and then in the next breath some of their allies (or even themselves) use the word "unworkable." I cannot fathom that, we have mechanisms that, according to the Council of Ministers, work then we are told that this proposition is unworkable. Well, you cannot have it both ways: the measures work or they do not work, and part of the review, of course, will be to find out why it was that in the past some measures were not applied in a way that kept the population where we want it. There is another issue around the mechanics, which some people touched on, about not being able to control from the E.U. the passport situation and who gets the jobs. I have a quotation which I will not read out, but it is in the *J.E.P. (Jersey Evening Post)* of the situation in the U.K. where it has been found that the additional jobs created by Gordon Brown and then by the coalition have mostly gone to immigrants. That is a big issue in the U.K. and I suspect it is an issue here, although some deny it and some nod in my ear(?) and say: "No, no, no, there is plenty of cash-in-hand work going on here and there" and that too would obviously have to be looked at by the review because otherwise we

do not know where we are. That is paragraph (b), and I will be taking them separately. Paragraph (c) I think is a much, much clearer, simpler thing to vote for, it is saying that there must be a proper population debate. Now, the only serious criticism on this was Deputy Duhamel telling me that it is going to happen anyway as part of the Strategic Plan. I am sorry, the last debate as part of the Strategic Plan was marred by evidence being covered up and by the fact that births over deaths was not considered, whatever the Minister for Home Affairs says, it was not included in the discussion at all and the Council of Ministers should have made sure that we were aware. So what I am saying is that without a separate full-on debate, as Deputy Tadier said, we are going to miss the issue, it is going to be part of a huge Strategic Plan debate. By pinpointing it and saying in my paragraph (c): “We need a report from the Council of Ministers and it will be debated in this House” I am tying it down so it does not get lost. Finally, paragraph (a), whether we should have a population stand-still for a short time, we should not grow the population. First of all, Senator Breckon said: “What is the existing policy?” trying to imply that this was all rather vague and, well, I do not know where he has been living but the existing policy is net inward migration of plus 150 and we must not go over 100,000 and it is to be reviewed in 3 years, so I know what the existing policy is, and we all do. My proposition is to suspend that and to substitute for a year a temporary pause, and that is the issue. Now, we had Senator Le Main saying: “No thought has to how this will be done” and that all my proposition was written on the back of a fag packet; well, it was a huge fag packet, and I do not smoke that much. There was, as someone else pointed out, plenty of evidence to show what the problems are. The idea that there is no thought as to how this will be done is absurd; it will be done in the same way that population is controlled now, it will be done using the mechanisms we have now and, if they fail, we are going to look at why they failed, but we have just been told by Ministers that they have been applying those policies and that they work. Deputy Martin said: “We have got the selection now” of course we have got the selection now, we already do the sifting, the choosing what is going to be the most benefit to the Island and what does not wash. So I think that it is definitely possible to do this. We had Senator Perchard’s amazing speech, now that in a sense encapsulated ... not amazing, it was rational to a degree, but it shows the problems that we face. He said it was not reasonable to support the proposition, we have binged for 30 years, we now have an unsustainable situation with massive costs dealing with our ageing population with our sewerage system, and so on, and we cannot do all this on a reducing workforce.

[11:30]

So bring more people in, expand the issues and it will go away, and we have to handle this with balance. The fact is that the ratio, and it is on page 16 of my report in a graph showing how huge the drop is of the working population to the population over 65. That drop will happen anyway. We are in a bad or difficult place anyway and the idea that you can import people to stuff the holes in past failures to address issues and set aside monies for these essential expenditures is crackers. So, to conclude, I will use the words of Deputy Martin: “Get real; get honest.” How can you vote against housing in particular in my parish - in my parish - when you vote for increasing the population? Someone mentioned the States-owned sites. After the States-owned sites what? This is a classic case of fudge. We are before an election so what the Island Plan did was it put off the population issue, it put off zoning, it put off all difficulties until after the election. The big difficulty, what happens after you have built the next 4,000 units of accommodation? We will push off after 10 years and some of us will not be here. I do not think that is acceptable. I will just remind Members of what is at stake when we talk about raising the population for ever: soaring house prices and rent costs, huge extra costs following on from that for the taxpayer, a failure to ever solve the housing problem, inflationary pressures throughout the economy and financial stress on household. I am grateful for Deputy Martin for expanding on that. Gradual erosion of the Island’s rural and coastal beauty and charm. You do not notice it, each one, but gradually you lose it. More and more people living in the urban areas leading to stresses and pressures and the sense that change is happening too fast leading to disorientation and a sense of loss. It is a sad, sad vision

that we are putting in front of our people and I hope that Members will vote for what is ... paragraph (a) is just a hiatus; it is just a pause, paragraph (b) will ensure that we have the evidence to secure a proper policy and paragraph (c) will ensure that we debate this issue properly as part of the programme set forward by the new Council of Ministers in a separate debate with a proper report with real information attached to it. I move the proposition and I ask for the appel in 3 parts.

**The Deputy Bailiff:**

Very well, the appel has been called for. The first vote is on paragraph (a) of the proposition. I ask Members to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 10</b>		<b>CONTRE: 32</b>		<b>ABSTAIN: 0</b>
Deputy of St. Martin		Senator T.A. Le Sueur		
Deputy J.A. Martin (H)		Senator P.F. Routier		
Deputy G.P. Southern (H)		Senator P.F.C. Ozouf		
Deputy of Grouville		Senator T.J. Le Main		
Deputy S. Pitman (H)		Senator B.E. Shenton		
Deputy M. Tadier (B)		Senator J.L. Perchard		
Deputy of St. Mary		Senator A. Breckon		
Deputy T.M. Pitman (H)		Senator S.C. Ferguson		
Deputy D.J. De Sousa (H)		Senator A.J.H. Maclean		
Deputy J.M. Maçon (S)		Senator B.I. Le Marquand		
		Senator F. du H. Le Gresley		
		Connétable of St. Ouen		
		Connétable of Trinity		
		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. Saviour		
		Connétable of St. Clement		
		Connétable of St. Mary		
		Deputy R.C. Duhamel (S)		
		Deputy R.G. Le Hérissier (S)		
		Deputy J.B. Fox (H)		

	Deputy of St. Ouen		
	Deputy of St. Peter		
	Deputy J.A. Hilton (H)		
	Deputy of Trinity		
	Deputy S.S.P.A. Power (B)		
	Deputy K.C. Lewis (S)		
	Deputy I.J. Gorst (C)		
	Deputy A.E. Jeune (B)		
	Deputy A.T. Dupré (C)		
	Deputy T.A. Vallois (S)		
	Deputy A.K.F. Green (H)		

**The Deputy Bailiff:**

Very well, I ask the Greffier to re-set the system and to open the voting. The vote is on paragraph (b) of the proposition.

<b>POUR: 15</b>	<b>CONTRE: 28</b>	<b>ABSTAIN: 0</b>
Senator A. Breckon	Senator T.A. Le Sueur	
Senator F. du H. Le Gresley	Senator P.F. Routier	
Deputy of St. Martin	Senator P.F.C. Ozouf	
Deputy R.G. Le Hérisssier (S)	Senator T.J. Le Main	
Deputy J.A. Martin (H)	Senator B.E. Shenton	
Deputy G.P. Southern (H)	Senator J.L. Perchard	
Deputy of Grouville	Senator S.C. Ferguson	
Deputy J.A. Hilton (H)	Senator A.J.H. Maclean	
Deputy S. Pitman (H)	Senator B.I. Le Marquand	
Deputy K.C. Lewis (S)	Connétable of St. Ouen	
Deputy M. Tadier (B)	Connétable of Trinity	
Deputy of St. Mary	Connétable of Grouville	
Deputy T.M. Pitman (H)	Connétable of St. Brelade	
Deputy T.A. Vallois (S)	Connétable of St. Saviour	



Deputy J.M. Maçon (S)		Connétable of St. Clement		
		Connétable of St. Mary		
		Deputy R.C. Duhamel (S)		
		Deputy J.B. Fox (H)		
		Deputy of St. Ouen		
		Deputy of St. Peter		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy A.K.F. Green (H)		
		Deputy D.J. De Sousa (H)		

**The Deputy Bailiff:**

Very well, I ask the Greffier to re-set the system and to open the voting on paragraph (c) of the proposition.

<b>POUR: 24</b>		<b>CONTRE: 19</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Senator P.F. Routier		
Senator B.E. Shenton		Senator P.F.C. Ozouf		
Senator J.L. Perchard		Senator T.J. Le Main		
Senator A. Breckon		Senator S.C. Ferguson		
Deputy R.C. Duhamel (S)		Senator A.J.H. Maclean		
Deputy of St. Martin		Senator B.I. Le Marquand		
Deputy R.G. Le Hérisssier (S)		Senator F. du H. Le Gresley		
Deputy J.A. Martin (H)		Connétable of St. Ouen		
Deputy G.P. Southern (H)		Connétable of Trinity		
Deputy of Grouville		Connétable of Grouville		

Deputy J.A. Hilton (H)		Connétable of St. Brelade		
Deputy S. Pitman (H)		Connétable of St. Saviour		
Deputy K.C. Lewis (S)		Connétable of St. Clement		
Deputy I.J. Gorst (C)		Connétable of St. Mary		
Deputy of St. John		Deputy J.B. Fox (H)		
Deputy M. Tadier (B)		Deputy of St. Ouen		
Deputy A.E. Jeune (B)		Deputy of St. Peter		
Deputy of St. Mary		Deputy of Trinity		
Deputy T.M. Pitman (H)		Deputy S.S.P.A. Power (B)		
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Deputy Bailiff:**

Very well, can I just announce for the benefit of Members that in the course of the last 2 days on 3 occasions the expression: “God knows” has been used in the course of debate. I have not wanted to interrupt Members who, in the course of using that expression, have been in full flow and obviously felt very passionately about what they were saying but it is not a Parliamentary expression, and I shall be grateful if Members could note that in the future. I give notice to Members that P.81 an amendment has been lodged to the Goods and Services Tax: exemption or zero-rating for health foods - amendment lodged by Deputy Shona Pitman. I also give notice to Members that R.84 Land Transactions under Standing Order 168(3) - Linden Lea, La Rue des Buttes, St. Mary - Assisted House Purchase Property has been presented by the Minister for Treasury and Resources. Now, Chairman, Privileges and Procedures Committee, we did have a reference yesterday to the possibility of taking legislation before other matters and the Minister for Economic Development was not present at that stage. The Assembly had agreed to put back the Companies (Amendment No. 6) Regulations but I see that the Financial Services Commission Regulations and the Shipping (Registration) (Amendment) Regulations also lodged in his name might perhaps be taken as pieces of legislation first if the Assembly agrees.

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

Yes, that was my intention yesterday, Sir. So if we could do that today it would be excellent, if the Minister is prepared.

**The Deputy Bailiff:**

Minister?

**Senator A.J.H. Maclean:**

Yes, I am happy to do that if Members are content.

## **2. Draft Companies (Amendment No. 6) (Jersey) Regulations 201- (P.82/2011)**

### **The Deputy Bailiff:**

Are Members content to adopt that? Very well. We then come to P.82 the Draft Companies (Amendment No. 6) (Jersey) Regulations lodged by the Minister for Economic Development and I ask the Greffier to read the citation of the draft.

### **The Deputy Greffier of the States:**

Draft Companies (Amendment No. 6) (Jersey) Regulations. The States, in pursuance of Articles 2B, 85A, 113H and 220 of the Companies (Jersey) Law 1991, have made the following Regulations.

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

The draft regulations provide for consequential amendments to the Companies (Jersey) Law 1991 following the recent introduction of 2 new types of limited partnerships: that is the I.L.P. (Incorporated Limited Partnership) and the S.L.P. (Separate Limited Partnership). An I.L.P. will be a body corporate having perpetual succession. The I.L.P. law provides that to the extent that matters are not expressly provided for in the I.L.P. law, the customary law of partnerships will apply to I.L.P.s. However, because the I.L.P. will be an incorporated body, consequential amendments are needed to the Companies (Jersey) Law 1991 to clarify the extent of its application to I.L.P.s. In brief, the draft regulations will remove I.L.P.s from the definition of a body corporate for the purposes of the application of the Companies Law just as L.L.P.s (Limited Liability Partners) are excluded currently. Furthermore, in keeping with current policy, neither an I.L.P. nor an S.L.P. will be permitted to be an auditor or a director of a Jersey company. I propose the principles of the regulations.

### **The Deputy Bailiff:**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? Deputy of St. Mary.

#### **2.1.1 The Deputy of St. Mary:**

Yes, I just have one question for the Minister relating to paragraph (4) where he says: "The draft regulations will remove I.L.P.s from the definition of a 'body corporate' for the purposes of the application of the Companies Law." Could the Minister expand on protections, constraints and compliances built into the Companies Law that will now not apply to I.L.P.s? So just what is the actual result of the difference of these I.L.P.s now being outside the Companies Law as I understand it?

### **The Deputy Bailiff:**

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

#### **2.1.2 Senator A.J.H. Maclean:**

It does not remove any protections as far as the I.L.P.s are concerned because they are dealt with under the I.L.P. Law. It is merely a matter of definition as far as it is concerned. It is quite simply, the partnerships in this respect there are many areas of the Companies Law that do not apply, and so it seems sensible to ensure that that is absolutely clarified. But from a protection point of view, there is no loss of protection whatsoever.

### **The Deputy Bailiff:**

Very well, all Members in favour of adopting the principles of the regulations, kindly show. Those against. The principles are adopted. Does the Economic Affairs Scrutiny Panel wish to scrutinise these regulations?

**Deputy C.F. Labey of Grouville (Chairman, Economic Affairs Scrutiny Panel):**

No, Sir, we do not want to.

**The Deputy Bailiff:**

Minister, do you wish to propose the regulations *en bloc*?

**Senator A.J.H. Maclean:**

Yes, I would propose them *en bloc*. There are in fact 5 regulations, as Members will note, and I will take them as they are. If there are any questions I am happy to answer them.

**The Deputy Bailiff:**

Are the regulations seconded? **[Seconded]** Does any Member wish to speak on any of the regulations? All Members in favour of adopting the regulations, kindly show. Those against. The regulations are adopted.

**The Deputy Bailiff:**

Do you propose them in third reading, Minister?

**Senator A.J.H. Maclean:**

Yes, Sir.

**The Deputy Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak in third reading? Those Members in favour of adopting the regulations in third reading, kindly show. Those against. The regulations are adopted.

### **3. Draft Financial Services Commission (Amendment of Law) (Jersey) Regulations 201-(P.87/2011)**

**The Deputy Bailiff:**

We now therefore come to the Draft Financial Services Commission (Amendment of Law) (Jersey) Regulations P.87 lodged by the Minister for Economic Development and I ask the Greffier to read the citation of the draft.

**The Deputy Greffier of the States:**

Draft Financial Services Commission (Amendment of Law) (Jersey) Regulations. The States, in pursuance of Articles 4(3) and 22 of the Financial Services Commission (Jersey) Law 1998, have made the following regulations.

**The Deputy of St. Mary:**

Could we be advised which number this is, please?

**The Deputy Bailiff:**

P.87.

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

These draft regulations will make amendments to the Financial Services Commission (Jersey) Law 1998 which is the law that established the commission. There are 3 primary purposes behind these regulations. The first of these is to change from 3 years to 5 years the maximum period for which a person may be appointed as a commissioner. The second of these is to allow for a commissioner

who has been appointed for less than the maximum period to have their period of appointment extended up to the maximum. The third primary purpose is to require public disclosure of the reasons behind any termination of a commissioner's appointment. Looking at the first of these, the extension to the maximum period of a commissioner's appointment, the current 1998 legislation sets a 3-year time limit on a commissioner's appointment. In practice this tends to result, particularly when combined with more recently established appointment criteria, with Commissioners serving for 6-year periods.

[11.45]

As well as creating continuity issues for the Board of the commission, 6 years is felt to be too short a period to build up and then apply experience in a full range of work that is carried out by the commission. The Jersey Appointments Commission has, by mutual consent, overseen the selection for the appointment of commissioners, the chairman and the deputy chairman. Under its 2006 code, a first reappointment can be made subject to a satisfactory assessment of performance with a second or subsequent reappointment being subject to open competition. The code recommends that the total period in office should not normally exceed 10 years. Similar bodies such as the Jersey Competition Regulatory Authority and the Jersey Gambling Commission have maximum 5-year terms. This allows the recommended 10-year maximum period to be reached through one appointment and then one reappointment. A 5-year maximum term will bring the commission in line with these bodies, as well as reducing the administrative burden of a more frequent reappointment mechanism. The Jersey Appointments Commission has been consulted on this change and the chairman has written confirming that it supports the proposals. The second primary purpose of these regulations is to allow for any appointment made for less than the maximum 5-year period to be later extended up to that maximum. This will be achieved by the same method as for the original appointment, that is to say, by the States debating a proposition in camera. The third primary purpose concerns changes in the arrangements surrounding the termination of a commissioner's appointment. These changes are proposed in response to recommendations by the International Monetary Fund's assessors following their visit to the Island in 2008. The schedule to the Commission Law currently allows for the Minister to terminate a commissioner's appointment on any of several specified grounds. However, the schedule is silent as to whether or not that decision and the reasons behind it should be made public. The I.M.F.'s (International Monetary Fund) assessors recommended an explicit requirement in the schedule that the reasons for termination should be made public. There may of course be circumstances in which it would be inappropriate for detailed reasons to be made public in this way. To offer a level of protection in such circumstances it is proposed the public disclosures be made via report to the States which, at its least, sets out which of the specified grounds has been applied. Detailed reasons will always be provided in written notice of termination to the individual concerned. The opportunity is also being taken in these draft regulations to make 2 minor corrections. The first is to remove an obsolete reference in the schedule to Article 3 of the law. That reference provided that the chairman of the commission was to be a member of the former Finance and Economics Committee. That requirement was removed upon recommendation in November 1998 but the cross-reference was overlooked. The second minor change replaces the word "it" referring to the former Finance and Economic Committee with the word "Minister" who now carries out the functions of that committee. I maintain the proposition.

#### **The Deputy Bailiff:**

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

#### **3.1.1 Deputy R.G. Le Hérissier:**

Will the Minister be recommending that States Members should be subject to the same maximum term of appointment? Secondly, will Members be able to ask in confidence to see the reasons if for some reason they are not going to be made public?

**The Deputy Bailiff:**

Does any other Member wish to speak? Minister.

**3.1.2 Senator A.J.H. Maclean:**

Regarding States Members, which was clearly said in jest or tongue-in-cheek, it is of course the public who have the final sanction on the length of period that a Member has to serve in this Assembly and I am sure they will exercise that in a very diligent way in the upcoming elections. As far as Members having the right of access to details of termination, I see no reason, subject to confidentiality, that that should not be the case should a Member wish to have further details. I maintain the proposition.

**The Deputy Bailiff:**

The principles are moved. All those in favour of adopting the principles, kindly show. Those against. The principles are adopted. Chairman, does your panel wish to scrutinise these regulations?

**The Deputy of Grouville (Chairman, Economic Affairs Scrutiny Panel):**

No, Sir.

**The Deputy Bailiff:**

Minister, do you propose the regulations *en bloc*?

**Senator A.J.H. Maclean:**

Yes, Sir. There are only 2 regulations, the first being subdivided into 5 paragraphs. If I may, I will just say a brief word about that. Taking each of the paragraphs, in Regulation 1 in paragraph (a) that removes the obsolete reference to Article 3, which is fairly straightforward. Paragraph (b) extends the maximum period which we have already referred to. Paragraph (c) introduces the new provision that will allow the States through a debate in camera. Paragraph (d) is a minor change to replace the existing reference as I have stated. Paragraph (e) contains the explicit requirement of the I.M.F. assessors and Regulation 2 provides the citation. There is no great detail here and I will propose it *en bloc*, if I may.

**The Deputy Bailiff:**

Are the regulations seconded? **[Seconded]** Does any Member wish to speak? All those in favour of adopting the regulations, kindly show. The appel is called for. I invite Members to return to their seats. The vote is on the adoption of Regulations 1 and 2 of the Financial Services Commission (Amendment of Law) (Jersey) Regulations and I ask the Greffier to open the voting.

**POUR: 34**

**CONTRE: 0**

**ABSTAIN: 0**

Senator T.A. Le Sueur  
Senator P.F. Routier  
Senator P.F.C. Ozouf  
Senator T.J. Le Main  
Senator B.E. Shenton  
Senator J.L. Perchard  
Senator A. Breckon  
Senator A.J.H. Maclean  
Senator B.I. Le Marquand  
Senator F. du H. Le Gresley

Connétable of Grouville  
Connétable of St. Brelade  
Connétable of St. Saviour  
Connétable of St. Clement  
Connétable of St. Mary  
Deputy R.C. Duhamel (S)  
Deputy of St. Martin  
Deputy R.G. Le Hérisssier (S)  
Deputy J.B. Fox (H)  
Deputy of St. Ouen  
Deputy of Grouville  
Deputy of St. Peter  
Deputy J.A. Hilton (H)  
Deputy of Trinity  
Deputy S.S.P.A. Power (B)  
Deputy S. Pitman (H)  
Deputy K.C. Lewis (S)  
Deputy I.J. Gorst (C)  
Deputy of St. John  
Deputy M. Tadier (B)  
Deputy A.E. Jeune (B)  
Deputy A.T. Dupré (C)  
Deputy D.J. De Sousa (H)  
Deputy J.M. Maçon (S)

**The Deputy Bailiff:**

Do you move the regulations in third reading, Minister?

**Senator A.J.H. Maclean:**

Yes, Sir.

**The Deputy Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak in third reading? Those Members in favour of adopting the regulations in third reading, kindly show. Those against. The regulations are adopted.

**4. Draft Shipping (Registration) (Amendment) (Jersey) Regulations 201- (P.91/2011)**

**The Deputy Bailiff:**

We now come to the Draft Shipping (Registration) (Amendment) (Jersey) Regulations P.91 lodged by the Minister for Economic Development and I ask the Greffier to read the citation of the draft.

**The Deputy Greffier of the States:**

Draft Shipping (Registration) (Amendment) (Jersey) Regulations. The States, in pursuance of Articles 12, 13 and 196 of the Shipping (Jersey) Law 2002, have made the following Regulations.

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

This will be the first amendment to the current regulations which came into force in 2004. By and large they have served their purpose very well, however, the proposed changes are to a single discrete area affecting certain fishing vessels only. Regulation 5 of the current regulations lay down the basic rules for registering Jersey fishing boats. In particular, we cannot register a fishing boat unless it is managed and its operations are controlled and directed from within Jersey. This should have provided a strong and genuine link with the Island and for the boat to be managed by individuals living in the Island. To some extent this worked and a number of boats not based in Jersey, and with no strong link with the Island, had their registration terminated in 2004. However, difficulties with interpretation have continued with 2 recent cases in particular causing some

problems. We now know that if ownership is through a company and not an individual, all the owners can be resident abroad and the management can be on the basis of visits to the Island on an as-and-when-required basis. Additionally, the role and responsibilities of a local operator are not sufficiently clear and seemed to have resulted in a rather tenuous association. As a result, some fishing boats have had merely technical or legal links with the Island rather than a real connection based on fisherman living here. It is felt that the Island is open to abuse by non-Jersey people who may want to fish in the U.K. or E.U. waters but for their own reasons would like to register here. Maybe this has been for tax reasons or a belief that somehow Jersey vessels can avoid the high safety standards imposed by the U.K. and E.U. generally. Others may try to use the present rules as a way of fishing in local Jersey waters but not really being local residents. It is not fair on genuinely local fishermen and our international reputation is also potentially at risk. The answer is to have better real control of who registers and operates Jersey fishing boats which is the intention of this proposition. I therefore ask Members for their support. I propose the principles.

**The Deputy Bailiff:**

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

**4.1.1 Senator J.L. Perchard:**

Just a question of the Minister, if I may? For the purpose of this legislation, and I understand this is an amendment to Regulation 5, what is the definition of a fishing vessel, in particular, with regard to its size?

**4.1.2 Connétable D.J. Murphy of Grouville:**

I wonder if the Minister could explain whether the ownership of these fishing boats in a company with foreign owners means that the tax benefits accruing to them would include the non-resident shareholder tax. Thank you.

**4.1.3 Deputy P.J. Rondel of St. John:**

Over recent times there has been an issue where foreign-owned companies have indirectly created a few problems for the local industry and I welcome these regulations being updated so as we tick all the right boxes. If local fishermen have to abide by certain regulations we want to make sure that they are local and not somebody from outside trying to cut corners, for want of a better word, so I welcome them.

**4.1.4 Deputy D.J. De Sousa:**

I wonder if the Minister can clarify exactly what benefit this will be to local fishermen, which I am sure it will, and if there is a radius that this will incorporate.

**4.1.5 Connétable M.K. Jackson of St. Brelade:**

Speaking as a member of the Marine Resources Panel, I commend this piece of legislation to the Assembly. It is long overdue and is much desired by local fishermen.

**The Deputy Bailiff:**

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

**4.1.6 Senator A.J.H. Maclean:**

Senator Perchard was asking about the size as far as the definition of a fishing boat is concerned. Size is simply more relevant when it comes to registration and licensing. It is more in relation to numbers of pots in terms of costs of registration. If the vessel is a commercial vessel capable of carrying out fishing, then the size is not specifically relevant so far as that is concerned. The Constable of Grouville asked about tax benefits or, I think, dis-benefits he is referring to probably as far as Jersey is concerned. I could point out, like all measures of this type, that if the vessel is owned outside of the Island and if it is sold then, of course, any benefit would not arise to the local



Jersey Tax Exchequer. But I should clarify perhaps that there are something like 200 fishing vessels that are registered and only 10 of whom at the last count were company-owned. So it is a relatively small number of vessels in any event. I thank the Deputy of St. John for his comments, the Constable of St. Brelade as well, who pointed out that we have been lobbied by the local industry to clarify this point. It is clearly better for the industry to have certainty in this area and I hope that also satisfies Deputy De Sousa as well who was asking for that particular point to be made. I maintain the proposition.

**The Deputy Bailiff:**

The principles are proposed. Those in favour of adopting them, kindly show. Those against. The principles are adopted. Chairman, does your panel wish to scrutinise these regulations?

**The Deputy of Grouville (Chairman, Economic Affairs Scrutiny Panel):**

No, Sir, we welcome this legislation.

**The Deputy Bailiff:**

Minister, do you propose the regulations?

**Senator A.J.H. Maclean:**

Yes, Sir. Altogether there are 6 regulations which are affected by cross-referencing the key changes and consequential amendments. They all hang together, if I can put it that way, and it is not really therefore possible to take them separately, so I would propose taking them in one. I will just talk very briefly on each, if I may. Regulation 2, this amends Regulation 4. It makes one typing correction and moves a sub-paragraph. This makes sure rules on appointing a managing owner remain the same for vessels that are not fishing boats while allowing them to be different for fishing boats. Regulation 3, this amends Regulation 5 and in the first place it keeps a current exception so that it will still be possible for a locally-established owner to move away from the Island and to ask the Minister to let him keep registration in Jersey. However, the way he does that will be better controlled than is currently the case. The proposed new sub-paragraphs (5) and (6) provide the detail. The genuine link with the Island will be this: an individual person living an ordinarily resident in Jersey will be the local managing owner. Where a company owns the boat or where there are several individual owners, this managing owner will be appointed by all the other owners. This managing owner will have to satisfy the registrar that it is him and not someone living outside of the Island that controls the use of the boat. It will not be enough for a Jersey company to have a nominal ownership while the beneficial owners live in other jurisdictions. This means that for all Jersey fishing boats there will be a local person who is responsible for the safety rules, the qualifications of the crew and the boat's equipment. For all boats that are locally owned by individuals, this managing owner will simply be the owner and no change will occur.

[12:00]

If the owner later moves away from Jersey he might get permission to keep it on the Jersey register and keep part-ownership but he will have to appoint a local person to be the person who is really in charge. Regulations 4 and 5, these are purely consequential amendments so that appointing a representative person will no longer apply to fishing boats as they will all have managing owners instead. Regulation 6, the amended wording provides a clearer list of changes which must be notified to the registrar. The responsibility for notification and the time limit in which to do so are also made explicit. Regulation 7 deals with typing mistakes which have been corrected. Regulation 8, these transitional arrangements are in fact important in that they deliberately modify it as a result of the consultation with the affected fishermen. Registration of fishing boats is generally for a maximum of 5 years so that under these arrangements an owner could have as much as 5 years before having to comply. Owners will only have to comply before 5 years are up if there is a change of ownership or some other safety fishing licence and other regulatory reasons why

registration might cancel. Regulation 9 gives an initial 3-month period of grace so that any fisherman already in the middle of renewing his registration or selling a vessel could complete that process without unfair disruption. These regulations have been thoroughly discussed with those who will be affected and letters have been sent out to them in November of last year. The changes are, we believe, good for the industry and that is certainly the feedback we have had back from the industry directly. I hope I have now given Members a clear idea of how effective these changes will be and how much these regulations will affect the current position. I ask for the regulations to be adopted *en bloc*.

**The Deputy Bailiff:**

Are the regulations seconded? **[Seconded]** Does any Member wish to speak on any of the regulations? Deputy Duhamel.

**4.1.7 Deputy R.C. Duhamel:**

I thought this House had agreed some time ago that in putting forward changes to regulations that they be put forward in context so Members could appreciate the changes that were being put forward. In that light that has not been done and perhaps my next question is best answered by reference to the whole of the shipping regulations. Under: "3 Regulation 5 amended" subparagraphs (5)(a) and (b) there is reference to the control of the operation of the fishing vessel. I am a little bit worried about the definition of the words "control of operation" and perhaps the Minister can put my mind at rest by explaining what it means in terms of what it says. Because I think that "control" could be construed in 3 different ways. There is obviously financial control of the vessel, there is the operational control of the boat through piloting and taking it to sea and then there is the control of the activity of the vessel in terms of the fishing effort in the areas that the fishing activity is going to be undertaken. So unless "control of operation" is a generic term which is able to be interpreted in 3 completely separate ways, I would have thought that perhaps there might have been reference to those specific incidents in which "control of operation" could be differently construed.

**The Deputy Bailiff:**

Does any Member wish to speak? Deputy of St. John.

**4.1.8 The Deputy of St. John:**

I am just wondering, given that Fisheries seem to come under E.D.D. (Economic Development Department) and Planning and Environment, when are they all going to be put under one or controlled by one area instead of having this split type of operation. If the Minister could reply to that.

**4.1.9 Senator S.C. Ferguson:**

Deputy Duhamel mentioned control of operations and whether that covers the type of fish caught and I wonder whether it also covers crewing arrangements.

**The Deputy Bailiff:**

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

**4.1.10 The Connétable of St. Brelade:**

Would the Minister just kindly confirm that the Fisheries and Marine Resources Panel, who are 100 per cent behind this legislation, work with the officers from the Department of Environment who inform officers of the Economic Development Department to put forward the legislation?

**The Deputy Bailiff:**

Does any Member wish to speak? Minister.

**4.1.11 Senator A.J.H. Maclean:**

I thank Deputy Duhamel for his comments. I think under these regulations he can rest more assured than he could do under the previous arrangements. He has identified the very problem that existed before where indeed there were individuals who were operating such vessels, or managing such vessels, who did not necessarily live permanently in the Island which clearly meant from an accountability point of view it was a matter that was very difficult to manage. He raised in particular the 3 areas of operation and he is absolutely right and that is why this makes it absolutely explicit that it has to be a local person who manages those activities. Now clearly the local person is not necessarily, for example, going to be the captain of the vessel, but nevertheless the local person is responsible and is accountable for the actions of the captain in carrying out his duty and the other areas of the operation of the vessel so there is proper accountability, which are the primary purposes for bringing forward these changes. The Deputy of St. John raises a good point. I think in regard to Fisheries, indeed, I think it was at one stage under Planning and Environment and, indeed, more recently part of the responsibility falls to E.D.D. I think in the future we need to look more closely at ensuring that we have a co-ordinated approach, which happens already, but it is easier perhaps under one department. I think further discussions will need to be held in that regard in future. I hope that the points I have made to Deputy Duhamel are as relevant to Senator Ferguson with regard to the responsibility and I confirm the point raised by the Constable of St. Brelade that that is correct. I maintain the regulations.

**The Deputy Bailiff:**

The regulations are proposed *en bloc*. All Members in favour of adopting them, kindly show. Those against. The regulations are adopted. Do you propose the regulations in third reading, Minister?

**Senator A.J.H. Maclean:**

Yes, Sir.

**The Deputy Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak in third reading? The appel is called for and I ask Members to return to their seats. The vote is on whether to adopt the Shipping Registration (Amendment) (Jersey) Regulations in third reading and I ask the Greffier to open the voting.

<b>POUR: 38</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
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.H. Maclean				

Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Clement				
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 of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				

Deputy J.M. Maçon (S)				
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**5. Request for amendments to U.K. Immigration and Asylum Acts in relation to the Civil Partnership (Jersey) Law 201- (P.92/2011)**

**The Deputy Bailiff:**

There is one other item I see on the agenda which is of a legislative nature which is P.92 Request for amendments to U.K. Immigration and Asylum Acts in relation to the Civil Partnership (Jersey) Law 201-. Would Members be content to take that proposition at this stage? Would you please read the proposition, Greffier?

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to signify, pursuant to Article 31(1)(b)(i) of the States of Jersey Law 2005, that they agree that a request be made to Her Majesty in Council for the making of an Order in Council pursuant to section 36 of the Immigration Act 1971, section 13(5) of the Asylum and Immigration Act 1996 and section 170(7) of the Immigration and Asylum Act 1999, varying as necessary the provisions of each of those Acts as presently extended consequentially upon the provisions of the Civil Partnership (Jersey) Law 201- and as summarised in the attached report of the Chief Minister.

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

Yesterday when we were debating the Civil Partnership (Jersey) Law I indicated that there were a number of laws that had to be reviewed in the course of producing the Civil Partnership Law and those laws were indeed reviewed and the amendments made within that law. But there is one aspect which could not be done within that law because it relates to legislation passed not by the States but passed by the U.K. Government, that is the U.K. Immigration legislation. That legislation is extended to Jersey by an Order of Council and that means in order for our objectives in the Civil Partnership Law to be fully complied with, we would need to ask the U.K. Government to extend an amended legislation to Jersey to reflect the move to civil partnership status. That is probably best explained in the second paragraph of the report attached to the proposition but I think it is quite clear that if we are going to achieve a complete Civil Partnership Law we need to make sure that this aspect, the Immigration Law aspect, is also included within the legislation. Therefore, I propose the proposition.

**The Deputy Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on the proposition? If not, then all Members in favour of adopting the proposition, kindly show. Those against. The proposition is adopted.

**6. Pensions: Survivor's Benefit - Review (P.105/2011)**

**The Deputy Bailiff:**

We now return to the agenda and come to P.105 Pensions: Survivor's Benefit - Review lodged by Senator Le Gresley and I ask the Greffier to read the proposition.

**Deputy A.E. Pryke of Trinity:**

Before the Member starts, is there a conflict of interest because I receive a survivor's pension?

**The Deputy Bailiff:**

I think, Deputy, no, you are perfectly entitled to stay. This is not going to have a direct financial impact because it is only a request that a review should take place and you have announced your interest.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to request the Minister for Social Security to carry out a comprehensive review of survivor's benefits, and in particular to take into account the bereavement schemes available to survivors in Guernsey and the Isle of Man, and to report back to the States, no later than 31st March 2012, with proposals for a new scheme which should have a long-term aim of achieving a significant reduction in the current annual expenditure of £5 million, while honouring the claims of current recipients.

**6.1 Senator F. du H. Le Gresley:**

Some Members may be surprised and others perhaps critical of me for bringing this proposition. I must admit, I thought long and hard before doing so, however, my previous work at Citizens Advice Bureau had led me to believe that the system for paying survivor's benefits needs to be reviewed. In carrying out research for this proposition I now realise that the current system is potentially open to abuse and that we are out of step with our neighbours by paying a survivor's pension until pensionable age. As I explained in my report, the current scheme has evolved from the widow's benefits which were included in the 1974 Social Security (Jersey) Law. Thirty-seven years ago it was less common for married women to take up paid employment, particularly mothers who were bringing up a young family. In those days the husband was the main breadwinner and in the event of his untimely death before reaching pension age, the Social Security Fund paid out a widow's allowance for the first year of widowhood and then a widowed mother's allowance until the children of the family ceased full-time education. A widow's pension could also be claimed by widows who were over the age of 40 as at the date of death of their spouse and was paid until the widow reached the retirement age of 60. A widowed father's allowance was also available. This was paid for the period when the widowed father had sole responsibility for bringing up a child or children of the marriage. This benefit was paid until the child completed full-time education in Jersey. In 1992 an amendment to the 1974 Social Security (Jersey) Law removed the age limit for receiving a widow's pension. This effectively stopped the payment of widowed mother's allowance as all widows moved from widow's allowance to widow's pension after the first year of widowhood. The next major change took place in 2000 when the 4 elements of widow's benefits were replaced with survivor's allowance and survivor's pension in order to give equal treatment to widows and widowers. At the same time the so-called married-woman's option not to contribute to the Social Security Scheme was removed. Currently our Survivor's Benefit Scheme costs in excess of £5 million per annum. As at 31st December 2010 there were 85 recipients of survivor's allowance and 847 recipients of survivor's pension.

[12:15]

Survivor's allowance is paid for the first 12 months after bereavement at a rate 20 per cent higher than the usual full rate of benefit. Contribution credits are awarded while a survivor is in receipt of this benefit. Survivor's pension is then paid until the survivor reaches pension age when the benefit changes to an age-related pension based on the survivor's own contribution record as opposed to that of their late spouse. A survivor's pension will cease to be payable if a survivor cohabits or remarries. In the last 5 years 75 survivors, which is roughly 10 per cent, have ceased to receive a survivor's pension due to cohabitation or remarriage. The Social Security Department endeavour to ensure compliance. In answer to my written question of 5th July I will just read the response of the Minister to the question about compliance: "Checks are made on overseas claims on a regular basis. Forms were issued to all overseas claimants in 2009 to verify claim details, this exercise is due to be repeated towards the end of 2011. More information is available on local claimants and

the department proactively investigate all cases of potential customer error or fraud.” Clearly, abuse of the scheme is much harder to detect where a survivor lives outside Jersey. In 2010 just over £1 million was paid to 364 overseas recipients of survivor’s pension; 82 per cent of the current recipients of survivor’s pension are aged 50 and above. Roughly 25 per cent of all recipients have been claiming the benefit for more than 10 years and a further 25 per cent for more than 5 years. In my report, I give an example of how generous our Survivor’s Benefit Scheme can be if a widow or widower who has no children qualifies for the benefit at a relatively young age and does not subsequently cohabit or remarry. The survivor in my example aged 25 years could potentially receive in excess of £700,000 from the Social Security Fund over 40 years. This is after allowing for annual uplifts in the rate of benefit. At a time when the demands on the Social Security Fund are increasing due to the ageing population, it seems to me that a review of survivor’s benefits is urgently needed. To assist Members I have set out in my report details of the comparable Bereavement Benefit Schemes in Guernsey and the Isle of Man. The latter scheme is based on the scheme for England, Wales and Northern Ireland. From the table in the appendix Members should particularly note that we have roughly 4 times as many recipients of survivor’s benefits compared with Guernsey and 8 times as many compared with the Isle of Man. As I said before, our scheme cost £5 million last year; Guernsey’s bereavement scheme cost £2 million and the Isle of Man scheme cost a mere £80,000. Essentially, our scheme is unique because we pay a survivor’s pension until pensionable age which we have recently of course decided we will be revising from 65 to 67, and therefore the numbers in receipt are significantly greater than Guernsey or the Isle of Man. My proposition makes it clear that if we decide to change the terms of the Survivor’s Benefit Scheme, the claims of current recipients must be honoured. This has happened in the past when changes have been made to contributory benefits. For example, there are still people in receipt of invalidity and disablement benefits which were replaced by short-term or long-term incapacity benefit and incapacity pension in the year 2000, which of course is some 11 years ago. In his comments on my proposition, the Minister for Social Security supports the need for a review but expresses concern about the time constraints imposed. I appreciate that it is difficult for the current Minister to give a firm commitment to complete a review by 31st March 2012 but I think it is very important that work does commence and at the very least an interim report is produced, preferably in the form of a Green Paper. Hopefully some of the research I have already done will be the starting point for such a review. Any review should consider contribution conditions, the consequences of limiting survivor’s pension to the level of old-age pension a deceased partner might have received, restricting the payment of the pension to Jersey residents only and the likely impact of any changes on the income support benefit budget. It is clear to me that we cannot perpetuate a scheme which was founded on the concept of married women remaining at home and being provided for by their husbands. We obviously have a responsibility to ensure that a widow or widower has financial assistance from the Social Security Fund to help bring up any young children of the marriage but thereafter I would question whether the States should continue to provide support by way of a survivor’s pension for the rest of a person’s working life. We now have a comprehensive income support benefit system which is targeted through means testing at those in greatest need. To pay a weekly benefit of up to £180 per week to a survivor in full-time employment until he or she reaches pension age seems to me incredibly generous and no longer sustainable. Let me make it absolutely clear, I fully appreciate that the death of a loved spouse or partner is a tragedy for the survivor and family and can have significant financial implications, particularly if the couple did not have life insurance in place to cover a mortgage or personal loans. I am certainly not recommending that all survivor’s benefits cease to be available. I am simply seeking a full review and it will be for this Assembly to decide the way forward after the Social Security Department has consulted with the public. I make the proposition.

**The Deputy Bailiff:**

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

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

Yes, I have met with Senator Le Gresley prior to his lodging of this request for a review and as he stated, and as my comments make clear, I agree with him that a review is overdue. It is, however, (and I give a word of caution) interesting to note that only recently Guernsey had a proposal before them and were debating whether they should change their survivor's provision to become like ours, in effect, more generous. That decision was narrowly overturned and they will be remaining as they are for the foreseeable future, I suspect. It is an area that needs reviewing. On the face of it, it does appear generous and we should review our provision of benefits, remembering of course that it is a contributory benefit so we always have to balance that up with regard to any curtailment of benefit that we might wish to introduce. But it is appropriate that this Assembly in due course has the benefit of the research and is able to make a full decision based upon those facts. The other area that I think perhaps more urgently needs reviewing, and I would want to include it in this review ... I talk in my comments about the difficulty of reviewing just one particular area of Social Security but inevitably the amount of work that we have in the department means that we have to do that. But the area that I think is slightly more pressing than this and we do need to get on and review is the amount of benefit that we pay with regard to the death grant. We know that the costs of funerals have increased considerably. We know that people have to make decisions about the costs of the funerals of their loved ones at a time when they are most vulnerable and want to provide an appropriate send-off, if I can use that term, and therefore sometimes have to say yes to costs that they really cannot afford and that, I believe, should be the starting point. We need to make sure that that death grant is fit for purpose and I suspect that as it currently stands it is not. I would like to see that changed and increased by quite a large amount to make sure that it does cover the cost of a funeral. There is other work that needs to be undertaken of course in consultation with funeral directors to see that they are not just ramping up costs unnecessarily. But I welcome this request. I hope to be able to set it in train before I depart and, as I say in the comments, I cannot give an undertaking of the timescale the next Minister will be able to place on it but it does need to be dealt with. Thank you.

### **6.1.2 Deputy A.T. Dupre of St. Clement:**

I was a volunteer for various charities when I was married but I was sadly widowed at the age of 45. However, I was extremely lucky that I had started employment the year before my husband died and I had wonderfully supportive employers. I say "lucky" because it was a very tough time when my husband died and my 2 children were away at university. If I then had to find a job I am sure I would have had great difficulty, as your head is all over the place. There are many women who have to stay home and look after their children and have had very little experience in the workplace and this will place even more stress and worry upon them at a very difficult time. In my opinion it takes at least 2 years to start to come to terms to the loss of a partner and to suggest that they do not need help financially for at least this amount of time has not been thought through properly. Perhaps the proposer could consult with a bereavement service and obtain their views too. Thank you.

### **The Deputy Bailiff:**

Does any other Member wish to speak? Deputy Martin.

### **6.1.3 Deputy J.A. Martin:**

Just briefly and this occurred to me ... I am helping a couple of people at the moment. It is called a survivor's benefit but it only ever applies to married people. Unfortunately, when the other way around, cohabiting and with children over many years, the income is all put together and if a top-up is needed through rent or income support the family get it. It just does not seem fair to me that for all intents and purposes there are some people out there whose partner, or both, are paying into the contribution; they are widowed or their wife may die and they are left with children because they are a survivor. I know it might be stretching it but could this perhaps be widened to look at that?



As I say, in all other cases the person cohabiting ... I do not think we can have it both ways, so I would like the Minister ... he is nodding, so I will sit down. Thank you very much.

**The Deputy Bailiff:**

Does any other Member wish to speak? Deputy Jeune.

**6.1.4 Deputy A.E. Jeune of St. Brelade:**

I believe the Senator is absolutely correct that this should be reviewed. What I do not think he mentioned in his speech is that a widow or widower can be in full-time employment and receive the pension in full. However, we do not know who will be the Minister for Social Security going forward into 2012, so to put the date of 31st March 2012 for the report to be completed I am quite concerned about. Although I would like to see that achieved, I am not sure it is fair or realistic and therefore while I agree with the Senator's spirit of this proposition, I do not feel able to support it. Thank you.

[12:30]

**6.1.5 Senator A. Breckon:**

Following on from that, I think sometimes Ministers and perhaps Assistant Ministers need to think outside the box because it does not mean the work has to be done by the department. There is a fund that somebody could be appointed to do it and the charge could be made against the fund. But I think what we have here is a simple review of a system that was created many years ago and now, for a number of reasons: because people do or do not qualify; perhaps we have paid money to people who do not need it, it needs that review and it needs an element of what may be called "modernisation" because of that and I think the House should get behind it. It is done with the best of intent. The thing is, it has been done by an individual Member and it is perhaps something maybe the department have not had time to review the benefits they have paid to whom and the whole thing has been subsumed perhaps by income support but maybe there are other things in other funds in other areas that should be looked at. I know what the Minister is saying when he says: "Well this is one area to produce a report" but perhaps unless we do it piece by piece, then it will not happen for too long. In that time there might be people living in all sorts of places all over the world who are receiving this money from Jersey and saying: "Thank you very much. It is nice to have it. I do not need it but I am being given it." We should not necessarily means-test everything but we do in other areas. People have to jump all sorts of hurdles and go through hoops to qualify for things and this is something we do not. As the Minister has touched on now I do not think perhaps the death grant of £600 is appropriate when set against the cost of funeral expenses and this is a very real worry to many old people. So Senator Le Gresley I do not think is saying that this is all just a win-win situation. It is a review, and it is a commonsense review. He suggested in his speech that perhaps he has given somebody a head start where they should start from with a review of this. Because information is there from elsewhere and obviously that is available, perhaps in a bit more detail, and somebody could do this. We do not need necessarily the department to do it. Somebody could do this as a piece of work and I think that could be done by March. It is a shame that the Assistant Minister said that because what it means is by March next year a lot of water will have gone under the bridge. If we set ourselves poor targets and then fail to achieve them, it is poor government. We can achieve a lot by March next year. This is something I think we can do and I think the House should support. Thank you.

**6.1.6 The Deputy of Trinity:**

As I mentioned before, I think I am perhaps the only one here that does receive this. It is important and I understand where the Senator is coming from about a review. When you lose your partner at a very early age, it is life-changing. You can never go back, you can never enjoy the memories and you will never experience that love again. To have one concern that financially you are okay takes a great burden off you. Knowing that you are capable financially, be it that you still need to work

or still pay mortgages, still have children in full-time education, helps a great deal but it will never help the actual bereavement and the actual sorrow and loss that you have to go through. I understand where the Senator is coming from with a review and if this House approves it, can I say to the Minister for Social Security that whoever heads that review it has to be done with sympathy, with empathy and to be able to understand what people are going through at the most crucial time of their life. Even though if it is years on, as most people know that my husband died 11 years ago, and yet it still feels as painful today as it was 11 years ago. So all I ask is that whoever leads that review does it with empathy and sympathy because it will bring back those memories. Never fear, it will do.

#### **6.1.7 Deputy G.P. Southern:**

It is a rare thing for me to speak, I think, in favour of doing less and in favour of the Minister for Social Security. It seems to me that the Minister for Social Security has an enormous amount of legislation already on his plate and a workload certainly within the department, the set of targets in terms of long-term healthcare, in terms of residential care, in terms of review of income support and in terms of changes to pension age. There are all sorts of things this department is already stretched on. I am really surprised to hear the Minister state that he welcomes this prompt and this focus with the timescales that are involved. In his comments he says: "Social Security benefit legislation is complex. Changes to legislation must be carefully planned as they affect a large number of benefit claimants as well as needing adjustments to computer systems ... The suggestion that a Green Paper should be published on this single topic will need to be carefully considered." Indeed it will because the protocols, the guidelines, for consultation processes start with whatever you do, plan properly from the beginning in terms of your Green Paper and your White Paper and how you are going to assess the correct people in groups and the stakeholders that you wish to consult. That has to be very carefully planned. It then says: "The proposition requires a report to the States by 31st March with proposals for a new scheme." Again, that is a stage further. That is already getting proposals for the legislation into place. That, again, is a fairly complex process and puts a timescale on here which I am not sure that the Minister can meet. In fact, at the end of his comments he says: "It is difficult to give a firm commitment that the Minister elected in November this year will have sufficient time to undertake this work and produce a report in the proposed timescale." So, while well-meaning and focussing on this particular issue is probably something that ought to be done, to put these timescales on it at a time when we know (as an Assembly; never mind the Minister) we have a workload that is enormous, a State election is coming up, he says: "Nobody is going to really start on this until November" and we are saying: "Produce a report with proposed legislation by March" to my mind that is not going to happen. So I am torn whether I can vote for this. In principle it sounds like a good idea but in practice I think the timescale produced on there is absolutely impossible.

#### **The Deputy Bailiff:**

Does any other Member wish to speak? Then if not, I call on Senator Le Gresley to reply.

#### **6.1.8 Senator F. du H. Le Gresley:**

I thank those who have spoken. I appreciate and I feel sad that I have had to raise this matter and I realise this touches the raw nerves of some people, and I apologise for that, but we have to act responsibly and sometimes we have to discuss things that are difficult for us. I welcome the fact that the Minister is, as I understand it, willing to carry out this review. The fact that we have a slightly less than 9-month period in which to commence this work and come forward with proposals to me seems a reasonable time span. The last speaker, Deputy Southern, made reference to elections. Well, staff do not take part in elections and it is staff who will be doing the review, so I do feel that there is sufficient time. As Senator Breckon said, the department could choose to outsource this piece of work if they so choose. I would just point out to Deputy Dupre that I think she has misunderstood my proposition. My proposition does not talk about taking away any

survivor's benefits after 2 years. I am not quite sure why she thought I had said that. I also agree with Deputy Martin that we need to look at people in cohabitation. We know that civil partnerships will be included within the survivor's allowance/survivor's pension so, clearly, heterosexual couples who have decided to set up home together and have children should equally be entitled to receive these benefits. Deputy Jeune, I hope she will vote for this proposition because I do believe that 9 months is long enough to get some work going on this and my report certainly made it clear that this pension in particular is paid in many cases to people in full-time work. I hope that has come across to all Members. I maintain the proposition and ask for the appel. Thank you.

**The Deputy Bailiff:**

The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the proposition of Senator Le Gresley in relation to Pensions: Survivor's Benefit - Review and I ask the Greffier to open the voting.

<b>POUR: 32</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 1</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		Deputy of Trinity
Senator P.F.C. Ozouf		Deputy K.C. Lewis (S)		
Senator T.J. Le Main		Deputy A.E. Jeune (B)		
Senator B.E. Shenton		Deputy A.T. Dupré (C)		
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
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 Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

## **LUNCHEON ADJOURNMENT PROPOSED**

### **Deputy J.M. Maçon of St. Saviour:**

Sir, may I propose the adjournment?

### **The Deputy Bailiff:**

Just before we get to that point, I understand there is a suggestion that P.75 might be taken at an earlier time. Is that correct?

### **The Connétable of St. Brelade:**

If I may comment on that, while I am content to take it at an earlier stage, I am concerned that the Connétable of St. Helier is not present and he is the second largest road authority in the Island, and I think it would be unreasonable for him not to be present for it.

### **The Deputy Bailiff:**

So it is not being proposed, I think.

### **Deputy F.J. Hill of St. Martin:**

No, the difficulty we have with this particular proposition is that obviously the Constables have quite an interest, and I can understand that. The Connétable of St. Brelade has a broadcast tomorrow and would rather not debate it tomorrow. But I am also concerned about if it is going to Friday because I know a number of people who may well be supporting my proposition will be away on Scrutiny, and I do not know if we would have a win, but I am also concerned if we do put it over to next week we may not get it either. The States have to make up their mind when we want to debate it and also the fact there will always be Members out of the Chamber. But I would rather we got on with mine, simply because I think this is a very important proposition.

### **The Deputy Bailiff:**

There clearly is not presently consensus, so there can be further discussions over the luncheon adjournment as necessary.

**Senator J.L. Perchard:**

Before we adjourn, can you confirm the next item of business will be P.115 School Milk?

**The Deputy Bailiff:**

Well, as at present, the next item of business is P.115 School Milk.

**Senator J.L. Perchard:**

I wonder if Members would allow me to declare an interest at this stage, as I am a milk producer and [Laughter] as a consequence have an interest in Jersey Dairy.

**Deputy A.E. Jeune:**

Is that an excuse not to come back after lunch?

**Senator A.J.H. Maclean:**

Just before we break for lunch, could I just raise one final point? Just for clarity sake an invitation had been issued to States Members to come to a gambling presentation at lunchtime. In order to assist the Minister for Education, Sport and Culture I agreed to cancel that particular briefing and, of course, there is the E.S.C. (Education, Sport and Culture) Green Paper or discussion paper briefing at lunch time. Just so that Members are absolutely clear that it is Education that is handling the briefing today, not Economic Development.

**The Deputy Bailiff:**

Education wins over gambling. That is excellent. The States stand adjourned until 2.15 p.m.

**LUNCHEON ADJOURNMENT**

[14:15]

**7. School Milk: restoration of funding (P.115/2011)**

**The Greffier of the States (in the Chair):**

Very well, so the next item is School Milk: restoration of funding in the name of Deputy Southern and I will ask the Greffier to read the proposition.

**Senator S.C. Ferguson:**

I hate to interrupt but when are we going to do the Consumer Council?

**The Greffier of the States (in the Chair):**

Well it is not next on the list, Senator. I was not aware there had been a move to bring it up the list. I think it was agreed ...

**Senator S.C. Ferguson:**

Obviously it depends on the Minister.

**The Greffier of the States (in the Chair):**

I think it was agreed that School Milk is next on the list, so 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 (a) to express their support for the restoration of free school milk in nursery and primary classes in Jersey schools; (b) to request the Minister for Economic Development to reprioritise funds allocated to marketing in the 2011 Economic Development budget to provide £46,000 to fund school milk for the September 2011 term; (c) to request the Chief Minister, after consultation with the Minister for Economic Development, to bring forward for approval by the States provision for £138,000 to be inscribed in

the budget of the Economic Development Department in the Annual Business Plan 2012 to fund free school milk for 2012; and (d) to agree that the funding for school milk should be provided for within the total States spending limits already agreed by the States for 2013 and to request the Council of Ministers to ensure that the detailed departmental spending proposals for 2013 brought forward for approval by the States in due course contain provision for this funding.

### **7.1 Deputy G.P. Southern:**

It is with no great pleasure that I return to this topic, having done it 4 times in my 8 and a half years in the States, but I believe there is still a valid debate to be had around the decision that we took back on 15th September in the Annual Business Plan debate. Members will remember those days, those heady, exciting days, when we decided that we were going to cut our budgets, cut them left, right and centre, and we were going to spare nothing. In fact, of all the (I think it was) 15 amendments brought to the Annual Business Plan, I think only one got through. So, we were quite happy to reduce by 3 and a half members of staff at the Physiotherapy Department and at the Pain Clinic and we are seeing in last night's paper that there are difficulties with physiotherapy and the Pain Clinic; they need attention and need funding. We cut language assistance in schools and of course we cut funding for school milk because that is obviously always the top target for funding because no one, Economic Development, Education or Health, wants to take responsibility for free school milk. Nonetheless, I think it is valid that we reconsider that decision and I will go through the reasons why we should do that in some detail. I will start with the report of the Minister for Economic Development who says on the first page of his report, page 2: "There is little doubt that milk can be an important part of a child's balanced diet, it is preferable to 'fizzy' drinks and it does have nutritional value" but it goes on to say there is: "the need to uphold Comprehensive Spending Review decisions and the need to make rational and intelligent savings." What I am proposing today is to show to you that this particular saving is neither rational nor intelligent for a number of reasons. The first reason is that we heard in that debate from the Minister for Health and Social Services and the Minister for Economic Development that there were no health benefits from milk. The Minister for Health and Social Services said, and I quote her: "A comment about health: the Medical Officer of Health does not support the provision of school milk on the basis of health grounds and she has been part of studies that have shown that children already get sufficient calcium from other food sources, some of which other food sources are fortified with calcium." That is a very damning statement and yet the Minister for Health and Social Services did not go on to quote from the rest of the report which said: "On average children aged 4 to 10 consume more than the recommended healthy amount of calcium. A minority of children do not consume an adequate amount, however." It went on with further findings; it is not just about calcium: "Milk consumption could remedy many of the observed deficits in micronutrient consumption. One-third of a pint of milk provides around half a child's daily calcium requirement as well as several other key macro and micronutrients including vitamin B2 (important for healthy skin) and vitamin B12 (important for red blood cells), magnesium (important for muscle function), potassium (important for nerve function) and zinc (important for the immune system)." The report we are quoting from is An Evaluation of the National Top-Up to the E.U. School Milk Subsidy in England. The E.U. considers that subsidising milk in schools is important and many local authorities in the U.K. top that up and do provide free or subsidised school milk in their primary schools. It still happens. It has not gone altogether. Maggie Thatcher did not cut school milk completely; it is still there. It goes on: "Milk consumption has also been shown to be positively associated with the likelihood of achieving the recommended intakes of vitamin A, folate, vitamin B12, calcium and magnesium in a study examining 4,070 children and adolescents." When you get into the detail of that paper it does, however, go through those factors: "Vitamin D intakes were low among boys and girls of all ages. Average intakes of zinc were below the recommended nutritional intake among all children. As a result, impaired vitamin B2 (riboflavin) status was evident among children who had low riboflavin intakes and marginal folate status was seen in 9 per cent of girls and 7 per cent of boys." It showed that 20 per cent of boys aged between 7 and 10 were not meeting their daily intake of

calcium. So the full statement that the Medical Officer of Health does not support the provision of school milk on health grounds is a very bold one and does not paint the full picture. There are lots of micronutrients that are also contained in milk which are inadequate in many children's diets. The Minister for Economic Development later that day made that even broader: "We have heard from the Minister for Health and Social Services, we have heard from the Medical Officer of Health, we have seen plenty of evidence in the U.K. who also over many years have been reducing support of school milk to children. The health benefit is not there; the economic benefit is not there." The health benefit is not there. Not true. The evidence is otherwise. Yet, that statement skewed the whole debate back on 15th September. The Minister for Health and Social Services and the Minister for Economic Development effectively said there is no or little health benefit. The Minister for Economic Development went on to say: "It sounds terrible but the world has moved on in all respects from health, diet and from an economic point of view. I would implore Members to reject this albeit well-meaning proposition and maintain our aim. We have to cut costs. This is one, I am afraid, that has to go." That was his statement. Full stop. An economic decision based on the mis-information that there was no health benefit. We also heard from the Minister for Health and Social Services, she rounded off that last statement by saying the following: "I will just leave you with this thought that milk contains many more calories than a glass of water." So the second argument comes in: milk is bad for you; it is part of our obesity epidemic in children. The reality of that, of course, is completely untrue. On page 32 of document A the evidence is otherwise: "A study of children during the critical fat development period of 4 to 8 years found that children who consumed additional calcium from dairy products gained less body fat than the control group." Drinking milk (drinking fat-reduced milk, especially) does not make you fat: "There is a growing awareness of the critical role that dietary calcium may play in controlling body fat, with evidence suggesting the activity of calciotropic hormones in stimulating fat cells in a low calcium environment, although more research is urgently required." So we have an intake of diet that is in some cases deficient and we have no evidence, and evidence to the contrary that drinking milk makes you fat. **[Laughter]** I will look at Senator Le Main and especially at his colleague sitting alongside him who said yesterday: "Look at me. I did not drink milk" to which the moral of the story must be: "Drink milk or else you end up looking like the Connétable of Grouville!" **[Interruption]** **[Laughter]** So the argument also proposed by the Minister for Economic Development is that there is another argument: "Free school milk was introduced specifically to prevent malnourishment during the food shortages that followed the Second World War but is no longer required for the prevention of malnutrition or calcium deficiencies." It is no longer required for the prevention of malnutrition and he is absolutely right. We do not have a large-scale malnutrition issue in the Island. What we do have is people, young children especially, with poor diets. Drinking milk is on the "eat-well plate", it is supposed to be part of a balanced diet and around one-sixth of your total nutrition intake should be dairy products, including milk.

[14:30]

There is a major emphasis going on in our schools to promote healthy diet which includes (and this was put forward on the day) an argument for eating more vegetables and more fruit. We are all told what we should be doing is promoting 5 fruits a day, 5 fruits a day as well as a proper portion of dairy products and instead of drinking pop, instead of drinking fruit juices, which are quite bad for the teeth drunk during the day, and some of which are laden with sugar, with added sugar and do contribute to the obesity problem, drinking milk instead of that would be a much better approach. The other way in which this is neither rational nor intelligent is to consider an approach that says: "What you must do is invest to save." If we are to look at some of the consequences of cutting school milk and making poorer the diets of our children as a consequence of the actions that we have taken, here we have item F in the documentation I gave to Members last night: "Milk helps fight heart disease." One of the scientists, Professor Ian Givens from Reading University said: "Our research has shown that milk has been getting a bad press and this is undeserved. Other

studies have shown that milk was beneficial for health but the extent was a surprise to us” and it goes on to say: “Our findings clearly show that when the numbers of deaths from chronic heart disease, stroke and colorectal cancer were taken into account there was strong evidence of an overall reduction in the risk of dying from these chronic diseases due to milk consumption. The reviewers also believe that increased milk consumption is likely to reduce the healthcare costs substantially due to reduced chronic diseases and associated morbidity.” That is one paper, and look at the extent of that. The preventative effects of early drinking of milk. The second paper - and this one comes from America - researchers investigated to see if children who received free school milk, providing about 75 per cent of the daily calcium requirement for many children, had lower rates of bowel cancer. Indeed that was the evidence that was found. The researchers surveyed the school milk drinking habits of 560 people aged 30 to 69 diagnosed for bowel cancer and compared them with 571 people of a similar age with the disease and there was a preventative effect. So that one is directly on school milk consumption. Of course the most common thing we hear about is osteoporosis and poor bones. In paper I Robert Heaney has the following to say: “Bone is the resultant of bone mass, bone architecture and body mechanics. Nutrition supports all 3 components with the principal nutrients concerned being calcium, protein and vitamin D. Potassium, magnesium, zinc and several vitamins, those contained in milk, are also involved to varying extents. Given modern food sources, it is difficult to devise a diet that is bone healthy without including 3 servings of dairy a day, not just because of dairy calcium but dairy protein and potassium as well.” He then goes on to say: “The direct costs for all osteoporotic fractures in the U.S. (United States) combined were estimated to be 17 million dollars in 2002. The authors calculate that by increasing the daily intake of dairy foods to the recommended 3-4 servings per day, a reduction of at least 20 per cent in osteoporosis related healthcare costs could be achieved. This translates to 3.5 billion savings each year.” Again, invest to save and turning locally - because again that was an American publication - what we have had last week is a report by the all parliamentary osteoporosis group which says: “A national campaign to improve British bone health should be set up as soon as possible a group of M.P.s (Members of Parliament) will urge this week. A report by the all party parliamentary osteoporosis group will warn that the spread of unhealthy diets - not malnutrition, unhealthy diets - and a general decline in drinking milk, consuming other dairy products and eating fresh fish has left an increasing number of people suffering from vitamin D deficiency which contributes to rising rates of osteoporosis” and not just in elderly females but they refer to the number of British men admitted to hospital for hip fracture rose by 77 per cent between 1998 and 2008. So spreading through the population, not just an issue for females but an issue for men as well as osteoporosis rates go up. So turning from that technical detail but again about health and healthy eating and let us turn to the Jersey School Milk Survey of 2008, which is item J in the file I distributed last night. Some of the other myths that got repeated in the last debate get scotched here. So how is the consumption rate? Do kids take their milk when they have it? Yes, they do. Milk consumption by a number of pupils in the year, the average rate of consumption was 88 per cent with highs of 100 per cent in a number of schools and lows of 66 per cent in a small number. Only one school had significantly lower consumption and they were one of the 6 that did not store their milk at the right temperature. No surprise there. But if you do store it at the right temperature, serve it chilled, of course the kids love it. How many cartons of milk are left over in open cartons? Almost all schools reported that less than a quarter or none remained in the used cartons. Do pupils bring any of the following with them to have with their milk: cereals, flavoured straws, fruit, other? This was largely fruit which would suggest that milk is drunk during the fruit screen period, so working hand in hand if you drink your milk as part of a balanced diet, you eat your fruit as part of a balanced diet, the 2 go hand in hand. One does not replace the other. I can see the Constable of St. Mary imagine them mixed but I do not think that is compulsory. You have them separately I think. Then turning to how important is the school milk to children and the school: all schools report that this was very or quite important, save for one school reporting it was not very important, that school was a school that did not store its milk at the right temperature and therefore the kids did not take it to the same extent. Then comments from the schools: school 5,



unnamed: “We promote healthy lunch time snacks, et cetera, and milk is seen as an important part of this.” First Tower: “We do value the link with our Jersey heritage.” I mentioned that before but let us bear it in mind: “and the support that gives to our Jersey milk herds. We also understand the current financial constraints” and they talk about advertising on the side of the milk carton. At Mont a L’abbe: “Having more milk has become even more important as here at Mont a L’abbe we are discouraging pupils drinking squashes and fizzy drinks. No milk goes to waste. Keep up the good work. Also when we have a surplus I ring and cancel milk for the next day’s delivery.” So this myth that we get loads of milk delivered that does not get used, does not get drunk, not true. “Besides the children registered at the school, we also have provision for pupils who come to our language base from other schools for specific teaching programmes. As these pupils are with us at break time we provide them with milk in addition to our school numbers.” Then school 24 says: “Our fridge is not big enough, we want a new fridge.” So milk is consumed, is enjoyed by children in our school and it is significant that it forms part of this overall thrust that we are doing, which is encouraging healthy eating. Just today Members will have received news that 2 further schools have achieved healthy schools programme and part of their significant work towards it is healthy eating alongside proper physical activity. We are tackling this issue but we are talking about not sweet snacks, not fizzy drinks, not orange drinks, we are talking about milk in balance with 5 fruits a day. Then finally the Minister for Economic Development takes us on to an economic argument in which he states clearly, or tries to make the case, that the terms which the dairy are offering - and I will just turn to that - and the latest statement is as follows, and remember the argument back then centred around the economic argument, we were making savings, and the statement from Jersey Dairy, the Managing Director, is the following: “Jersey Dairies charges the States 14p per unit of school milk. This equates to 74p per litre, which is significantly below the price we charge the large supermarkets. This price has not been increased for over 7 years. Jersey Dairies covers the cost of all packaging and distribution of school milk. In the year to the end of March 2010, the consumption of school milk was 218,149 litres, with a cost to the States of £160,000. Jersey Dairy regards the supply of school milk as extremely important and in order to assist the funding of the supply we offered, back then, to reduce the price by 2p a unit to 12p, representing a 14.3 per cent reduction in price and we would have had hoped that this gesture would have enabled the States to continue to provide funding for the supply of milk to our primary school children. Based on a consumption of school milk of 218,000 litres, the costs to the States would be £138,000.” The Dairy are well aware that if they can get young people drinking milk regularly and enjoying milk regularly, that is their future market. This is marketing. In fact the survival, because we know that milk consumption nationally is going down, may well depend on encouraging those future consumers of milk to consume milk at levels at which they currently are and not to allow a decline as such. They are adamant that they can and will supply at that rate. The Minister for Economic Development says: “Using figures that we have created, we do not think it is economically viable.” The dairy says: “That is nonsense. We make a small profit at the rates that we are proposing and we are quite happy to do that. £138,000 is what the full year cost will be and we make a small profit, around £6,000, on that but we are prepared to do that because it is about marketing.” So do not pay any attention to the argument of the Minister that the dairy cannot afford it, listen to the Managing Director of the dairy and he says: “We can.” Finally, we come to what has changed since last September. How dare I bring this one back again?

[14:45]

Of course things always change and what sticks in my memory is the time when the tourism representatives started complaining about what a bad season they were having and could the Minister for Economic Development do anything more to promote a market Jersey as a tourist destination at which point he said: “Despite all the constraints that we have been going through with F.S.R. (Fiscal Strategy Review), Comprehensive Spending Review, et cetera, yes, I can offer up to £500,000 extra marketing to promote Jersey in this bad season” and I believe that is what he

did. So within his budget he had £500,000 available to move around, to shift to marketing. I am not asking for that, I am asking for £138,000 in a full year, and £34,000 this year - or what is the number? Somebody tell me. It is not very much, around £40,000 this year to start the scheme in September. So it is possible, I am sure it is possible, to find those sort of sums from within the general overall budget within E.D. Then what else is significant and what else has changed since last September is the news that came out just a short while ago that we had £14 million extra in revenues for this year. So if we want to reconsider the decision we made back in September and put the backing behind free school milk I believe we can do. I believe we should do, I believe that is a rational and intelligent thing to do and I have not mentioned the reaction that we got when we took the petition on to the streets. Grandparents, parents, teenage kids, small kids, all of them, rushing to sign a petition which got up to over 7,000 saying: "Please restore free school milk in our schools." I think the rational thing to do is to listen for once to those people and take that action.

### **The Greffier of the States (in the Chair):**

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

#### **7.1.1 Deputy K.C. Lewis of St. Saviour:**

I received school milk when I was a youngster, it did not do me any harm. I am 6 foot 3. I have several constituents who suffer badly from osteoporosis in later life and I know that milk is excellent for bones. I see many children carrying large rucksacks full of books to school. Milk is good for teeth, as opposed to the sugary drinks that children are drinking and carrying around with them all day, with the colas and other sugary drinks. I believe in moderation and I think milk is an excellent substitute for all of these other items they are drinking. Sweeties are fine but sweeties, sweeties, diabetes. I will be supporting this.

#### **7.1.2 Deputy M. Tadier:**

I am not sure I can match that rhyme but I can offer another word play, surprise, surprise. I was talking to someone in the square earlier and they said: "What are you debating today?" I said: "I will give you a clue, it is rich, white and it is thick." He said: "Oh, States Members talking about themselves again." [**Laughter**] Lots of alternative punch lines to that one, of course, but I thought to keep it generic that way I would not alienate any one section of the States Chamber. But the serious point here ... and I think Deputy Southern has of course given us the facts behind the case - I enjoyed the little booklet he has given us which reminds me of something you would get in a school which is appropriate because we are talking about school milk here. What I want to do is put the ... I think there are economic arguments but there could also be called the emotional arguments. The first argument is are we really strapped for cash in an Island that produces the Jersey cow, which is famous for the Jersey cow and it is also famous for its success financially? Are we really saying that we are so strapped for cash that we need to take away this relatively small allocation for the funding of Jersey milk in Jersey schools? Because that is the message we are sending out again today if we really do not overturn this decision, which I think was the wrong decision that this House made. The other question I would like every States Member to ask themselves is: have we made all the savings that we can as an Assembly? Can we put our hands on our hearts and also look children in the eye, school children, if we have to - I know some of us do have the occasion to go into primary schools - and say the reason we have to take your school milk away is because the States Assembly needs to find the money. We have committed ourselves to making efficiency savings, can we really say in a year - and this is one thing that has changed - we have revealed that £800,000 was just given away to wealthy individuals who no longer work in Jersey, who resigned of their accord or who had retired. We handed over that money because there were not the checks and balance. Can we really look these children in the eyes and say: "The States is doing all it can and this is one of the frontline cuts that needs to be made"? I do not think that is the case. I think we need to protect the school milk for all the reasons that Deputy Southern has made; the health reasons, the fact that it is linked to our Jersey cow, to the agricultural

implications for it, to the fact that we want these children to grow up to drink Jersey milk, and I think that whichever side of the Chamber we are on this is not one cut we should be making. There are other savings that can validly be made and this is one cut too far so I will be happy to try and reverse this motion.

### **7.1.3 The Connétable of St. Clement:**

Well, this is déjà vu all over again, is it not? If I was a cynical type of person I would wonder why we are debating this just a few weeks before an election but I am not so I will not ...

### **Deputy G.P. Southern:**

Sir, that is not a fair implication, I have brought this proposition 4 times, all of which have not been election years.

### **The Greffier of the States (in the Chair):**

Deputy Southern, I think everyone knows the election is coming, no one is implying ...

### **The Connétable of St. Clement:**

I am always amused when a Member likes to dish it out but cannot take it when it comes back in his direction. It really is amusing. But, as I say, I am not cynical so I am not wondering about that. But what I am wondering and what I really cannot understand is why last year the Deputy was proposing that school milk should be phased out and be phased out by 2014. Now he wants it back, he wants it back permanently and not only that he wants to extend it to private nurseries as well as to primary schools and reception classes. What has changed? What has changed? Has the malnourishment, not the malnutrition that the Deputy spoke about, because that was not a reason why school milk was introduced, there was malnourishment during the years of food shortages after World War II. Have those days returned? The truth is, of course, I do not need to do any research or look up papers, I know that has not happened. We do know for a fact that calcium intake is above the recommended intake among primary school children. What anybody else might say, that surely is an indisputable fact. Osteoporosis is an issue but if anyone does any research on this, and maybe the Minister for Health will speak later, and calcium does help to reduce the risk of that disease but it needs to be taken during your teenage years not your primary years. It needs to be taken during your teenage years to prevent the impact of osteoporosis later on in life. Now if the Deputy really wants to help our youngsters, instead of using them as political pawns, as he has done, he has admitted already, 4 times since his election, he should be looking at the areas where children factually are not reaching the recommended intake. He mentioned this, this is fruit and it is a proven benefit and there is evidence the children are not achieving their recommended 5 a day. That is really where if we wanted to improve the health benefit that would be the way. But economically the arguments for reintroduction for of school milk are very, very unsound. No matter what quotes the Deputy selects from the Managing Director at the Dairy, the reintroduction of school milk would be at a cost to the Dairy and it is not logical to burden the Dairy with additional costs when they are at the start of major recovery plan. Because allowing for the purchase of the milk, the processing of the milk, distribution of the milk, the cost, the loss to the dairy would be about £14,000 at 2009 prices. That would be even more today. Okay, a small price perhaps for them to pay for this great marketing exercise but ironically it is the Tourism industry which is, according to Deputy Southern, going to pay for this marketing exercise by the Milk Marketing Board because Deputy Southern wants us to take it from Tourism marketing. Where is the logic in that? But where is the money going to come from, because the proposition provides no new money, no new money at all, for this initiative. So it is going to have to come from existing spending limits and clearly if it comes from Economic Development it can only come from the Rural Initiative Scheme or something like that. So that means the quality milk payment, which

goes to dairy farmers will have to be reduced, the single area payment which goes to dairy farmers will have to be reduced so the milk producers and, to a degree if Deputy Southern gets his way, the Tourism industry will be paying for a scheme which is going to lose their dairy money and has got no significant health benefits or no proven health benefits whatsoever. This proposition has absolutely no merit and we have debated it 4 times, we have reached the stage which Deputy Southern supported last year that it should be phased out, it has now gone. There is no merit in bringing it back now for the States to reject the proposition.

#### **7.1.4 The Deputy of Trinity:**

Much has been said about the health side of it so I just wanted to briefly talk about that. I do reject the proposition to continue provide free school milk. I do so as the Acting Medical Officer of Health for the following reasons. I think all Members need to remember and go back to why free school milk was introduced in the first place. It was introduced in the late 1940s in the U.K. (United Kingdom) and Jersey after 5 years of war and food at that time was still rationed. Therefore to protect our children's diets the Government introduced a school milk subsidy, among others. I am sure some of you here, perhaps the senior side of us here, would remember that sometimes mothers were giving extra vitamins and castor oil. The U.K. stopped subsidy in the 1990s, but today children's diets have changed. Authoritative research by U.K. National Diet and Nutritional Survey 2010 does show that U.K. children are achieving above their recommended levels of nutrient intake of calcium, vitamin A, vitamin B12, vitamin B1 and vitamin B2. This over achievement has taken place while consumption of milk by children has fallen. The inescapable facts are that children now consume enough calcium and other nutrients from other parts of their diets and no longer need this free welfare milk to overcome precious deficiencies in their diets. I would emphasise that this does not mean that milk has no part to play in promoting a balanced diet. Milk does remain a healthy drink, especially when compared to fizzy drinks. I can reassure Members that it will continue to be part of healthy promoting messages in our schools. I am very glad that Deputy Southern did bring up about the media release for healthy schools. This is an important programme which Health, Public Health and Education, Sport and Culture are working with all primary schools to achieve this healthy education, healthy schools programme and 10 have achieved that international standard and 8 are still going through the programme. There are now more complicated challenges to children's diets, for example eating 5 fruit and vegetables a day. This scale, this new nutritional challenge was shown in the recent child health survey where only a quarter of young people reported managing to consume 5 portions of fruit and vegetables a day. This is more important. The recent adoption of school standards, as I said, is a small step in addressing this problem. However, much work still needs to be done if the real change is to be achieved. I would therefore advise Members that the rationale for providing free school milk on health grounds alone is now redundant and I urge Members to reject this proposition.

#### **The Bailiff:**

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

[15:00]

#### **7.1.5 Deputy G.P. Southern:**

I thank Deputy Lewis for his memorable contribution: "Sweeties, Sweeties, diabetes" and for the support of Deputy Tadier who reminded us about the association between this relatively wealthy Island still and an Island which is the home of the Jersey cow. As one of the schools commented, this is part of our heritage and they welcomed it too on behalf of their children. The Constable of St. Clement said that he was not cynical and then accused me of electioneering and using political footfalls. He is not in the Chamber to hear me respond. He also mentioned the fact that at one stage last year I was looking to give the dairy time to find alternative sponsors for this particular initiative and that I had offered a compromise position with phasing out of school milk over 3

years. Nonetheless it was a compromise position which E.D. battered away and said: “We are not interested in that and therefore I am back with the full measure to restore pre-school milk now.” He also said that I wanted it give to private schools as well. Not true, I think Members will see that the actual proposition says Jersey schools and nursery schools, it does not say all Jersey schools, it does not say “including private schools” at all. So that is not the case. He then criticised me for pointing to the origin of this free school milk in the days of malnutrition and saying the problem was different today and that to use that argument is invalid. The problem today is bad diet and not mal-diet. He then went on to start shroud waving left, right and centre for a department which would quite easily and happily move around, transfer £500,000 of funding at one go on request to say that if were asked for £30,000 we could not possibly make that, if we are asked for £140,000 we could not possibly make that. It would come out of some other vital pot. Shroud waving, nonsense. The Economic Department, of all departments, has always had the greatest possible degree of flexibility for moving its budgets one way or the other to suit need. Now, if the States say this is what we want to restore then I am sure it can be done without, particularly, seriously damaging any other sector. £500,000 they are offering to transfer on request. This is much less than that. Then he went on to say that of course to properly treat osteoporosis it is about the teenage years as well as the primary school years but the fact is that according to the figures, 20 per cent of boys aged 7 to 10 are not achieving ... the average figures is that most are achieving the calcium intake, 20 per cent of young boys in particular are not and we are supposed to ignore that. Also in response to him I say, again, who do you believe, do you believe the Economic Development Department that says this is going to seriously damage the dairy industry and the dairy or do you believe the managing director who says, among other things: “Today a substantial proportion of Jersey children consume an unhealthy breakfast while on the move and many go to school without having eaten breakfast at all.” Remember the survey that came out about 2 months ago, it said 20 per cent of kids arrive at school without breakfast. Milk at break time provides a valuable, an essential, addition to their diet for those children. The managing director says: “For these children school milk is hugely important because it provides them with some of the energy they need for the day but also it gets them into the habit of consuming a healthy drink.” This is an invest to save in the long term. The similar figures apply to the, again, partial answers that the Minister of Health and Social Services has given us today, she has extended the statement to cover some of the micro nutrients but not all the micro nutrients and the fact is that, while you quote average figures until they come out of your ears, some children, some 7 to 10-year-old boys in particular, are not maintaining their diets and that milk as part of a balance diet is an essential element which I believe the States should be contributing to and should do so now. I maintain the proposition and I call for the appel.

**The Bailiff:**

The appel is called for then in relation to the proposition of Deputy Southern, Projet 115 and I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 16</b>		<b>CONTRE: 29</b>		<b>ABSTAIN: 0</b>
Senator A. Breckon		Senator T.A. Le Sueur		
Deputy R.C. Duhamel (S)		Senator P.F. Routier		
Deputy of St. Martin		Senator P.F.C. Ozouf		
Deputy J.A. Martin (H)		Senator T.J. Le Main		
Deputy G.P. Southern (H)		Senator S.C. Ferguson		
Deputy of Grouville		Senator A.J.H. Maclean		

Deputy of St. Peter		Senator B.I. Le Marquand		
Deputy P.V.F. Le Claire (H)		Senator F. du H. Le Gresley		
Deputy S. Pitman (H)		Connétable of St. Ouen		
Deputy K.C. Lewis (S)		Connétable of Trinity		
Deputy of St. John		Connétable of Grouville		
Deputy M. Tadier (B)		Connétable of St. Brelade		
Deputy T.M. Pitman (H)		Connétable of St. Martin		
Deputy T.A. Vallois (S)		Connétable of St. Saviour		
Deputy D.J. De Sousa (H)		Connétable of St. Clement		
Deputy J.M. Maçon (S)		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy R.G. Le Hérisier (S)		
		Deputy J.B. Fox (H)		
		Deputy of St. Ouen		
		Deputy J.A. Hilton (H)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy I.J. Gorst (C)		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy A.K.F. Green (H)		

## **8. Chief Minister: Vote of Censure (P.116/2011)**

### **The Bailiff:**

Very well, then we come next to Projet 116, Chief Minister: Vote of Censure lodged by Deputy Trevor Pitman and I will as the Greffier to read the proposition.

### **The Greffier of the States:**

The States are asked to decide whether they are of opinion to censure the Chief Minister, Senator Terence Augustine Le Sueur, for his failure to show the expected quality of leadership in protecting

the interests of Jersey's taxpayers culminating in the paying out of substantial so-called golden handshakes to 2 senior civil servants.

### **8.1 Deputy T.M. Pitman:**

Almost a full House. At our P.P.C. (Privileges and Procedures Committee) meeting yesterday lunchtime Deputy Fox asked me, when the Chairman was trying to reschedule propositions for the rest of session, if I felt we still needed to have this debate. It is a very fair and reasonable question of course because it is true that we only have 3 months left of this House, only 3 months left in the nicest possible way, of this Chief Minister. I replied that yes I still felt that it was necessary. The reason, much to my surprise, can be highlighted within a letter in last night's *Jersey Evening Post* pointed out to me by a constituent. This letter turned out to be, coincidentally, by the only former Senator that I had voted for every time I was able since I turned 18, or was it 21? It is so long ago I cannot remember, I admit. But I did always support that gentleman. It was, of course, former Senator Dick Shenton. This letter, put in a nutshell, argues in effect that the motion should not be pursued because Senator Le Sueur, the Chief Minister, is a nice chap. He was educated locally, set up his own businesses successfully, made lots of money has served the Island well in the past. The bottom line, the former Senator tries to muddy the water, in my view, that this is about personalities. But it is not, of course, it is about issues; pure and simple. Now I am not going to get dragged in deeply to the other themes of the former Senator's letter, i.e. that ordinary - although in my view extraordinary - people like the legendary Mrs. Chris Wakeham, Norman Le Brocq and many others should not be able to be in government because we have dedicated our lives to other things, community, education, et cetera, rather than just making money. The fact is that this is the standard tactic of trying to portray any criticism of those in positions of power as personality issues. Personality issues that again and again allow those individuals, whether Ministers or senior civil servants, to remain wholly unaccountable. That is the crux of this motion and why it needs to be put on record before we have a new Assembly. It is, of course, just one of the symptoms of the mess that cherry picking Clothier in setting up this ministerial government has brought about. Is the Chief Minister a nice chap? Well, I am absolutely sure that he is. The fact is I honestly do not know. I have been here nearly 3 years and I can honestly say that I do not think the Chief Minister has spoken to me on more than 3 or 4 occasions, and I have tried. Perhaps he is shy. I am shy myself, it might surprise people but I am. So maybe that is his reason. Now former Senator Shenton in his letter also said that we would be watching to see who supported me among those of us, if I can correct his misapprehension, who cared enough about our Island to give up better paid careers and risk our futures by serving our community. But, of course, people who are not rich, for whom politics is a full time job, and I am not going to apologise for that because all politicians should be full time. I mention this because while the former Senator probably did not intend to, he has hit on the second reason why this debate must be had and the votes recorded for posterity. With an election just months away I certainly want the public to know who is brave enough to put their heads above the parapet, risk the slings and arrows to say: "No, these ministerial disasters are not acceptable." I will not let them be swept under the carpet just because someone might be a decent person and soon to retire. These issues, and those of us who have delegated large tranches of our lives to supporting young people know this better than most, those issues must be confronted because it is the only way people can avoid making the same mistakes again, i.e. by being held accountable. That is a fundamental part of learning for all of us, or it certainly should be. As my constituents said in difference to the former Senator, he would be most interested to see how many Members respond to the 13 issues that I have highlighted rather than trying to portray as a personality-driven matter. That is what my constituent said he would be looking for. This really is secondary, I have to say, if I get the support of 10, 5 or one, it really does not matter because what it will at least show the electorate in October is how many people are worth voting for, because those people who are worth voting for will support this, because these issues are so huge. It is not personality-driven. I have nothing personally against the Chief Minister. Now, I am not going to dwell on each of the issues that I have put in my reports. I am conscious of the time but I do have

to touch on them and let us start at the very beginning when we think of the promise of inclusive government. At the bottom line I could say that the Chief Minister has only spoken to me 3 or 4 times in 3 years is a real symptom of that. What inclusion have we seen from the Senator? He promised us that when he stood for election. Where is that inclusion? Deputy Martin is probably the only so-called red in the bed, or under the bed - or whatever the turn is - and of course she is a very good Deputy. But could many of the problems we have had, and are still having, not been avoided if the Chief Minister had stuck to his word, if he had showed some leadership. I think so. Health and the *Verita Report*, as I said, there are tragic events that underlie this and I do not want to go over all those but can anyone honestly stand up to the members of the public and say the treatment of people like Mr. Day was satisfactory? That they did not display ...

**The Bailiff:**

Could I just remind you, you should not refer to people by name.

**Deputy T.M. Pitman:**

Sorry, I forgot that.

**The Bailiff:**

Refer to "the consultant."

**Deputy T.M. Pitman:**

Consultant, yes. It is hard sometimes, especially when we have had about 16 different former police officers or whatever. But thank you for reminding me, Sir. Who can honestly say that that treatment was fair and was a result of good judgment? Who can honestly say that anyone was held accountable for that? Now many say that in our present system a Chief Minister has no real power and perhaps that is true to a degree but then surely it is up to the incumbent to set about creating a team where that accountability is there, where he can utilise his skills, his powers, his authority to lead. In *Verita*, I have to say, that was not there and a lot of people suffered needlessly because of it.

[15:15]

The third one I touched on was the public service pay freeze. The Chief Minister is the Chairman of the States Employment Board. What a fiasco this was. Union people, who are generally very reasonable people, reached the stage of exasperation where people sent to negotiate with them did not even have such a mandate. The contempt that they were treated with was appalling. I know so many of those people who went to that big rally at the Fort, with 1,000-odd people, they are deeply regretting now that they did not all stand together, that they trusted words of a better tomorrow and they did not take some action, because, as I say, they were treated with contempt. Totally unnecessary in the first place but the worst thing of all was the way they were treated as people. The Chief Minister, I am afraid, as Chairman of States Employment Board, allowed a situation to be portrayed where public was played against private and that is not good for this Island. It is not good for anywhere but especially a small jurisdiction. Too many people who worked in the public sector and give their all were portrayed as greedy and lazy and overpaid and I think that is shocking. I have worked in both sectors and, as I say, that is a totally destructive thing. It is one of the things that most annoys me about the Chief Minister's lack of leadership in my time in this House. The Comprehensive Spending Review, again we could talk about this for days so I will just deal with it in a few minutes. It really does seem to have been made on the hoof, pushed up to £65 million, we have seen embarrassing U-turns from some of the Council of Ministers, the Minister for Education, Sport and Culture left to fight the Indians on his own. Whether he is right or wrong, it really did seem that none of them were even talking to each other. Again, people appear to have been last when this was considered. Where was the leadership in that? Any austerity measures need to take the public with them and I am afraid the Chief Minister did not take the public with



him. I have no doubt that we will hear that it is all honky dory, I see in the paper today with the I.O.D. (Institute of Directors), well I am afraid just wait until the election and talk to real people out there who are feeling the pinch. The suspension of the former Chief Police Officer, well I am not going to go on too much because I do not want to cause any controversy but, again, justice, drawn out over how long - was it a year, 2 years? What kind of leadership did we see from the top down? What kind of transparency? Journalists were allowed to see documents that we were not. I was refused a report as an elected States Member but told journalists had it. **[Interruption]** Is my time up? It is probably my lawyer.

**The Bailiff:**

It is an absent Deputy who will be fined in his or her absence.

**Deputy T.M. Pitman:**

I am not paying for that one. I am definitely not paying for that one, I have contributed enough this year. So we will skirt over that one. Broken promises on G.S.T. (Goods and Services Tax), well, okay, the Minister for Treasury and Resources has borne the brunt of this but, again, where was the Chief Minister in allowing this to unfold? Where was he? Where is the joined up thinking? Where is the team work? Where is the listening to the people? Tough decisions we are told have to be made but we listen. It is funny how we can listen for 6 times about a couple of Senator seats but yet G.S.T. going back to 19,000 people, 10,000 people in another situation, and yet we cannot reconsider. All at the same time we have so many very, very wealthy people paying a pittance, 17 paying less than £5,000 tax; 82, I believe, paying less than the threshold that we had all been told they did pay. Zero/Ten, again I am not going to dwell on this because this could go on for weeks. But the fact is many people, and I do not think there is any actual economists in this Chamber, said we would end up where we are now, yet they were all dismissed and rubbished and that has been the style of this Council of Ministers and that has been the style that this Chief Minister has allowed to evolve. I have sat here listened as person after person was rubbished, outside tax experts were rubbished, why? Because they did not come from within the fold, just like most of the people who objected in here were not from within the fold. The Chief Minister allowed it to be portrayed as doing the Island down. I am afraid politics is about conflicting views and different views. It is not about destroying Jersey. I care about the Island, I disagree strongly with many people in here but I do not doubt that they believe their views are right for the Island. Why do we hear this all the time from the Council of Ministers? Anyone with a conflicting view is rubbished. Why does the Chief Minister let that happen? The Health Director's salary, well there is a nice one. How did that come to be brought about? Manipulated, is the word I would use, from someone within the own agency where he had come from. Vastly over the top, vastly out of proportion of the job he has taken on and it is all just meant to be swept under the carpet, we must not talk about it. Does the gentleman even pay tax? That is another question. Perhaps the Minister for Health and Social Services can tell us because I have to say the Minister for Health and Social Services did not appear to have a clue what was going on in all that and with due respect, and no personalities involved, if I had been the Chief Minister that person would have been removed if I could have from office. Because how can you not know what is going on with such an important job. It is farcical. The new role of Minister with responsibility for International Relations, I like Senator Cohen a great deal and I have got no problem that we may need a Minister for Internal Relations, but with 53 of us elected do I want to read about it in the paper? I want some say in it. I want it at least brought to the House and maybe there is someone with better qualifications, and that is no slight on Senator Cohen. But, no, he is just appointed. We are told about it second hand. Jobs for the boys and, if it is not, that is the impression the public got. Where is the leadership in that? Where is the transparency in that? Where will be the accountability in that if Senator Cohen makes any mistakes, which I am sure he will not? The opposition to the Committee of Inquiry for Historical Abuse, again, we could spend months on that, could we not? A Chief Minister who, let us be fair, inherited a very difficult situation. He did not make that situation but he has assumed the mantle of the very top political

role in this Island so he should have showed some leadership. Yet we saw resistance to having that inquiry, an inquiry that could have buried lots of what has happened since. As I say, where was the leadership? For the people out there on the street, where was the transparency? More importantly for the victims, where has the accountability been, because it has made things 10 times worse? I put in the top secret 1(1)(k) report because it is an issue of interest to me. Again, I am always happy to come in and listen, you can look at my voting record, and I do vote according to what I think the arguments are. I end up voting with some very strange people. In fact I always vote with some very strange people, but that is another issue. Yet I cannot be trusted to see a whole document, I have to have a dreaded redacted version. I have to say when the redacted version came out it is barely worth the paper it is written on, even though it is 99 pages. Where is the leadership in that? It takes us right back, does it not, to inclusive government. How do you include people and make them feel included when we are treated like lepers, like second class citizens? We have all been elected, is it not down to the actual leader of the government to try and promote that inclusivity but, no, only the chosen few. Non-implementation of the Freedom of Information Law, if anything in the 21st century shows a lack of leadership and a lack of a commitment to transparency then surely this is it. Why is it, people ask me, that we can do so much when we need the money yet we cannot do something as fundamentally important in the modern age as a Freedom of Information Law? The Chief Minister really did miss a trick by not throwing his weight fully behind this because it would have been a really good legacy for any Chief Minister, I think. We will come and I will finish on the golden handshakes. As I say, I have worked in both private and public sector. What do you do when someone is incompetent or you find they are corrupt? You get rid of them. You face them down. You are not bullied. You would not do it if it was your company, and just because it is not your company that is no excuse for cowardice, political cowardice either. Paying people off, because that is what it amounts to, that is what the public think. If people are not good enough to do their job, they go. It happens everywhere in life, private companies, and it certainly happens in States departments with staff further down the line. But yet we paid out money which is pretty much in line with what a person on minimum wage would earn in a lifetime. If any Member thinks that does not stir up resentment and anger among ordinary working people, again, I do not know who they are speaking to. Yes, the Chief Minister will not have been responsible when those people's contracts were put in place but again he is the Chairman of States Employment Board, he is the leader of our government and he should have had the backbone to stand up, face those people down and kick them into touch. If he could not do it then he should have made way for someone else within his Ministry who would. This has made people so angry, this last instance, I cannot stress the anger that I have had put across to me. You want the top job; we all must have certain confidence in our abilities to want to be politicians. The Chief Minister has become Chief Minister, and fair play to him, and I have no doubts that he has done a lot of good things in his years in the States and I do not try to undermine that, but that is not going to stop me highlighting deep flaws and failures. So what should we do with all this? I am sure, like the constituent said to me, there will be people who will try and rubbish this as perhaps electioneering, perhaps a personality attack. The bottom line is if any Members are happy, content, that all these instances be swept aside with a shrug then they should vote against this proposition. But if they do not only should they stand up now and explain why. They should also promise to stand up in the election in October to tell the people why because maybe the Institute of Directors do not care but I can tell Members that the public most certainly do. Alternatively, if people do believe that politicians should be held accountable, that with power and position do come commitments, if they believe that incompetent, flawed, wrong decisions that have implications for other people - some people whose lives have been ruined by one or 2 of them - if they do think those are important then they should support this motion. Not just because it is right but because it might save them a bit of explaining in the election. I make no apologies for bringing this, I am going to leave it there. I have nothing against the Chief Minister, as I say I do not really know him. I would like to know him. He may not want to know me, that is okay, but this is not about personalities and I think it is going to be a big giveaway the first person who stands up and tries to

make a personality issue, because it is not. You look at those issues, many have cost millions of pounds of taxpayer's money. Many have had disastrous implications for people of Jersey and if there is no accountability for such decisions then we really all should give up. I will leave it there and I make the proposition.

**The Bailiff:**

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

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

Members will, I am sure, be relieved to know I do not intend to speak at length on this proposition, nor do I see the need to reiterate the comments I have made and the questions I have answered in the States over these past 3 years. I think if the Deputy seriously believes that there is such a catalogue of serious errors over that time surely he should have brought a vote of no confidence and gone the whole way. But no. In his reports the Deputy cites the Ministerial Code of Conduct and specifically he focuses on the qualities of leadership, accountability and openness. So let me deal briefly with each of those. First on leadership he accuses me of breaking promises on G.S.T. and Zero/Ten. I make it clear that I stand by my position on both those matters. The need for a goods and services tax, the need to diversify our tax base was clear to me for the last 10 years. That view has been vindicated by recent events and the global economic downturn.

[15:30]

So, far from broken promises, I fought my last election on my stance on G.S.T. There are no broken promises there, I said that G.S.T. could stay at 3 per cent if the States kept its spending under control. It did not. As for Zero/Ten, yes, I could have just rolled over and accepted the need for change. That would not have been leadership, that would have been an expedient and totally incorrect approach. I stood firm and time is proving me right. In terms of openness the Deputy refers to the death of a nurse and that was, indeed, a tragic event, which was thoroughly investigated by an independent body who conducted their inquiry in a neutral environment away from the hospital. They produced a detailed report in an open manner, had access to all the information they needed and they dealt fully with the concerns expressed by Members and others. That report was released in a proper and thorough and open manner. All the recommendations were followed up and implemented, such that a subsequent review by that firm was very complimentary. So that is hardly a good example of a lack of openness. Thirdly, accountability where the Code of Conduct says that holders of public office are accountable for their decisions and actions and must submit themselves to whatever scrutiny is appropriate. I am happy to submit to any scrutiny that is appropriate. I have attended numerous Scrutiny Panel hearings and answered numerous questions in this House during my tenure of office as Chief Minister. Indeed, I put it to Members there has never been such a level of scrutiny. It may be that the Deputy does not always agree with my view and that he is entitled to but we cannot consider that as a lack of accountability. If there was a lack of credibility or a lack of respect then if a Minister decides to stand down it is a different story. As to credibility, all I need say, I think, on that one, is that generally my decisions, and indeed those of the Council of Ministers have been endorsed and approved by other States Members. The Strategic Plan, the Annual Business Plans, as well as specific items that the Deputy refers to, such as the Comprehensive Spending Review and increases in G.S.T. have all been debated and endorsed by a majority of States Members. I accept that Members are entitled to challenge Ministers and are not denied the opportunity to put forward opposing points of view but they cannot cry foul if the debate goes against them. In his speech ... and I do not want to refer to every comment but there were a couple of points I do have to refer to. The first related to the matter of inclusivity in the appointment of Ministers and I point out to the Deputy that Ministers are appointed by the States. They are appointed and they are nominated by myself and as we saw

yesterday, there is the opportunity for other people to put forward nominations and have an election. At the end of the day it is States Members who decide who will be the team of Ministers. But more worryingly he refers in comments about golden handshakes where he also has some of his facts wrong, he make innuendo I believe of the people concerned being incompetent or corrupt. I am sure he did not mean that but the innuendo is such that I believe I have to defend the reputation of the ex-employees concerned of whom I have absolute confidence that they were totally competent and totally incorrupt. So the suggestion that I was simply paying people off who were of that nature not only is incorrect and abhorrent but it could, if were uttered anywhere outside this Chamber, be regarded as grounds for defamation. But that is by the by. I respect the fact that Members have different views and what Deputy Pitman may regard as weakness I, and I hope other States Members, regard as strength and determination. It seems though that the Deputy and I have diverging views on a range of issues. That may well be the case but it is not justification for a vote of censure. Indeed there is no justification for a vote of censure. I urge Members to reject this proposition. [Approbation]

### **8.1.2 Deputy P.V.F. Le Claire:**

There has been some talk of nobody speaking in this debate and just getting straight to the vote because a lot of Members do not think this is a debate that is justified in any way, shape or form in the fact it is a censure debate. I rise because although I am definitely not supporting this proposition I would like to set out quite clearly why I am not. Deputy Pitman says that he would like those that are going to vote against this to stand up and explain why and to do so again in October. Now, I am going to be standing in the same district, if I stand for election as a Deputy, as Deputy Pitman, in which case my hustings will probably be as relevant, if not the most relevant to the contra view of the Deputy. Now I share with Deputy Pitman some of the frustrations some of the dissatisfaction and agree with him in a lot of the objections to incidences that have befallen the States of Jersey and the Island as a whole. However, where we part company is 100 per cent in relation to the actual proposition that is before us today. A vote of censure is a motion that should only be brought in the most serious and grave circumstances when a Member of the Assembly has wilfully and knowing committed some wrong where his position is practically untenable as a States Member. I have emailed Members in the recent past with my frustrations, even suggesting - and I have copied all States Members in so they all know it - that we take votes of no confidence in the Chief Minister, the Minister for Planning, the Minister for Treasury and Resources or whoever else Minister because of my frustrations about certain issues. I think votes of no confidence are healthy because they show the Executive where the line in the sand is. They may not be successful but in the past, and I am certain the more seasoned Members in here - and I am looking across at the Deputy of St. John and the Deputy of St. Martin - they are aware of many votes of no confidence that have been brought in this Assembly that did not necessarily have a hope in Hades of getting support but they were very important propositions because they drew the line in the sand for the Executive to understand or for the committee of the day to understand how far they could go. I think there may have been incidences where collectively the Council of Ministers were failing at strategically important points of the lifetime of this Assembly that we could have justifiably brought a vote of no confidence under those conditions of the Chief Minister to hold all of the Council of Ministers to account for a collection of failures. There are some exceptions to that. I do not need to highlight which Ministers have my confidence and which do not. That is not going to be useful or productive. But let us just get back to why it is I cannot support Deputy Pitman and why it is I believe that in not supporting him I need to explain to the public why it is that I cannot support it. This kind of ... I think the word "invective" was used once upon a time. This kind of interaction with the public about issues that is being used not only by Deputy Pitman but also highlighted in his speech in an article today in the *Jersey Evening Post* by Senator Ozouf does none of us, not a single one of us, any good whatsoever. It does nothing good for Jersey either. If we are going to weather the next 2 to 3 years which are going to be significantly difficult for the vast majority of the modern world in terms of an economic crisis that is going to continue and

manifestly worsen, if we are going to tackle the big issues such as climate change, the housing crisis which people are suddenly no longer aware of, which is growing daily, the many, many challenging issues of healthcare, population and energy, then the only way we are going to be able to do it is by setting aside our differences and working together. I concur with Deputy Pitman, I agree with him that the Chief Minister has not perhaps been as inviting as he might have been or as communicative as he might have been. He does not necessarily ... he is not a man of extreme tall stature but he does not necessarily in my experience - I have known him for 11 years - spend much of his day in small talk. He sets his minds to the tasks and he works diligently. I have seen him working side by side on the computer next to me extremely hard for many, many years for the benefit of Jersey. I have seen him ... and I understand the ceremonial aspects and the ceremonial rigour that someone like yourself, Sir, or the Chief Minister has to go through when we are all away, attending ceremonies night after night, opening this, morning after morning, opening that, weekend after weekend opening this, that and the other. I used to see that when I was bodyguarding the chief executives of the companies I was bodyguarding in Canada. Sometimes when you sit in the cars of these people that are doing this work, and it is work, it is a tremendous strain at the end of a day to have to then go back home, gather together your faculties, your mind, your partner, your wife and then proceed to the venue, put on a smile, go through the process of everything and get back in the car and at 11.30 p.m. arriving home, knowing full well that you have got to be back at the office at 7.30 a.m. The trips away, the length of service. I have been here now 11 years, it is not the longest but I know what it can mean when you have to put a lot of your time and effort into doing what you think is right for people and to have that held up by somebody who thinks maybe that you should not have beer and wine in your shopping trolley, it is not right. Or maybe you should not be starting work at 9.30 a.m. All of these petty debates and all of these petty arguments that have been coming out have served nobody and served no one at all. If elections are needed to be fought, and I say this with the greatest of respect to the Deputy, if there are differences they need to be fought on the issues. You said it is not a personality thing. By bringing a vote of censure it has tarnished the arguments in that direction to a degree that I would suggest it is difficult to extract the personality from a censure, if one levies a censure. It should have been a vote of no confidence. But if one is going to go to the electorate and argue that Deputy Le Claire was wrong because he did not support my vote of censure against the Chief Minister then fine, bring it on, because I do not know anybody who would be able to do what he has done - the Chief Minister has been able to do - over the last 3 years. He stood on a platform next to me as a Senator and said he wanted G.S.T. I stood on a platform next to him and as a Senator and said I did not want it, and who got elected? **[Laughter]** He is the Senator, he is the Chief Minister. I got the sack. I do not agree with G.S.T., the reality was the Chief Minister quite clearly and unequivocally stood on the platform and made it clear to the public it was a necessary thing in his view to introduce. The public supported him. The Deputy may not agree with me on what I am saying but I am certain he will agree with me on the sentiment. We may not agree with G.S.T. but we cannot deny that he has a perfectly legitimate mandate, a greater mandate than me. I found that quite disturbing in the *J.E.P* obviously Senator Ozouf is not the one that writes the articles in the *J.E.P*. **[Laughter]** He is looking at me like he is. But certainly I am sure he is probably troubled by some of the reporting as well. But it says in there today they may have taken out of context. I certainly hope they have. Those people that express these kinds of views, are not speaking on behalf of the public or do not represent the public. I am sorry, they do. If they are elected Members they do represent the public.

[15:45]

In their districts or in their constituencies they represent the public, they have been elected so what they say is representative of how they got elected. The Chief Minister believes in G.S.T. You cannot say that is not a legitimate position for him to hold and conversely you cannot say that the position that Deputy Pitman holds at the moment is also not one that he can legitimately lay claim to. If he believes that a vote of censure is necessary then he has to demonstrate to the electorate and

to me how it is that I am not understanding the situation. A vote of no confidence, perhaps, but not necessarily now; the time has passed, a vote of censure, completely the wrong thing to do. I will happily go to the elections and I will say to people quite unequivocally that the Chief Minister has done a difficult time. He was the Chief Minister who apologised for the historic child abuse and to the victims, he was the one that stood up and took that upon himself and made that statement. He is the one that has tried to weather us through one of the most difficult economic circumstances in living memory, and he is the one that I feel is being the subject of this unfortunate proposition which I think the Deputy, unfortunately, has brought for some understandable objections and experiences but is totally misguided in levying this today.

**The Bailiff:**

Does any Member wish to speak?

**8.1.3 Senator P.F.C. Ozouf:**

I am realise that some Members will not welcome the fact that somebody else spoke but the last time we had one of these Deputy Southern, I think it was, asked that the Chief Minister sack me and the Chief Minister was kind enough to defend me and while I do stand reluctantly I think that somebody that is working with the Chief Minister should, even briefly, speak in order to support him. It is easy to criticise and nobody is perfect and while Jersey has its challenges I would argue that we are in a unique position with strong public finances and a sound social security system. Senator Le Sueur is, to my assessment, to a great extent responsible for this. He is a quiet, unassuming, modest man with a strong sense of right and wrong and who has served this Island with distinction for 24 years. **[Approbation]** So I think that says it all really. It is tough at the time and sometimes it is lonely at the top and sometimes leadership is about taking difficult decisions, including management decisions and policy decisions. The pages of Temps Passé will write the story of the Le Sueur years and his stewardship of Social Security, Finance and Economics and the Council of Ministers. While he is not a piece of art I think that they will appreciate **[Laughter]** it. Sometimes art is controversial when it is initially done. I think over time it will become to be appreciated and respected. Senator Le Sueur does not deserve the most serious sanction, short of a vote of no confidence, of this Assembly and I urge the Assembly to conclude this debate and reject it. **[Approbation]**

**The Bailiff:**

Does any other Member wish to speak? The Deputy of St. John.

**8.1.4 The Deputy of St. John:**

Yes, Senator Le Main you can complain. I am standing up and I am going to ask the proposer of this proposition to withdraw it **[Approbation]** because I think that sufficient has been said across the floor by the previous speakers and I ask him to search his conscience and do what is right for Jersey. Let us not send out the wrong message. Please withdraw it.

**The Bailiff:**

Does any other Member wish to speak?

**8.1.5 The Deputy of St. Martin:**

I have found myself very much troubled when this proposition came through the post. I thought it was most unwelcome and I also thought that the timing was most unfortunate. I have felt uncomfortable because I personally have been involved with a number of these issues and certainly there have been times, and I think the Minister would probably agree, that we have led and he has followed. When I look particularly at the issues about the *Verita Report*, it was a proposition of mine that really ended up with the Chief Minister coming up with an alternative. The same thing happened again when we looked at the role and the suspension of the Chief Police Officer. Again, we led and he followed. I think that is what I found very difficult with this particular proposition

because I know deep down in my own heart really that the Chief Minister has failed in some cases. But one has also got to look at ... there are 13 - let us put them - charges here which have been made against the Chief Minister.

**The Bailiff:**

Please allow the Deputy to deliver his speech in the normal courteous way this Assembly operates.

**The Deputy of St. Martin:**

One would have to consider, if proven, would the punishment fit the crime. That is the difficulty we have got. I heard what Senator Ozouf had to say and I share his sentiments. I think it is rather unfortunate that here we have almost the end of many of our States careers, whether we choose to retire or whether we have found that we are not wanted after the next round of elections. Is this the way in which this House goes out, with a vote of censure? Again, as I said before, I feel very, very uncomfortable. I have been 18 years in the House; I do not think I have missed more than 4 or 5 sittings so I reckon that means I have attended about 800 sittings, probably 6 months solitary confinement - even more than that possibly. I suppose I have been involved in literally thousands of votes and one of the things I have never ever done is stayed outside to avoid a vote. Only once in my life have I every abstained and the time I abstained was the occasion when we had to decide what to do about the former Senator Syvret because I felt really that Senator Syvret was at fault with some things that he was being charged with but I also feel the method in which we were dealing with it was the wrong way of doing it and that is the only time in my life I have ever abstained. Deep down I just feel that there are a number of things here that I think Deputy Pitman is right to bring to our attention and it makes me feel uncomfortable. I will echo what the Deputy of St. John is asking for. I do not like doing it but I really feel that we should ask Deputy Pitman to withdraw, I think he has made his point and it makes us all uncomfortable. We have to make difficult decisions, I would not like to vote for nor would I like to vote against. I certainly will not leave the Chamber but I would ask maybe that Deputy Pitman reconsider his proposition and withdraw.

**The Bailiff:**

Does any other Member wish to speak? Deputy Tadier and then Deputy Southern.

**8.1.6 Deputy M. Tadier:**

I think we are making too much of this in one sense. This is a valid proposition which is being brought. It needs to be debated as we are doing to see whether the charges, as the Deputy of St. Martin has put it, are valid. So I do not think we need to be oversensitive. All this nonsense that in some ways it is going to tarnish the Chief Minister's retirement. I think when the Chief Minister retires he will be able to stand by the good work he feels he has done and the public would also have their opinion, which may vary. That is the case for anyone in public office. So I think we have to divorce those 2 issues. I think that is a spurious argument. I think whatever the result today, the Chief Minister will be able to retire in the knowledge that he has given several decades ... not several decades but many years of good service to this Chamber and that is something he will rightly be proud of. I think the issue here, and the reason that Deputy Pitman is bringing this censure motion, I am sure it is not something he has done lightly, is because there is a lot of public anger out there. Now whether or not that public anger needs to be directed at the Chief Minister, at the Council of Ministers, at the States Assembly as a whole, if it needs to be directed at some lack of reform that needs to be taken place in the States Assembly, if it needs to be directed at the fact that we do not have party politics in Jersey, therefore there is no way for the public in any meaningful way to say what policies they want the States to pursue. That is another issue. But this is the proposition we have in front of us today. It is not a personal issue; there have been letters in the media suggesting that this is somehow personality based. That is not the case at all. Neither must it be simply ... as I think many people have said, we cannot simply bring a vote of censure

because we do not agree with the policies that the Council of Ministers or the Chief Minister is pursuing on the mandate of the Assembly. That cannot be the case. So looking through the 13 clauses, there are some which I feel very uncomfortable with, there are some which I think are largely unfair. But if there are 2 issues I have to pick up on in my memory that stand out to me, I think there was an issue about the way the States Employment Board handled the last round of pay freeze negotiations. The processes were not correct. We did not treat the union, professionals, teachers, highly skilled workers who are serving the community, we did not treat them with the correct dignity and respect that they deserved. I hope that lessons have been recognised. That is not to say it is the Chief Minister's fault per se, but the buck must stop somewhere. The buck in that case stops with the Chief Minister with his position on the States Employment Board. The Zero/Ten fiasco, as Deputy Pitman has put it on point 7, this is not something that deserves censure; this is not something that deserves a vote of no confidence. That was something which was a resigning issue. Essentially Zero/Ten was such a pivotal piece of policy for the Council of Ministers, in particular for the Chief Minister and for the Minister for Treasury and Resources. We heard reassurances time and time again over Zero/Ten. There is nothing wrong with Zero/Ten, it is all going to be fine, even the deemed distribution pot, it is all going to be fine. Then we heard rumours coming from London that maybe it was not going to be fine, but still we were continued to be sold this line, Zero/Ten and the deemed distribution pot is all going to be fine. Then it was not fine and then heard this backpedalling from the 2 Ministers involved. That was not the correct way to have this dealt with. There should have been much more open discussion. So I think the charge of openness and transparency, while that is a challenge for any government to get the balance right, I think that is a valid criticism. I think there is an issue also about the handling of Haut de la Garenne. I think we have made progress so I do not think that is any longer a censure issue per se and I am glad that we have been able to meet with the Chief Minister to work constructively, hopefully, with moving forward the independent inquiry into that. But it was not easy and it is something that even the Deputy of St. Martin ... I was wondering, listening to his speech, if he remembered the countless times, it seems, that he has had to ask why part D of the terms of reference for the Wiltshire report were removed and I do not think he has got a satisfactory answer to this day. So there must have been times when the Deputy of St. Martin was thinking: "I would like to bring some kind of sanction against the Chief Minister for this." That may have been at the back of his mind. The point that is quite right is point 13, is the whole issue of this £800,000 which was supposedly given as a golden parachute. Part of the reason there is so much anger is also because there is so much confusion about that issue. No one, I do not think, knows exactly how much that figure was. Nobody knows the circumstances under which that money was given and I think somebody needs ... well the public want answers. I think States Members want answers, whether we will get them is a different matter. No one has been held accountable for even saying why this policy was put in place. Was it put in by the former chief executive? Was it put in place by someone else before that? Members may sigh but these are very pertinent issues. We have just cut funding for school milk and, as I have said, we cannot account for why this £800,000 has been given to 2 individuals who have come to the end of their careers consensually, which they have chosen to do. This is not severance pay; this is not money they have been given for unfair dismissal. So these are issues that need to be answered.

[16:00]

They have not been answered satisfactorily, it is not about personalities but under our system ... and it is not about blame either, but the public quite rightly deserve to have accountability and, in the absence of any other answer being given, in the absence of the Chief Minister saying: "The reason this happened was because this individual made the wrong decision" or: "These mechanisms were in place and they were the wrong mechanisms" because that has not been the case. I think quite justifiably we can say that there is a valid case to argue. Also we are here to represent the public and it is unlikely that if the public were able to vote on this they would be unanimously rejecting it.



There might be 1 per cent or 2 per cent or 5 per cent or 10 per cent or 20 per cent of the public who would support this censure motion, so simply just because other Members, for valid political reason, not for personal reasons, choose to support some of the aspects of the censure I think is absolutely valid, but that does not obviously discredit or take away from the other good work and the service that the Chief Minister has been doing. So I think we need to be slightly more nuanced about our approach to this. Clearly, the bigger issues are there. You know, I think that ultimately, I have said timelessly, we do need to be moving to a system where we can vote for policies and vote for individuals at election on their policies and not simply on their personalities or their ability to play the accordion several times a year at different fetes.

### **8.1.7 Deputy G.P. Southern:**

The first thing to deal with is why is this not a motion of no confidence, and the answer to that is a motion of no confidence feels like the extreme solution, and there is very little difference between a motion of censure, a motion of confidence. If they were to be passed, either of them, it would be a resigning issue. I am absolutely confident of that. You would not see the Chief Minister doing anything less than resigning. So whether it is censure or no confidence does not matter, and I suppose the starting point for this motion of censure, which the proposer is being severely criticised for and asked to withdraw it because it is doing something wrong, it is nothing like that. The fact is that here we are in a broken democracy. There is absolutely no connection between what happens out there and any individual's vote and what happens in here in terms of policy. Why? Because we have not got party politics, one, and 2, people do not stand on solid platforms with a manifesto. Anyway, even if they did, Chief Ministers get elected in mid-term. That is our tradition: one, 2, probably the next one as well, 3 in a row, bingo, in the mid-term, so they do not get to stand. They do not get to stand and say, for example: "We are coming on to hard times. It is possible that I might impose a wage freeze on the public sector." Never said, never said, just happened. They might stand on a platform and say: "I am going to have an inclusive government. I am tired of people over this side criticising me and people over that side. We have got a rift in our government and it is no good. I am going to have an inclusive government. I am going to invite all opinions into my government." That never appeared on a manifesto either. No, it appeared in a much softer, subtler form: a promise to us in this Chamber, and it was then immediately apparent, as the Council of Ministers' make-up became clear, that there was no such intention to have anything like an inclusive government, absolutely the opposite. It was people who would be supportive of the general political thrust, and in some cases, the friendship of various other Ministers. So as the proposer says in point 1: "The broken promise of inclusive government only made to us and not to the electorate" but if it were the electorate, boy, would they have been angry. As the proposer points out, even Senator Walker made room for Senator Stuart Syvret, and indeed, for Senator Kinnard, who were both of a different persuasion than the first Council of Ministers, and yet this Chief Minister promised to extend that inclusivity and completely failed. I have already mentioned it once, and this one is certainly a very angry point 3: public sector pay freeze. This showed absolute contempt for the States workforce, absolute contempt. It was dropped on them from a great height at very short notice with no warning: "Oh, by the way, you are taking a standard of living cut. We are going to freeze your pay, because that is what we decided to do." No negotiation, no nothing. One can see, in fact, that it is likely that we are going to see that again. The Chief Minister and Minister for Treasury and Resources have committed themselves to making £40 million of savings on States employees, public sector terms and conditions, and here we are, we are going to see the Annual Business Plan at the end of this week, and in response to: "What preparation have you done, and what plans have you got? Will we see any detail in the Annual Business Plan?" the answer is: "None whatsoever. We have not got a position formulated." So we will not see it in the Annual Business Plan. It will be dropped on us from a great height sooner or later, when we have voted for it, probably. In September, when we vote for the Annual Business Plan, we will be voting blind, because we will not know what the actual proposals are. So £40 million just happens to be the end result of what you save if you impose a 2-year wage freeze, so it

does not take Einstein to work out where we might be in 3 months' time, another pay freeze on its way, again contemptuous of our workforce. Point 4: Comprehensive Spending Review. What disaster is that? The Minister for Treasury and Resources says, rallying to the cause, he is a jolly good chap: "We are in very good position. We have no debt" et cetera et cetera et cetera, the usual thing, and yet we have, at the last minute, increased £50 million of cuts to £65 million of cuts and we are going to ... well, I do not know what the phrase is: "We are going to reduce our public sector, some of it, to ashes on the grounds of: 'We are in a strong position.'" Now, I do not know anybody that sees the logic in that, but the reality is it does not make any sense whatsoever, and yet this is the policy led by our Chief Minister that the Council of Ministers is pursuing. Broken promises on G.S.T. (Goods and Services Tax). Well, I am not sure exactly what the promise was, I cannot quite remember the exact words. I think they may have been politically formed to give a lot of wriggle room, but nonetheless, the members of the public out there feel they have been let down, and no mistake about that, and when 19,000 people signed a petition to say: "Please do not do this" this Chief Minister's reaction was: "I do not care if 100,000 sign it. I am not budging." Again, complete contempt for the voting public out there. Why? Because this Minister, this Chief Minister, is not going to come before the voting public again, he is on his way, and anyway, even if he did, the system is broken and he is unlikely to get a big smack on the wrist. So it is down to this House to say that as a motion of censure, a motion of no confidence in this particular Chief Minister. Again, in this sector we are talking about Zero/Ten and local businesses, non-local business not paying a single penny in tax, and that this Minister, this Chief Minister and his Treasury Minister saying: "Oh, we can find a solution for that. We will find something." At one stage, he was promoting the Blampied proposal, which could gather some money from these particular businessmen, despite advice from his own Treasury, I think, who were saying this was a non-starter, was never going to be able to be made to work, and even Deputy Noel spotted that it was not going to work and withdrew his support fairly promptly. So we never saw that one. Still we are left, 3 years on, and we have got no answer to the fact that foreign-owned businesses in Jersey, non-finance businesses, are paying zero tax: "Come to Jersey and trade for free. Do not contribute to society, you will not be taxed, full stop." Now, if that is not a motion of censure, I do not know what is, for itself and of itself. Zero/Ten and the solution: "Oh, we have got the answer, we have got the answer. It is perfectly acceptable." A ... I am tempted to say a lie; a mistake that was promoted and repeated time and time and time again while people said: "That is not going to be acceptable. Zero/Ten is not going to be acceptable." Eventually, we found a fudge which has not still, years into this thing, since 2002 - years into this thing - been accepted formally. It has been welcomed as a move, but it has not been given the stamp of approval yet, and this is 6 years of supposed stability, when in fact what we have created for business is instability. That is the reality of what this government and this Chief Minister has been doing. So: "Zero/Ten, we can get away with it." Not true. Then finally, just to pick out 6 points of the 13, each one could be justification for a motion of censure: the top-secret 1(1)(k): "We are doing something about 1(1)(k). We are going to get more money out of them, they are going to contribute and invest in our business." The reality is that 1(1)(k)s, when told that they have to declare to the Jersey authorities all of their world income, will take one look at it through one eye and go: "I am not going to buy any of that. No, thank you" and then should they do so, have we got the mechanisms for checking that what they declare is correct? Of course we have not. We cannot go chasing around the world, little Jersey, for little bits of money here, money there, £1 million, £10 million there, £1 billion over there, £1 billion in a trust that has got a nominee shareholder which has got another trust which is another trust through the Cayman, through the Virgin Islands to wherever, Guernsey, and we are going to chase that: "Who is the beneficial owner of the whole thing?" to know exactly who has got what money coming in. Can we do that? Of course we cannot do that. We are in that business. We know how to do that, we know how to hide money, that is what we do. So can we chase other people's money when they decide to come here if they are 1(1)(k)s? They are the super-rich. Of course we cannot do that. So in my book, any one of those 6 points would be enough for a motion

of censure, and I am glad the proposer has brought this motion of censure. At last perhaps we might say what we really feel.

**The Bailiff:**

Does any other Member wish to speak? Deputy Shona Pitman.

**8.1.8 Deputy S. Pitman:**

I just begin the words of Deputy Southern in saying that this Chamber has such distance in its views about what is written in this proposition, and that is why I think it is right, because it is about the public perception and public being let down. Firstly, I just wanted to talk about the golden handshakes and why the public are outraged about this, and they are outraged when their G.S.T. on food and basic utilities goes up, and 2 senior civil servants get nearly £1 million between them. I must also add to what the Chief Minister said about when he voted for 2 per cent going up on G.S.T. because our finances were not in good order, and I would just like to say to Members that in actual fact, in last year, we had an underspend of £23.9 million. The year before was £13.5 million and the year before that was £6 million, and with all these underspends, and we still put pay freezes on to workers, on to our civil servants et cetera, without even allowing them the most basic democratic right of somebody representing their side and fighting for their wages and working conditions. Lastly, I think point 10 on the historic abuse inquiry is the one that sticks out for me, because I think we have let down certain members of our community in a big way, and perception of not just those who are affected by the child abuse, but other people as well, who think there were big cover-ups.

[16:15]

I refer to the recent Scrutiny Panel's brief interview with the former senior investigating officer of Haut de la Garenne and the child abuse inquiry, who talked about some human bones found and that they were not properly investigated and the skull that was apparently turned into a coconut shell. Well, that is not true, according to the former senior investigating officer. In fact, the specialist who was examining what was thought at the time the skull did not have the expertise to go any further to come to a conclusion, and also the Council of Ministers, including the Chief Minister himself, going against the words and the promise to those people who were abused under previous governments that no stone would be left unturned. Now, I do not know what that is if that is not breaking promises to the public, so this is why this is the big thing for me, those broken promises to members of the public and I feel with the other issues of tax, G.S.T., we have let the public down big time.

**8.1.9 Senator A. Breckon:**

Just a couple of points. It is difficult, that, because we are talking about somebody in a position and also somebody who is in this House and has a great deal of respect, and some take a position when losing an argument to attack the person, and I do not think that is what this is, and I think Deputy Pitman said that at the start. But then how do we challenge a Minister or somebody in a position without it being seen as, well, you do not like the person? That is not what this is for me either. The other thing is if we come back to performance, we have gone through, I do not know, umpteen questions in this House, probably more than we have ever had, and some of those questions, we go through a process of how do you ask a question, what can it be, does it fit these rules and regulations, but the answers sometimes bear little or no correlation to the question, and that is where some of the problems are. Now, that relates to some of this, because if we want accountability, then the question is the system we are in, how do we get it, because the Chief Minister said: "Well, somebody can bring a vote of no confidence" but that is a nuclear option for the Government of Jersey to bring a vote of no confidence in a Minister or the Chief Minister for a number of reasons, but it is a Member's right to do so - it is a Member's right to do so - but then we

have unpleasant debates, there is people take sides and people say: "Oh yes, for he or she is a jolly good fellow." That is not what it is about. It should be about the issues. Now, the thing is what we should try and do - and it is difficult, and sometimes I think we go the wrong way - we should depersonalise the thing and discuss the issues, but perhaps ... and I think an example, Sir, when you were in the Chair the other week, I did ask the question with the Island Plan: "When do we debate the Island Plan, not somebody's field or somebody's garage or somebody's shed? When do we debate it?" and perhaps part of the problem is as a government we do not debate the issues, put Ministers and the Chief Minister on the spot in a debate about an issue where we can ask questions about general performance. We might go to, I do not know, in committee sessions or something like that where we do that, where you can speak more than once, it is on the record and it might do away with some of the things. This, for me, Sir, I do really have a problem with this motion of censure for those reasons, because the Chief Minister, as we all know by the heavy agenda we have had, especially the last 6 weeks, deals with a lot of issues, and I would say this to Members: sometimes things are happening and I cannot expect him or any other Minister to know everything that is going on in every department every day. It is just not possible to get that far down, and perhaps we are too thinly spread, which some of us are not contributing very well to how we do things, and again, that is I think where we need to revisit some of these things, so I understand the reason for Deputy Pitman's frustration for this and his reason for bringing it, but the only thing is I do really have a problem in the current system of government we have got is where the motion of censure sits, because the things that are listed here, the Chief Minister does have responsibility, but it is not his sole responsibility, because any Member can bring a report and proposition to this House on virtually anything that fits in. So we can challenge the Chief Minister, we can have the discussions and debates and perhaps, just perhaps, we have not done enough of that to challenge both the Chief Minister and other Ministers, and for that reason, I will not be supporting this.

**The Bailiff:**

Does any other Member wish to speak?

**8.1.10 The Deputy of St. Mary:**

I have had to apologise to Members, I have had to be away on family matters, but I have heard a fair bit of this debate and I want to start by reminding ... well, no, first of all I want to start by taking on board the comments about it being uncomfortable and so on that some Members have made, that have said, like the Deputy of St. Martin, the Deputy of St. John, it is difficult, and whatever our views of the Chief Minister as a private individual, he is the Chief Minister ...

**The Bailiff:**

But just before the Deputy goes, Deputy, can we just make sure you are not going to leave us in quorate? Carry on, Deputy, at the moment we are just counting.

**The Deputy of St. Mary:**

It looks like 27 to me, Sir. He is rooted to the spot. So I looked up the good Chief Minister's opening speech in the hustings for Chief Minister, and what he said in his obviously prepared remarks: "Calmness and long-term vision are not by themselves enough. The Chief Minister also needs to engage, listen, respond and lead, and although I am clear where my priorities lie, as Chief Minister, I would continue to work with all Members in a consensual way for the good of the Island community; with all Members in a consensual way for the good of the Island community." That was in his prepared 10-minute speech, his pitch for being Chief Minister, and when Deputy Martin asked him about inclusivity and we must consult and so on and so on, and pointing out that he was suggesting to have more or less the same Ministers as we had last time, and asked him: "Is it going to be more of the same? Will we not get exactly what we had before with not inclusive and one side trying to squeeze out information? Does that not sound exactly like what we have been having to do?" the reply was: "Cutting to the chase, there have been divisions in the past, which I want to

see eradicated. Divisions may be caused by secrecy or lack of information or lack of trust. I would like, in this new school term, if you like, new 3-year term of office, that we start from a position of openness and trust in one another and talking to one another. I want to break down any sort of divisions. I do want to make this House more inclusive.” I am almost welling up when I read that, because that is how it should be. That is how the public would be best served. Then he made a couple of other comments, wanting the message to go out to every States Member, and he ended with this paragraph: “That we are a responsible and inclusive Government working for the benefit of the people.” In many of his responses to questions, I could see a man who did have compassion: his answer on the needs of children, that maybe what they needed was not more stuff or more facilities, they might need more contact with their carers and their parents. There were some really good things that he was saying and the question has to be, I suppose, from my perspective, what happened to the good intentions? It could be that somehow the good intentions got lost, and that is the issue, is it not? We read in the comments a reinforcement of this kind of attitude: “I would also point Members in the direction of paragraph 8 of the Code of Conduct: ‘Maintaining the integrity of the States by strengthening the public’s trust and confidence in the States and not bringing it into disrepute.’” So that is all of a piece with the Chief Minister’s opening comments when he stood for Chief Minister in front of Members of this House. Then we come to look at Deputy Pitman’s proposition. I am not going to go through point by point, I am just going to pick out the things that speak to me, but they speak to the issues I have raised: inclusivity, and this is Deputy Pitman’s first point, and rightly so, and he points out that the Ministers are not an inclusive set of Ministers and he says: “We have seen a majority of Ministers and Assistants regularly appointed by merit of allegiance rather than any proven ability or expertise in a particular field.” Now, for me, that rings true. It is not entirely a clone zone, but I do feel that it has been an exclusion zone, and the probability of group think in such an atmosphere increases, and that is very dangerous. There is only 53 of us. We are dealing with a small nation state. We have to keep track of everything between us, and then to have Ministers summoned to office on a narrow band, I know they are elected by this House, but the fact is the group that the Chief Minister does have a majority to get through his appointments, that is a very dangerous situation, and just how dangerous it is we can see from some of the other points made by Deputy Pitman, his paragraph 7 about Zero/Ten, where he points out that: “Advice coming from outside the Executive was dismissed as coming from enemies of Jersey, doing the Island down.” Now, that is simply not the case. The advice turned out to be right, and it is the silo mentality that is dangerous, not the different sources of advice, and I go on the web deliberately to points of view that I do not agree with, to test my own thinking. Now, this sadly seems to be absent from the Zero/Ten fiasco. The next point on this same rubric of inclusivity and trust, the opposition to a committee of inquiry, why was there opposition? Why not be open to that? Why not engage with all the stakeholders, both those accused of wrongdoing, those who had what they thought were unanswered issues and those who had been to court and the observers and all the rest of it all round the table, but instead of that, there was opposition to that committee of inquiry, and then in the same bracket, the same mentality, we have this astonishing 1(1)(k) report, which was so secret we could not even know who wrote it. Now we have, as a result of pressure, redacted - hardly redacted - copies, full copies of that report and we even had a presentation from the authors, so that is how secret it was. But that is the way of proceeding of this Council of Ministers. The progress on suspensions led by the Deputy of St. Martin has been like pulling teeth, one question after another, one proposition after another to get us to a position where our suspensions policy is handled far better than it was. So that is the kind of resistance. It does not feel like inclusivity to me, it feels like putting up the shutters, it feels like fighting to the last ditch and then saying: “Oh”, a little bit like we have seen the Prime Minister Cameron finally deciding that he is on the side of everybody else: “and we will call in a Blue Sky deal” and it is the same kind of feeling we get. Why not be first mover or second mover instead of last mover? Now to some points not made by the proposer, but they bear out what I am saying. In the population debate on the Strategic Plan, I still remember the depths to which the Chief Minister and his officers ... I do not know where exactly you can put the responsibility, but the fact is comments go

out under the Chief Minister's name, where he said that what the Deputy wanted - and that was myself - he suggested, it was in the report: "Who will the Deputy ask to leave in the morning?" imply that a policy of stabilising the population means choosing who will leave in the morning.

[16:30]

To have that in an official comment to this Assembly was contempt of this Assembly, but it achieved a headline ... not a headline, sorry, it achieved coverage in the *J.E.P.* echoing the comment. Maybe that is what it was intended to do, but it was a slur certainly on what I was trying to do and it confused the debate in an unacceptable way. This is a debating Chamber, we are trying to get the right answer and it is not acceptable to have comments that are spin and not addressing the real issues and being honest about things. The second major fault with that debate - and remember we are talking about the population policy of the Island in the strategic plan debate, so it could not be more important - the second aspect of what the Council of Ministers did under the Chief Minister's leadership - and it is his department that is specifically concerned with population - is they airbrush out the figures of 2,600 people by the astonishing mechanism of having 2 baselines; one in 2005 and the other in 2009 and just skipping the figures in between. The stats unit put a little footnote in their presentation to point out that this was so because they could not - with their professional integrity intact - do otherwise. So this House were taking decisions on the basis of evidence that had been massaged, and that is a polite way of putting it. Then the proposer mentions the suspension of the former Chief Officer of Police fiasco and I will simply remind Members of the fact that the Chief Minister is on record several times as saying that the former Chief Officer of Police is willing to participate fully in this review. Willing to participate fully in this review, 13th of November 2010 in response to an oral question by the Deputy of St. Martin: "In answer to the Deputy's questions; in October and November of this year I referred to the changes that were made to the terms of reference and to the confirmation received from the former Chief of Police that he would fully participate in the investigation." One line later: "The former Chief of Police confirmed to the Deputy Chief Executive in a letter dated 31st of March 2010 that he would fully participate in the investigation." What did the former Chief of Police, Graham Power, write? He wrote: "For the avoidance of any doubt whatsoever, it is my firm wish to assist Mr Napier with his review provided that I am able to do so with a clear understanding of my position" and so on and so on and then follow several qualifications. So that sentence starts: "For the avoidance of any doubt whatsoever" and it carries on after the bit quoted by the Chief Minister in his prepared reply to an official oral question, he then carries on "provided that." I think that is enough.

#### **8.1.11 Deputy J.G. Reed of St. Ouen:**

Absolutely, that is enough. I mean, I have been sitting here trying to be quiet and thinking we will need to deal with this and put this to bed but the nonsense that I have just heard the Deputy of St. Mary speak of for the last 15 minutes just needs a comment. I do not see always eye to eye with the Chief Minister, but there is one thing that really makes me cross is that we have the Deputy of St. Mary reading out statements made by the Chief Minister where the Chief Minister has stated, quite rightly, when he took over the position he wanted to work with all Members and break down divisions. I ask the Deputy and others that have stood up here this afternoon and seek to criticise yet again the Chief Minister and others; what attempt have they made to create an inclusive States Members? [**Approbation**] What attempt have they made to visit, engage with constructively the Council of Ministers, Ministers individually, even the Chief Minister? No, we run an open door policy where Members of the States can visit Ministers at any time to discuss any matter. Some of these Members though choose to prefer not to follow that particular route and engage constructively with their fellow Members; but choose instead to submit reams and reams of written questions and oral questions that could be easily dealt with over a chat and a cup of coffee. I would

say to the Deputy - and I have heard him do it more than once - when you point the finger, remember 3 fingers are pointing back at you.

**The Bailiff:**

Through the Chair please.

**The Deputy of St. Ouen:**

Sorry, Sir; at him. [Laughter] I think I have said enough. Thank you.

**8.1.12 Deputy J.A. Martin:**

Like the Deputy of St. Ouen I was not going to speak and just to start off I will not be supporting this vote of censure. There are certain things here and I can think of many more things over the last 3 years, definitely I would have supported a vote of no confidence; but I think what we are getting here is totally confused with what a vote of censure is about. Now, we had one before and I think it was the ex-Senator Ted Vibert who brought it against the former Chief Minister and it was about integrity, it was about something that had happened and it was personal. Deputy Trevor Pitman says this proposition is not personal. It may not be personal but it is definitely political. The majority of the speeches - Deputy Southern's speech - it is political things that this Council of Ministers - although very many times I do not agree with and I do not vote the same way either - have achieved in this House. They have got the vote of this House. The pay freeze for one, I did not agree, I still think they were wrong; but was the Minister underhanded? It came to the House. All these 13 things you can go through them, some are under Health, some are under Home Affairs, Chief Minister, Human Resources mistakes from years ago. So do we today say that we make a vote of censure in the Chief Minister? I, like others, think the only problem we have is that when the Chief Minister said he wanted to be inclusive the people - as have already said in this House - are majority conservative with a small seat and they represent conservatives with a small seat across the Island of Jersey. The majority of people that vote for me and I represent if they were in the U.K. would probably be Labour supporters; and that is a very, very big divide. So just bringing back here, I sort of feel some sympathy with the Deputy, where did he go sort of in July when there could have been votes of no confidence; and that is - as Senator Breckon says - the nuclear option because ... I think people have tried before to bring a vote of no confidence in certain Ministers. But I cannot honestly stand here and say that the Chief Minister ... he may have broken, sort of, a political promise that he was going to be inclusive. His integrity ... he has done nothing underhand. I also now know why I am probably the inclusive one because I asked the question so I got the job. [Laughter] But it is not a laughing matter and the vote of censure before, I think there was some very strong evidence brought to this House, but even then the Chief Minister of the day, a majority of people voted for the vote of censure and I think as many abstained. If you had added them all together he lost the vote of censure, the only thing that did not happen, he did not resign. That was entirely up to him. I think this Chief Minister, if he had faced the same sort of vote of censure, for the right reasons, would have resigned anyway. But I do not think this is the type of person that does that; I think censuring goes against ... I cannot find anything under our code of Standing Orders that this Chief Minister has broken. Politically we do not agree and this is what this is all about and it is very sad that this has taken so long; it is sad in the day that the Deputy wants to go for a vote and that is fair enough, I think he knows that he is going to lose. He really has brought the wrong vote, I would have voted for a vote of no confidence because I think anyone of these alone could have stood for a vote of no confidence. It involves everybody. There is too much secrecy but that is not a vote of censure in the Chief Minister. That is how we respect each other and how we do work with each other and I think this cannot carry on, we cannot again have another Chief Minister who is not going to face the electorate in 3 or 3.5 years time. Again, this is not censure, this is the system we have. So just to say that the public out there do not like it, as certainly a lot of people in here, but do not blame the messenger and the messenger at this

particular point is Senator Le Sueur, our Chief Minister, and he is not entitled in my opinion to a vote of censure. Thank you.

### **8.1.13 Deputy R.G. Le Hérissier:**

A lot has been said by Deputy Martin. What is worrying me is the very thing she mentioned; Deputy Pitman has brought together a very useful list of deficiencies but is in principle a performance appraisal; when you are dealing with an employee who is appraised it should be a continuous affair and if there had been deficiencies or lapses or whatever you are meant to deal with them at the time. Quite rightly, by accumulating these things it looks as if there has been a systemic and overall failure, but I do not see how you can make the Chief Minister responsible for every failure of policy that there has been in the States in the last 3 years. You can make him responsible for, for example, failures in personnel policy because he is Chairman of the States Employment Board and some of these issues are, of course, about the States Employment Board. There is another very important thing and we are all to blame; in the finest Jersey tradition we emasculated the Council of Ministers because the House that brought in the Council did not give the Chief Minister any power. They gave the Ministers the power of corporate sole, they can operate independently, and trying to bring about consensus; we talk of consensus within the broader States but bringing about consensus in the Council of Ministers is an equally difficult task. How can we hold, I find, someone responsible when we have not given them power? You cannot hold them responsible, it is a very difficult thing. They have to use persuasion, they have to use all sorts of methods in order to try and get that motley crew called the Council of Ministers to work. Fine though their Members should be, they have to do that and I do not think that in itself is grounds for obtaining a vote of censure. There have been major policy failings, Deputy Pitman is absolutely right to draw attention to that. But it is bringing them together as an accumulation at this point which I think is wrong. There are failings that should have been held; if they were going to be held against people they should have been against individual Ministers - as Senator Breckon said - at the time. I know some of them have had a very long gestation and they have gone on and on and we have thought we were at the point of resolution, like aspects of Haut de la Garenne, and they have just rolled on and on and it has been difficult to say when did the failure occur definitively. But, nevertheless, that was for us to define.

[16:45]

With a lot of Members, I believe one of the greatest failings is the lack of inclusivity but that in itself I do not think - as Deputy Martin said - can be a single ground. I am very worried about the future of this institution because in terms of inclusivity, as I said yesterday, it takes 2 to tango and the polarisation is coming from both sides of this Assembly, it is not just coming - for want of a better term - from one side. It is really posing problems for the next session because some of the personalities involved, some of the stands they take, some of the Machiavellian politics that is practiced here continually on both sides is going to undermine and keep poisoning this Assembly quite frankly. But all those consequences cannot be laid at the feet of the Chief Minister. I think there have been failings, I think we gave him an unworkable system quite frankly, we emasculated ministerial government and gave him responsibility without power. So I find it very hard at the end of the day to make him responsible for this list of failings even though they have been very well catalogued. I do not think you can do that. I think you have to sort of give people power and then if they fail (a) you should counsel them during the time of holding office, you should not spring surprises, the great performance appraisal principle, you do not spring surprises on people at the end of their period of office; (b) you make sure that they had the power and you can demonstrate that it was not exercised properly.

**The Bailiff:**



Very well, then I offer the Chief Minister an opportunity to respond before calling upon the proposer to reply.

**Senator T.A. Le Sueur:**

I fully respect any Members' right to speak in this Assembly on such a vote but although I have heard one or 2 interesting comments I have heard no new arguments and I do not, therefore, propose to speak any further. Thank you, Sir. **[Approbation]**

**The Bailiff:**

I call upon Pitman to reply.

**8.1.14 Deputy T.M. Pitman:**

I am really pleased because I have achieved exactly what I wanted to achieve. I have got all of this on the record where it should be. I would really like to thank those people who spoke because there were some very good, thoughtful contributions and I did not think there would be for a minute. Those who did not speak well, as they say, silence speaks louder than words and that is really important I think for the record. I am not going to go over everything everyone said but I do want to pull out some things. The Chief Minister, the issue he raised came up with quite a few other people, why a censure motion? Well you cannot do a censure of a group and I would hope that Members appreciate that. If you could I probably would and it is funny, you sometimes try to be accommodating and not adopt a nuclear option, as has been said, then you get criticised for that. Now we are hearing that a vote of no confidence would have been supported by some people. That is very strange because what I have tried to take into account is the fact that there is only 3 months of this Government left and if there had been a vote of no confidence and it had been carried through then it would have left a lot of difficulties. So I did not do that. Perhaps I was wrong but these issues - and I will stand by it completely - were serious enough that it had to be brought. Now, again, I say to the Chief Minister; it is not personal. What did he say, he stood by his record, well, there we go; I am only talking about his record in the time I have been there and as Senator Ozouf really tried to muddy the waters talking about the 24 years, well as I said, I have got no problem. I do not doubt for a minute that the Chief Minister has probably done some great things in his time. I would not try to take that away from him at all. But I absolutely stand to my guns; the last 3 years there has been a huge amount of mistakes. And, yes, there have been mitigating circumstances. Nevertheless, he is the Chief Minister and you cannot get away from that fact. If nothing else, this debate has really flagged up what I said yesterday; that if this Government was a horse you would shoot it. I think someone should go out and get the gun and shoot this animal now, then we can have a nice new foal in October. So it is not personal; the Chief Minister says he stands by his record; I would not want to stand by a record like that, not over the last 3 years. He probably has been in a less than perfect position with having limited power but there we go, when you take on that mantle - and I am sure he did it for the best reasons, wanting to do well for his Island and I do not doubt that and I credit him for it - but he has contributed to some huge, huge mistakes. Deputy Le Claire; well, I am glad Deputy Le Claire spoke because I often wonder where the Deputy is coming from in his speeches, I often wonder what he is talking about in his speeches, but only a few days or was it weeks ago he was sending some of us emails; he wanted to bring a vote of no confidence in almost everyone. He wanted to bring it to the Council of Ministers, he said would we support it in the Minister for Health and Social Services; would we support Minister for Education, Sport and Culture; would we support it in the Minister for Treasury and Resources. Because he wanted to bring it, who would support him? Now he is back the other way so I am pleased he said that, playing both sides.

**Deputy P.V.F. Le Claire:**

I said that in my speech as well.

**Deputy T.M. Pitman:**

I am not giving way because I can send the emails around if the Deputy really wants me to.

**Deputy P.V.F. Le Claire:**

On a point of information, I did say this in my speech if he had been listening.

**Deputy T.M. Pitman:**

When Senator Ozouf spoke I really was reminded when I listened to the vote of no confidence on the Bailiff which was entirely merited, I remember listening to it in my office. All that came out, instead of focusing on the issues that were quite there and clear and they really did leave that individual in an untenable position; all that came out from people like the Minister for Treasury and Resources was, again, what a good chap and a tradition and everything else. Nothing to do with it. As I said, I have made no comments or reference to the other 20 odd years that the Chief Minister has served; I know why the Minister for Treasury and Resources threw it in, because he always does, he muddies the water. The Deputy of St. John, he asked me to withdraw; well, you do not withdraw things that you totally believe in so with due respect I would obviously not do that. The Deputy of St. Martin, another strange one, because only last week he told me he was supporting me so what happened, I do not know. His very words. Deputy Tadier, he talked a lot about the Zero/Ten issue and said it was a resignation issue and he was right probably; although if the Chief Minister should have resigned then the Minister for Treasury and Resources should have as well. Whether the Deputy is going to support me I do not know. Deputy Southern spoke I thought very well, he highlighted a lot of issues and he focused on the pay freeze and the real contempt that people were treated with in that and I think that cannot be disputed. It was an absolutely disgrace the way our employees - the States of Jersey - were treated. He also highlighted the real problem that our Chief Minister was elected mid-term, which really should never be allowed to happen again. So I thank him for all of that. Deputy S. Pitman, again she obviously brought a rescindment on the pay freeze, she spoke about the way people had been let down and treated and also reminded us about the real people, the real victims of the historic abuse fiasco; people who had really been left hurt, broken, betrayed, bewildered, a lot of which could have been avoided I think with a bit of leadership in what was a very difficult position. She also reminded us that one day perhaps we will find out coconuts have collagen in them and then disappear completely. Perhaps that will happen one day. Senator Breckon, he touched on the vote of censure, again possibly should have been no confidence. As I said, you cannot bring a censure motion in a group so it is a difficult one but that is where I was. The Deputy of St. Mary gave an excellent speech I thought, always very considered as he always is, he talked about the dangers of group think. Sorry, he spoke so much that I have forgotten some of what he said, but it was very, very good and I thank him for it. He made me feel, yes, you have definitely done the right thing, so thank you. The Deputy of St. Ouen, now, I really had to chuckle when I heard the Deputy of St. Ouen have what I can only describe as a rant. I was almost going to give him my glass of water and aspirin because when he started talking about transparency and I looked across to Deputy Le Hérissier and I thought: "We have had 3 years of this Minister telling us sweet nothing."

**The Deputy of St. Ouen:**

Come and talk to me.

**Deputy T.M. Pitman:**

Come and talk to him off the record, that is the way this Minister works. We have had the pathetic excuses from this Minister, everything has been under review and then at the last minute when he is in a certain place without a certain implement he was begging us to support his Green Paper. So please, Minister, do not insult us by talking about openness because we have had none in 3 years and I am afraid that the Minister has turned Scrutiny into a farce. Scrutiny and politics is in public, it is not done in back rooms with a cup of coffee. Deputy Martin, always makes me chuckle when she tries to say integrity. She is the red in the bed, she is probably the red in the bed that you would

want. **[Laughter]** Again, she brought up the issue of the censure and why it was this censure motion and, as I said, you cannot do one in a group. Perhaps next time I will have learnt my lesson and I will go for the nuclear option, as she said rightly, many of these issues would have been worth a vote of no confidence and she would have supported that. But really I would say that I found myself with that last issue which has so upset the public with the payout. It was late in the day, what could we do? Because I think the Chief Minister definitely deserves what was described to me from the Greffier's office as a slap on the wrist. It was not the nuclear option. Deputy Le Hérisier, he sat on the fence as always, but he said I was right, there was a lot of issues but he did not really support this way of tackling it. I thank him for that. I thank everyone. It has certainly been a good debate for me, I am really pleased it has got the issues on and, whether people agree with me or not, I do appreciate the opportunity to get those flagged up for the public because one thing I do know quite clearly that the public are with me on this. The people who think everything is hunky dory are completely deluded, just as I heard a certain senator say this morning say that the town was really buzzing. I sat in the café with the owner there absolutely shaking his head in disbelief and said: "Come and speak to a few people." That is what this is about, this Government next time with the Council of Ministers we have to have a system in place where everyone is involved; where promises are kept; where we do have some consensus and inclusion and maybe we will not get here again. At the moment, sorry Chief Minister, but I think he deserves this censure and, whether I get one vote or 2, I make the proposition and I call for the appel.

**The Bailiff:**

The appel is called for then in relation to the proposition of Deputy Pitman, a vote of censure on the Chief Minister, I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 5</b>		<b>CONTRE: 40</b>		<b>ABSTAIN: 2</b>
Deputy of St. Martin		Senator T.A. Le Sueur		Senator A. Breckon
Deputy G.P. Southern (H)		Senator P.F. Routier		Deputy M. Tadier (B)
Deputy S. Pitman (H)		Senator P.F.C. Ozouf		
Deputy of St. Mary		Senator T.J. Le Main		
Deputy T.M. Pitman (H)		Senator F.E. Cohen		
		Senator J.L. Perchard		
		Senator S.C. Ferguson		
		Senator A.J.H. Maclean		
		Senator B.I. Le Marquand		
		Senator F. du H. Le Gresley		
		Connétable of St. Ouen		
		Connétable of Trinity		
		Connétable of St. Brelade		
		Connétable of St. Martin		

		Connétable of St. Saviour		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy R.C. Duhamel (S)		
		Deputy R.G. Le Hérisssier (S)		
		Deputy J.B. Fox (H)		
		Deputy J.A. Martin (H)		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy P.V.F. Le Claire (H)		
		Deputy 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)		
		Deputy T.A. Vallois (S)		
		Deputy A.K.F. Green (H)		
		Deputy D.J. De Sousa (H)		
		Deputy J.M. Maçon (S)		

**Senator P.F. Routier:**

Sir, would it be possible for P.P.C. to look again at the possibility of any Member wanting to bring forward a proposition having at least 7 signatures before it is brought because we are wasting the Assembly's time with all these types of propositions which are getting absolutely nowhere.

**The Bailiff:**

That is a matter for P.P.C.

**9. Prison Board of Visitors: composition (P.84/2011)**

**The Bailiff:**

We move next to P.84 The Prison Board of Visitors: composition lodged by the Education and Home Affairs Scrutiny Panel. I ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of the opinion (a) to agree that (i) the composition of the Prison Board of Visitors should be amended to provide that independent members of public should be permitted to sit on the board; (ii) that Jurats to the Royal Court should not be prohibited from being members of the board but that their number should be restricted to a maximum of 3 members out of the total membership of 7; and (b) to request the Minister for Home Affairs to bring forward for approval the necessary legislation to give effect to the proposal.

**The Bailiff:**

Deputy Le Hérisier, you are Chairman of the Panel, are you not?

**Deputy R.G. Le Hérisier:**

Yes, Sir, there was a slight difficulty because we have had an enhanced proposition from the Minister so it has taken a bit of time to grasp it but Deputy Tadier will act as the rapporteur.

[17:00]

**9.1 Deputy M. Tadier - rapporteur:**

We were slightly thrown by this because it would be useful for us I think before I give my speech to get the position from the Minister for Home Affairs because in the comments that he has issued he has told us that he is going to be supporting the proposition. These were comments which were issued and got to us on Monday, so the day before the first States sitting of this week and so I think it would be helpful if the Minister, if that is okay ... I just need to know whether he is supporting the proposition or not, that will affect how far in-depth I need to go into the actual proposition and the speech.

**The Bailiff:**

Well if the Minister can give a brief ... he cannot have a speech at this stage but, as with the Island Plan, any short indication would be helpful.

**Senator B.I. Le Marquand:**

Sir, I have great difficulties here because I framed my response based upon legal advice that I had received and understood in a particular way but I am aware, Sir, that the Solicitor General, if asked today to express his opinion, will come out with a different view. If I follow the original advice, by a very small margin I was prepared to go with the proposition but if I follow the advice which the Solicitor General is about to give then I would not go with the proposition. It may therefore, Sir, be very helpful, right at the outset or very close to the outset, to ask the Solicitor General if he would express an opinion on the key issue to me which is the issue as to whether or not a challenge could properly be mounted against the Jurats being available, as at present constituted, because that to me is the key issue. The advice I received was in a particular direction which led me to a particular conclusion, and that is where my comments are but that is my difficulty.

**The Bailiff:**

I think probably the best course is, Deputy, I am going to have to ask you to make your proposition I think unless ...

**Deputy M. Tadier:**

Yes, Sir. I think the advice of the S.G. (Solicitor General), while it will be of use to Members, it is not pivotal for the success of the proposition because I think that, as we know, the legal opinion that we got as a panel initially differed from the legal advice which the Minister was getting or certainly that was slow in coming forward. I think what we will do is I will put the proposition, Sir. I would hope that Members would be slightly patient but I am not going to take too long because essentially the proposition is very simple.

**The Bailiff:**

Yes, I think make your proposition in the way as you wish to, Deputy.

**Deputy M. Tadier:**

Yes, thank you, Sir. Essentially, just to put this in context, the panel looked into the composition of the Board of Visitors. Just for those who may not be familiar, I am sure we all are, but the Board of Visitors initially can seem like a misnomer certainly to a lay person because the Board of Visitors equates to what they now have in the U.K. as the Independent Monitoring Board which looks at prisons. It is entirely constituted by Jurats; at present by 7 Jurats. We look to the issues surrounding that and we came up with several recommendations, probably the most important of which was that ... Sir, there is a bit of a hubbub up here. The main proposition that we came up with, the recommendation, was that it would be preferable going forward if the restriction on lay people, that is to say those who are not Jurats, could be allowed to serve on the Prison Board of Visitors. We did this for several reasons and I think this is where much of the debate is going to hinge on although it does not need to; there was a perception of a conflict of interest in the sense that only Jurats serving on the Board of Visitors does not give any opportunity for lay people who are not involved in the proceedings of the court, although Jurats are only judges of fact, we acknowledge that, to sit on the Board of Visitors. That was an issue certainly with certain members of the public. There was definitely a perception issue there. There was possibly a human rights issue there, although again, that is not pivotal to the debate and there certainly was an issue from all of the prisoners that we interviewed who were selected randomly. There was an issue that they saw with Jurats, the ones who served in the courts, coming to check up on them and look after their needs and their wellbeing while they were in prison; that is the first argument. The second argument is really that the prison is made up of all sorts of people, mainly criminals it has to be said, but not wanting to make light of that within that there are all sorts of people who find themselves in H.M. (Her Majesty's) La Moye for various reasons and often it is due to being misguided or whatever, we do not need to talk about that at the moment. It seems also quite right that there should be an opportunity for members of the public who may have very much to offer and these could be from a whole cross-section of society: they could be doctors, they could be former teachers, they could be builders, carpenters who are retired or who have time on their hands to put time back into the community but who may not want to take on the full role of the Jurats as it currently stands because they are not interested in one or 2 parts or the legal side that they have to do with serving in the judiciary. It seems a shame, I think, that many good people who might want to put themselves forward for service in this way are being precluded from doing so. It is also, I think, to do with best practice to looking towards what the future might hold. We did take the opportunity to visit a prison in Winchester; we got given a tour around by the Independent Monitoring Board over there. The way it works in the U.K. is that there is nothing to preclude Magistrates from serving on the Independent Monitoring Board and the reason I talk of Magistrates is that that is probably the nearest equivalent we can get to our position of Jurat in the sense that they are lay Magistrates over there. There is a provision that no more than 2 Magistrates, I think it

is 2, can serve on an Independent Monitoring Board. We looked at the issues and we were minded, on the one hand, to say that Jurats should not be on the Board of Visitors at all in Jersey. We thought that the most pragmatic way forward would be to say that there should be no requirement for anybody to be a Jurat but there should be nothing to stop Jurats putting themselves forward independently of their position of Jurat but that should be limited to 3 so that at any one point there is not a majority of Jurats on the Prison Board of Visitors. Incidentally, I will mention it now because I may forget at the end, the panel was composed of myself, Deputy Pitman and the Constable of Trinity; it seems like such a long time ago now but it was difficult to remember that far back and this is really why we have brought the proposition. There has been a lot of toing and froing; we obviously appreciate that the Minister for Home Affairs has had competing pressures in his department, which is understandable. There was an element, I think, of frustration partly because of the confusion of the legal advice. I do not really think there is anything much to add here. I think the case is that we, as in Scrutiny, I think at the time it was praised by the local media, not that that means anything of course, but they said that a good Scrutiny review had been carried out; it was seen to be even-handed and the recommendations which were brought back seemed sensible and not particularly radical but were even-handed. I am happy to take any points of clarification at the end but what I would say is that this should not be seen as radical; it is not throwing the baby out with the bathwater. We recognise that there are advantages potentially to having Jurats on the Board of Visitors but there are also advantages to opening it up to lay people to do that job as well. I make the proposition, Sir.

**The Bailiff:**

Is the proposition seconded? [**Seconded**] Yes, Senator Le Marquand.

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

This issue has caused me considerable difficulties, mainly due to difficulties in obtaining clear legal advice. We currently have a very well established visitor scheme which is run entirely with Jurats. They treat their duties very seriously. They write excellent and detailed reports. They challenge the Minister effectively and they work as a unit. It is a number of Jurats who are on the board; they work as a unit and it works, in my view, quite efficiently. It is also backed up administratively by the Judicial Greffe who are natural people to serve as something which involves members of the courts. To me the important issue always was going to be one of legal advice as to whether or not this particular system was legally sustainable. I am naturally reluctant to change the current arrangements unless there is a very good reason to do so. There was a conundrum right from the start in the report of the panel. I am not seeking to criticise the panel; they were trying to be helpful, they were trying to offer a middle way but that middle way created problems for me because they said in their report that they had received legal advice that the Jurats really should not be there at all, being judges. Certainly we could not have a complete board of Jurats, that was not on, and yet they recommend, at the end of the day, a split board. I decided that it was imperative that I obtain my own advice on this. That advice took a great deal of time in arriving and when it did arrive I thought that what it was saying was that really Jurats should not be there at all, even on a split board. Subsequently, when I clarified that advice, it came down to this and that is what is set out in my comments; that there was a substantial risk of a successful legal challenge to the current arrangements. By a substantial risk, if I was going to turn that into arithmetical terms, I mean something of the order of 30 per cent chance of the present arrangements being challengeable but that a split board with some Jurats was possible provided that some safeguards were built in. On the basis of that advice, a 30 per cent risk, my own view was that that was not really sustainable. Other Members may take a different view but that was a view I took; it was a very narrow decision on my part and therefore that I would have to accept that some changes were needed. But having had discussions yesterday with the Solicitor General, who very kindly told me that his advice was going to be different, I think it would now be helpful, if I may, Sir, in the middle of my speech to

break off and to seek advice from the Solicitor General on this precise point as to what his view is and why it is as to whether Jurats can be there at all or as to whether Jurats as a totality. just Jurats, is a scheme which could be legally sustainable.

### **9.1.2 Mr. H. Sharp, H.M. Solicitor General:**

The concern that has been raised relates to human rights legislation and what is said is that the present constitution of the Board of Visitors may constitute a breach of Article 3 of the Human Rights Law and Article 3 imposes a duty on the State to prevent ill-treatment. What the concern is in that a prisoner might be reluctant to or indeed decline to report ill-treatment and merely because he or she is concerned that the Jurat would not take the complaint seriously and so investigate the complaint. The issue is entirely one of perception; nobody is suggesting that the Jurats would do other than properly investigate the matter on the seat of such a complaint. In my view there is no substance in this argument. Article 3 does not impose a duty on the State that is without limit and the first question a lawyer should ask is this; does the provision of any Board of Visitors, however constituted, fall within the ambit of Article 3? Put another way, suppose there was no Board of Visitors would then a prisoner have a right to claim that their Article 3 rights are breached? In my view, no. The States of Jersey would point to a prison system, its trained staff and guards, whose purpose it is to prevent that prisoner from suffering ill-treatment, if those officers discharge their duty properly that there will be no abuse and therefore no breach of Article 3. If, heaven forbid, a prison guard ever raised their fist to a prisoner or otherwise caused that prisoner to suffer ill-treatment, through act or omission, then the States would of course breach the prisoner's Article 3 rights. That is what Article 3 is focused on. It is not focused on mechanisms by which complaints can be made. My opinion in this area is based in part on a decision by the European Court as recently as 2007 and this decision does not feature in the legal advice provided to Scrutiny.

[17:15]

The case is called *Banks*; it relates to a prison in the United Kingdom whereby there were numerous amounts of complaints about its staff during the 1990s: 100 complaints of serious assault, an unexplained death in custody that followed an alleged practice of prison staff performing mock executions. Criminal prosecutions followed, as did substantial damages were paid out in settlement of uncontested civil claims. If the European Court was ever looking for a case of a prison that was infected by a culture of abuse and redundant reporting mechanisms here was the case. The case was brought by 6 victims of that abuse and they said that it was not sufficient for the U.K. to properly investigate their complaints or merely bring prosecutions and pay civil damages. What they said is that the U.K. should have properly investigated the background to the allegations to determine how the culture of abuse had arisen and what could be done; what mechanisms could be put in place to prevent a reoccurrence. The European Court disagreed and did not entertain the application. It concluded as follows: "The wider questions raised by the case as to the background of assaults and the remedial measures apt to prevent any reoccurrence in a prison in future are, in the court's opinion, matters for public and political debate which fall outside the scope of Article 3." Pausing there, remedial measures apt to prevent any reoccurrence must surely include appropriate reporting mechanisms and so for those reasons I am far from persuaded that Article 3 is engaged when one comes to consider the Board of Visitors. But even if I am wrong about that and Article 3 does require a Board of Visitors I still do not consider the argument advanced to be sound; Article 3 imports the concept as to what is reasonable. Imagine a prisoner who is beaten by guards in his cell, he is then presented with the opportunity to report that incident to all or any of the members of the Board of Visitors. He decides not to do so, despite the seriousness of his predicament. He then claims his human rights have been breached because on the basis that there was no point in complaining to the Jurat in those circumstances. That appears to me to be unreasonable in the extreme and, if I may say so, that is so illogical that no court would entertain such a claim. It is of course entirely theoretical in the sense that the prisoner would of course sue



on the basis of the actions of the prison guards in the first place or would never get as far as the reported mechanism. For those reasons I do not see that there is any realistic prospect of a claim being brought pursuant to Article 3. The second area of concern is Article 6 and whether or not Jurats are capable of acting in a fair and impartial manner; in my respectful submission they are. Magistrates are capable of taking decisions, even though they may have convicted or sentenced the accused. I see no material difference between a Jurat and a Magistrate. For those reasons I see no basis to foresee a successful human rights challenge in respect of the present constitution of the Board of Visitors.

### **9.1.3 Senator B.I. Le Marquand:**

That is my difficulty; that advice is very different from the advice that I received previously which was that there was about a 30 per cent risk. If I have to choose between the 2 sets of advice that I have received I prefer the opinion expressed now by the Solicitor General. That, therefore, leads me to a situation in which I now have to go back on my comments because I now have further advice and indicate the reasons why I would now oppose the proposition. That is very simply because we have a system that works quite well. It works efficiently and we have a body of people with continuity; new Jurats come in, they take over from the old Jurats and they all well understand their roles. They are well respected members of society. In any eventuality the system that it runs goes beyond, at the moment; the remit strictly that is set out in the Prison Law. They do more than they are required to do by law and even if I had been persuaded by the first set of advice and supported this I would have had to have said to this Assembly that it would not be sufficient just to add additional people in; there would have had to have been a complete review of the whole process of what we are doing, what the system was going to be, how it would be managed, how it would be staffed in terms of support and so on. My view, therefore, on the basis following the advice which I received today, is that we should oppose the proposition. Unfortunately the system which is proposed will simply not work as a split system. I have discussed that with the Jurats. Their view is this, that it would be a very different system; it would require a different staffing, a different approach but they work together collegially. They meet together regularly as Jurats and therefore there is a continuity and a totality of the system and it just would not work in the same way if lay people were somehow in the fringes or coming in or it was a different thing. Therefore, on the basis of the advice, I would ask Members to get the proposition. I am sorry to have to change my mind in this way in midstream. It was always a close call from my point of view but Members can see why I have to change my mind because the advice has changed. But if Members are persuaded to go with the proposition today then I need to put them on notice that a much bigger review would still be needed in relation to setting up a very different system. This is not just a matter of changing the makeup of it; it would be a complete and utter review of the whole system. With apologies to Members for having started one way but having now been forced to go another way, due to changes of advice, that is my position.

### **9.1.4 Deputy R.G. Le Hérisier:**

Sorry, Sir, I wanted to ask a question of the Solicitor General; due to that very smooth U-turn performed by the Minister I was left grasping, so to speak. I wonder could the Solicitor General, having looked at the amendment brought forward by the panel, say whether the amendment is indeed acceptable as it is phrased because all we have heard is it is acceptable for Jurats to continue forming the board; the Minister is very pleased with that but it does not mean it precludes this particular amendment.

### **9.1.5 The Solicitor General:**

Yes, may I make it very clear that all my advice was geared towards is whether or not the Board of Visitors, as presently constituted today, or whether there is a human rights issue. It is entirely a matter for States Members whether or not the composition is changed and, if so, how. I am not

suggesting there is any legal problem with what is proposed and I express no view in my advice I hope and I certainly express no view now.

**Senator J.L. Perchard:**

Sir, can I ask a point of clarification from the previous speaker, I hope that it is in order? The Minister said that if there was a mixed makeup of the Board of Visitors, Jurats and lay persons, I think he said the whole thing will require a review. Why would that be, Sir?

**The Bailiff:**

I am sorry, I do not think that is a point of clarification. It is really up to the Minister; he has made his speech and that is his assertion and Members subsequently can make of it as they will. Deputy Le Hérissier, I am sorry, did you want to ask a further question?

**Deputy R.G. Le Hérissier:**

No, no, I will continue, if I may, Sir.

**The Bailiff:**

I see, you want to speak. Yes, very well.

**9.1.6 Deputy R.G. Le Hérissier:**

All I wanted to say, obviously this has come as a bit of a shock. This has been going on, it has to be said, for nearly 3 years and it has been an enormous source of frustration to Scrutiny and no doubt Deputy Tadier will elaborate further and we basically wanted the thing to be brought to a head. This has been going on and on and the Minister knows this. We have sympathy with him that he has been aiming to get legal advice and we have now seen it depends so much on the lawyer to which you go for your advice because the panel itself of course also received advice, so it is all getting quite interesting. One point I should make; it is a very modest proposal that the panel came up with. They looked at the checks and balances within the system. They thought in terms of moving forward; there needed to be broader representation. They were worried, as I understand it and people like the Constable and the Deputy can address this again, that people who were seen as an integral part of the Royal Court, or be it performing an excellent job and whose integrity was beyond question, they felt that that may lead, as the Solicitor General said, to the wrong perception so they looked at another system. They said there seemed to be quite a good marriage between the Magistrates, who had been the previous Board of Visitors exclusively in the English system, and totally independent people who came into the system; they thought there was a good marriage between those 2 groups which led to, as they say in the jargon, good synergies and that the system developed well. Yes, there is a different slant to an Independent Monitoring Board than there is to the Board of Visitors but I really fail to see how the problems are insuperable. I really do think the Minister for Home Affairs, he is a wonderful man as we well know, but I rather think he always harboured a secret wish that the situation would remain as the status quo. He has reached this fortunate position in life where he has come across excellent advice I might add but it just happens to be the right advice. **[Laughter]** He has reached this excellent position where, having gone round to various advisers, he has now got the right advice. I would ask him to be more flexible and to realise that the panel was making an incredibly modest proposal. It did not wish to upset the Jurats exceptionally and of course this is what led to all the problems, it wanted to see was there a way of incorporating the best of the Jurats in the system and yet introducing more independence to the system. That is what the panel was trying to achieve and of course having tried to do that it then ended up in this massive legal morass I suppose. I do ask the Minister, in all his wisdom, to try and if he could be more flexible and if he could see a way forward to accept it.

**9.1.7 Deputy P.V.F. Le Claire:**

An interesting debate so far, as ever the Solicitor General has delivered some very clear advice but I think I am able to support the proposition. I do not profess to have any great understanding of the

issues other than those that have been presented to us this afternoon but it does seem to me to be a step in the progressive direction. It does not negate the ability for Jurats to sit on any board; it introduces more of an element of independence. I am certain, as the Human Rights Law is a living entity, it may progress into further case law establishing the need for further independence in areas, perhaps even in these areas which, at the moment, are quite clearly not engaging and I think it is an opportunity for us to advance things. I am just wondering what the mindset would be of an incarcerated person wishing to say something about their circumstances to people that may have been involved in their incarceration or the determination of that incarceration. Also, in respect of appeals, where they may think that if the appeal is going to be affected by saying something, maybe even advantaged by saying something or conjuring up something, I think it could be used in both directions, so I think it is a step in the right direction.

#### **9.1.8 The Deputy of St. Martin:**

I think the first thing we have to do is acknowledge the good work done by the Jurats and they are to be complimented for the work they have done [**Approbation**] but again with the realisation of course that times are a changing. It is interesting that the present Education and Home Affairs Scrutiny Panel have come forward with this because looking across at some members of the panel, and I am getting away from the Constable of St. Lawrence and indeed I will get one from Deputy Martin and certainly the Deputy of Trinity and Deputy Shona Pitman, that we did look at this issue some years ago. I remember Jurat Tibbo came and met us with one or 2 others and we were very impressed by what they had to say but again, we just wondered really whether there was an opportunity being missed with all that experience they had that it may be a time that we should be looking maybe for having, what I call, a broader church. But it was issue we never followed through partly because I think as a panel we split and then we had the formation of the Education and Home Affairs Panel and the other panel went off their own way and it is an issue we never looked at.

[17:30]

I think it is something to be said and compliment again to the present Committee because they have taken it on board and will certainly carry out a review and they have come up with the recommendations. It seems a shame really and I was looking for the Minister for Home Affairs' comments because they were only released here on the 11th so we have not had a lot of time to look at it and in fact I could not even find mine but I did notice he was able to support the proposition, subject to additional considerations which are set out in his comments. I can imagine how Deputy Le Hérisser must feel rather disappointed that we have a sudden U-turn on the floor by the Minister. Again, it could be said I think, with our compliments to the S.G. because I think it really was an excellent, call it, opinion he gave on human rights. I think it was very, very, clear and he makes it clear again that it is not a violation as such of the Human Rights Law which, again, is good but I do think this is a small step in the right direction. As much again as I want to compliment the Jurats and what they have done but I think what we could do now is having a look to use that experience they have with the opportunity of marrying it up with the lay visiting scheme. I say that because only of recent times, maybe in the last 2 years I think it was, the States approved a proposition to introduce a police station visiting scheme, a voluntary system, and again I gather that is working well. There is not a Jurat involved but it does not matter. What we have here is an independent body looking at an issue which really needs to be tackled. I would ask Members to give serious consideration to this. What is being proposed is a broad church involving the Jurats and also members of the public. It may be an opportunity we may not get again for some time but I should say we should take it today and give the support to the proposition. Thank you.

#### **9.1.9 Deputy J.A. Martin:**

It is a pleasure to follow the Deputy of St. Martin. We did, at the very beginning of Scrutiny, look at this and we have had a very excellent, as the Deputy has just said, opinion by the Solicitor General and I do not dispute that at all but in his opinion also the amendment is totally workable. There is some jiggery pokery behind the scenes that the Jurats could not possibly work with lay members; I do not know why. I really cannot think of a reason why there are some very good people out there who would be willing to put themselves forward. Just to prefix this, both the Jersey Child Care Trust independent Chairs, the previous and the new, Ann Williamson said: "The Board of Visitors for children must go" and it is gone; they were Jurats, they were going round children's homes. I do not want to disparage the Jurats or whatever they do or whatever I think of Jersey's system and its differences and I know it is couched again and this time I will not give room with the Minister like last time I did; I could see we went down the wrong road in the vote of censure. But the Minister for Home Affairs, I call it and I am sorry if I offend anyone, it is the little cosy club. The Jurats are sitting one month; they are there sentencing. In the report the Jurat, I will not name the Jurat, he does not even believe that prisoners are aware of the fact that members of the Board of Visitors are Jurats. I can assure you, if you are stood in that dock next door and one of them is sitting there in theory or the maximum number is sentencing you to a few years you know who they are when they come knocking on your door or your cell block and they say: "Is everything all right, son? Are you being treated well?" You might sort of think to yourself: "Hang on a minute, I have another charge hanging over my head, yes, everything is okay." But the root of this, and this is not my saying, comes down to in 2002 and in 2005/2006, under the old Minister for Home Affairs and the President, we had the 2 most damning reports from the independent British authorities that could have been and the Chairman of the Board of Jurats was on the radio and in the paper the next day and said that they were not aware of any problems at the prison. Why were they not aware? Absolutely damning reports that has cost us to spend millions, which we needed to, on our prison. I feel totally sorry for this Scrutiny Panel, to have a Minister present you with comments on one day and then to find out it is the legal advice. This has nothing to do with legal advice. This is political and this is perception; as the Deputy of St. Martin says: "I am sorry, the times are a changing" and it might be this is the Solicitor General and somebody turned down an appeal because somebody was abused in some prison. You get another somebody taking something to the Human Rights and it may happen but I am not even really interested in that. It is about the perception. I have had open conversations with the prison Governor and he is adamant, he said it round I think the Children's Policy Group, that he at least wants the Y.O.I. (Youth Offenders Institution) to not be visited by the Jurats; he wants an independent board. We are talking about 16 to 18 year olds visited by the majority of people over 65 and have no relation to what they are in for. They do not understand and you think these people are going to open to them; they do not. I think it is very disingenuous of the Minister to, at the last minute, throw in something that this will not work and Senator Perchard makes an excellent question, why, because the Jurats are too sensitive to work with other people? I do not think so. I think, as everybody believes, they have reached a certain understanding; they say: "I can honestly say when I go up to the prison" this is a Jurat and I am sure it is true of all the Jurats that go: "We are not Jurats then; we are people that are sympathetic and wanting to help." Why can they not, if they are not Jurats then, work with 3 or 4 other people who are helpful and sympathetic who just want to help? It is not rocket science. I am very sorry; I have always felt passionate about this. I think we have a compromise. It will give the expertise possibly that the Jurats have been doing. I would personally, and it is just a personal opinion, like to see the whole Jurats phased out from visiting the prison and prisoners. As I have explained earlier I just think it does not sit comfortably for me; it would not sit comfortably for me at all if I knew somebody who was sentenced by somebody who was sitting on the same jury/Jurat and then visiting them 6 months or a year later and asking them if they had any problems. That is as basic as it is. The legal opinion is very interesting, that is all it is. The legal opinion is a legal opinion; I totally respect the Solicitor General, that is what it is. Apparently there is another legal opinion and the Home Affairs Scrutiny Panel cannot state that. But even if there is it is not a legal opinion to me; it is absolutely moving forward. We have done it

with the children. The Jurats are busy enough. We are turning them over very quickly at the moment, there is lots of work to do, why would they want to take on this anyway, just because it is something they have always done? Please, bring in the lay people. I really appeal to the Minister to move forward on this because it will come back I would say in the near future if he does not go with this today and change his mind. We know about the legal opinion; it is political, it is perception, to come back and bite him up the rear. Thank you.

**9.1.10 Deputy T.M. Pitman:**

I love following the Deputy because I can always hear the things said that I am never allowed to say. I am going to have to make it a Cockney accent I think. It was a good speech. I was absolutely fascinated to hear the Minister's concept of just going along, taking lawyers' advice until he found lawyers' advice that he liked and you just have to wonder if he could do that if he was paying for it with his own cash. I have never been in that luxury. Deputy Tadier, myself and the Constable of Trinity at the time, we felt we produced a very good and fair report I think. Certainly from my point of view I enjoyed doing it; it was enjoyable and it was certainly very informative, I think we all learned a lot. I would not the knock the good work of the Jurats in any way, however, the argument on occasions that prisoners were not aware or concerned about the Board of Jurats, then having individuals who might visit them in prison, was difficult to accept at times, I have to say. I totally agree with Deputy Martin; this is political now, it is about perception. I think the Minister really has to move forward through this. This seems like the first thing we ever did, I think, the Education and Home Affairs Scrutiny Panel; it seems like years and years ago and we are still here. I think there are only things to be gained from having a mixed board. It seems to me that the Minister's concern was about a legal challenge and now that has been taken away. What is his problem? Again, I say it can only be positive and personally for me when I am put in prison for something like meeting in a public place with other progressives, as probably will happen soon, if a Jurat helps put me there I honestly do not want one of those people to come and visit me; and that is nothing personal, it just would not seem right. That is the view that was expressed quite strongly to us when we went to prison by a number of people and certainly younger people. The issue also was that the Jurats, of a nature, are older people and then they bring a lot of experience because of that but also perhaps they are not the best people to engage with some very young people. But for some of those young people even young men like myself, are seen as old. I think the Minister really has got to move forward because it is not going to go away. The Deputy of St. Martin said the times are changing and he is right. I would just say to the Minister it is 3 years now since we did this; please take it on board, move forward and the next Minister, if it is not him, can have something better to work with.

**9.1.11 Connétable J.L.S. Gallichan of Trinity:**

Yes, I must agree, I had almost forgotten about the Scrutiny Panel I served on but it was a very interesting panel to serve on because I think it has also opened our eyes when you visit other prisons. I think anyone who has visited Winchester Prison and see how old that prison is and the amount of inmates that are in there is quite an eye-opener. Certainly we all complain about the prison we have but I can assure you it as being modern, compared to Winchester, we are very, very fortunate we have spent money on that prison in recent years. There is no question about it; I take my hat off to all these people who visit. Some say in Winchester Prison they have those who go on the Prison Board of Visitors have their keys and they can go around the prison with their own set of keys and sort of go in without any officer with them. You have to give credit where it is due; that is not the easiest thing. You have to be of a certain calibre person to go into some of these places and have a very strong conviction that the door may not be closed behind you when you go in and I do appreciate the work they do. Coming back to Jurats; I cannot speak highly enough of the Jurats. I know a lot of them personally. They come from a very diverse cross-section of the Island and we are very fortunate to have them to do the job they do and I fully support all the work they have done. They are expert and they are doing their best for those who are inmates at La Moye.

Unfortunately, I think it was at 2 per cent, there was one person who wrote a letter to the Scrutiny Panel saying: “Why do we not have lay people on the Board of Visitors?” and fair comment, that is a very good question. Really I think to say the panel came out with a watered down recommendation that this is really the start. By all means keep the Jurats there; I would definitely not want to see the Jurats go. I think there is a lot of experience there.

[17:45]

But if you added a few lay people who could see the way the Jurats work, how they engage sometimes with ... We hear stories that if someone is dissatisfied, not with the treatment, but maybe the advice they were picking up from their solicitor, they would take it upon themselves to get in touch with those people’s advocates or solicitors and say: “Look, there is someone who is waiting for guidance and help, where are you? Please go out there and sort it out and help them.” They give many, many, I am sure, of the inmates advice and help before they come up to maybe a remand case again. I can see where the Minister is coming from; he thinks there needs to be a major change. Obviously there will be training; all this come in due course but at the end of the day the panel, I think to be fair, we could almost have written the report without you going away and this is the lowest sort of report we could have brought out on this. Keep the Jurats, use their experience but add a few lay people to that Board of Visitors and hopefully see how we go. **[Approbation]**

**The Bailiff:**

Does any other Member wish to speak? Deputy Jeune.

**9.1.12 Deputy A.E. Jeune:**

Following on from what Senator Perchard said earlier and what the Connétable of Trinity has just said now, I am not sure who can advise on this but could the proposition be taken as (a)(i), (a)(ii) and (b) because if one was to accept (a)(i) and (b) would that allow for an amendment to be made to the law which would mean that the Jurats could co-opt lay persons on to their Visitor Board? I am not sure who might be able to answer that. Is it the Solicitor General, Sir?

**The Bailiff:**

No, I think in terms of interpretation of the proposition it is for the Chair. It is very difficult to see, Deputy; (i) and (ii) are really 2 sides of the same coin, are they not? (i) says that other members can sit and (ii) says that Jurats are not prohibited, so there will be a maximum of 3. It would really be a matter for Deputy Tadier as to whether he is willing to accept it but I am not sure it is a good idea.

**Deputy M. Tadier:**

I am not going to take them separately, Sir, seriously because it would confuse the proposition.

**The Bailiff:**

Yes, very well, that is the position. Senator Le Gresley.

**9.1.13 Senator F. du H. Le Gresley:**

The only point I wanted to make very briefly was the Minister for Home Affairs’ predecessor was quite keen that the prison should be opened up to lay people to assist prisoners. She set up the Release on Temporary Licence Panel, of which I was one of the first members as a lay person, some 6 years ago and I believe it has been a great success and certainly I value very much the opportunity to visit the prison and assist with the assessing of release of prisoners on temporary licences. I hope that the prison staff, who are also taking part in the panel, felt that I and the other lay members made a valuable contribution. This was all done, as I understand it and I may stand to be corrected, under a ministerial decision and I believe that the current Minister has kept the status

quo and this continues. This, to me, indicates that we have to move with the times. We have to allow lay members into the prison and on the Board of Visitors is an ideal way to do this. On the other side, and I am not sitting on the fence here because I am going to tell you how I am going to vote in a minute, I have to say that during my time as manager of the Citizens Advice Bureau I do not recall many calls and we did get telephone calls from inmates at La Moye complaining about the system of Board of Visitors; I do not really recall any. But, having said that, the prison Governors; we had a number of changes of prison Governors and I think the newer arrivals were more encouraging of letting the inmates have contact, not just with their lawyers but with organisations such as Citizens Advice and other organisations that they might want to meet. The current Governor and his predecessor introduced marketplace sessions where organisations such as Citizens Advice, Social Security and Housing et cetera would go up and we would have meetings with the inmates by appointment and they would discuss matters of concern to them and we would try and help them. All of this is part of bringing our prison system into the modern ages and I think that this proposition of the panel is really a continuance of that. It is all about perception, as Deputy Martin said, and I will be supporting it.

#### **9.1.14 The Connétable of St. Saviour:**

Briefly, we have had very clear advice from the Solicitor General that having Jurats on the board is not a problem legally and I think the inference from that is that if they are there in a smaller number it would not be a problem. One could say we have a system with the Jurats that has worked very successfully. As Senator Le Gresley has said there have not been complaints about this. I think we have a system where you could say if it is not broken do not fix it. Having said that, bringing lay people on to the board is probably not insurmountable; there would be training to be done and the experience of the Jurats could be used and so that is possible as well. I look at the situation that if we did not have a Board of Visitors and we started from scratch, would we set up a Board of Visitors that was purely Jurats? I think not; I think we would have some lay people on it. Therefore, I believe as the problems are not insurmountable and given the experience of the Jurats which I think could be used for training lay members of the board, at the moment I think I would go with this proposition.

#### **The Bailiff:**

Does any other Member wish to speak? Yes, Deputy Hilton.

#### **9.1.15 Deputy J.A. Hilton of St. Helier:**

Just briefly; I think a couple of Members have spoken about conflict with the prisoners and Jurats. I think Deputy Le Claire and Deputy Martin made a comment about prisoners not wanting to speak to somebody who maybe had sentenced them; that does not happen. I have been with the Board of Visitors to the prison and sat with them and if a prisoner comes in who wishes to speak to the board and the Jurat is aware that they have dealt with that person then they leave the room; they do not take part in the proceedings. I just wanted to mention that. Also, Deputy Martin made a comment; I do not know what happened pre-2008 but certainly while I have been at Home Affairs with Senator Le Marquand the Jurats have always made their views known to us about the conditions at the prison. They have always made it very clear to us that they are not happy with the situation of the juveniles in the prison. They are aware of what had been going on and everything else. Senator Le Marquand and I had long conversations about this and certainly, obviously, as the comments say, the comments were made around the legal advice that the Senator had received before. The Jurats do a fantastic job. I think Senator Le Marquand and myself believe that if it is not broken why fix it, at the end of the day, and that is where we would come from and it does work extremely well. I think if you read the comments on page 3 in the last paragraph I think basically what the Jurats are saying is that they do not feel that they want to be part of a mixed board because it is not going to operate in exactly the same way as it has done before and I understand exactly where they are coming from. Obviously, at the end of the day, this is a political decision and Members will

decide this afternoon and Members need to be aware that Jurats are not keen to be part of a mixed board, so you will be making your decisions knowing that fact. Thank you very much.

**The Bailiff:**

Does any other Member wish to speak? Yes, the Connétable of St. Mary.

**9.1.16 The Connétable of St. Mary:**

Just very briefly. Just following back to what Deputy Tadier said about not wanting to split the proposition; I am just concerned, could he address in his response if we go completely with the proposition there will be a maximum number of 3 Jurats in the membership? Has he done the research on will there be enough interest to make the rest of the panel up? I am just concerned that we might find ourselves, from time to time, with insufficient numbers to make up the maximum 7 and therefore there could be a problem. Whereas, of course, if there could be more Jurats if there is a shortfall, Jurats are a captive audience, as it were, and perhaps you will be able to fill them in. Thank You.

**The Bailiff:**

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

**9.1.17 Deputy M. Tadier:**

If I address that point first because it is fresh in my memory; we were mindful of that on the panel and we did think. We were mindful also of the fact that Jersey does have a strong history and tradition of voluntary service, whether that be in the Honorary Police, whether that be in people volunteering for other positions on States bodies which are voluntary or sometimes which attract an honorarium. There are 4 spaces and we think if it is advertised we are quite confident that will be the case. If it turns out that we cannot find 4 people who are willing to give up some of their time very occasionally when it is needed in an Island of 100,000 then we will have to re-look at that; that will be for the Ministers to re-look at that. But I am confident that Jersey does have a strong enough tradition as people who have free time and who have also got skills to do this job, so I do not think that is an option, although the point was welcome. I have to say I am thankful for those who have contributed. We have been frustrated as a panel and we have been frustrated to receive on the Monday and read them on the Tuesday these comments which said that we are supportive of this. It has to be said, I get the impression that Senator Le Marquand, and he is entirely entitled to his view, simply does not want any change to the current system. He comes from a background as a magistrate, he has seen how the system can work and work well I hope and he has obviously got certain views to do with that. One of the frustrations was, and I will read the comments out, but the first point I need to make is that we are not proposing a split board per se. What we are proposing is that the board be entirely composed of lay people and those lay people can be Jurats but the Jurats will be appointed by their merits as individuals rather than simply because they are Jurats, so that is the first point. There is nothing that would stop the board entirely being comprised of non-Jurats. In reality we would hope that some of the Jurats would be both willing and able to work with members of the public; I do not see any reason why. I know we may have had some comments from some Jurats saying that there are reservations but I do not see why the Jurats that we have spoken to, who are very gregarious, I do not think they have any problem with working with anybody and so one would hope that there would be no problem in attracting some of those to remain on the panel. Part of the frustration is that initially the comments and the resistance from Senator Le Marquand, certainly the reason it was delayed, was because he was concerned that the position of Jurats might be open to legal challenge and so he could not even accept the fact that there would be a mixed board, so that was the argument. Now we know that there is not really any risk of challenge because of the position of Jurats on the board. That means that a mixed board no longer provides that uncertainty so it is unlikely to be challenged either if it stays the same or if it is a mixed board; I think that is the message we have. It seems strange that we have now got this u-



turn saying: "Because the Jurats do not pose a problem I do not see the need to change it." It seems, from the panel's perspective, that we cannot win, whatever we have put forward. Nonetheless, I do think that the proposition, if adopted, would allow a greater element of flexibility. Of course the Jurats do a sterling job and I think that was acknowledged in the speech of the Constable of Trinity. The argument: "If it is not broken do not fix it" I think my argument would be there is always room for improvement and there is always room for flexibility. One of the things that an Independent Monitoring Board and the Board of Visitors should do is whenever there is a crisis at the prison and we spoke to the individuals in Winchester, both the officers and the Independent Monitoring Board, part of their job is if there is a suicide, if there is a fire, there is something that occurs at the prison, a riot, they will go down there straightaway as soon as possible to have somebody on site to monitor what is going on. We found that this was perhaps a problem and it did not necessarily always occur over here; that is partly because those incidents do not occur very often anyway.

[18:00]

There is an issue: what happens if the Jurats are serving in the courts and there are not sufficient Jurats to attend a crisis? What we are proposing would be for these other individuals to create greater flexibility to be able to attend to those kinds of things. Also, it would be good, I think, to have a mixed board in the sense that you can have those with experience training other people up who would also have the requisite skills to learn from the Jurats. I hope Members can find themselves able to support this. I think it is, as we have said, evolutionary; it is a moderate approach. It is not revolutionary but I think that hopefully Members will agree that this is a piece of Scrutiny which has been done sensitively with our own mixed board, if you like. We have had the Constable on board who provided very good and sound advice and moderation I think on the panel. So I maintain the proposition and ask for the appel.

**The Bailiff:**

The appel is called for then.

**The Connétable of St. Mary:**

I am sorry, Sir, may I just ask the Deputy to clarify something? I think I must have misheard him, but then the 2 people on either side of me seemed to mishear the same thing. Did the Deputy say that the Jurats could be there as lay people?

**Deputy M. Tadier:**

The Jurats told us that when they go to the prison they stop being Jurats. That is the point. They would be elected for their merits for serving on the board. They would not be appointed because they are Jurats, but there would not be allowed to be more than 3 Jurats on the board. I know that sounds slightly ... that is nuanced, but I think hopefully that clarifies the point.

**The Connétable of Trinity:**

I think certainly when I spoke I said that the Jurats would still remain on the board. They would be Jurats. I am sorry, you do not become ... maybe the Deputy does not know: you are a Jurat until you die, so you are a Jurat.

**Deputy M. Tadier:**

Can I clarify that? I think it is a semantic difference. Of course they would be Jurats. What I am saying is they would not be elected because of their position as a Jurat. They would be elected because they are seen to be a valuable contributor to the board. But there is nothing in this proposition which would oblige Jurats to be on the board. I think that is the point and that is maybe where the confusion lies.

**The Bailiff:**

Can I just clarify from the Chair my understanding? What the proposition is saying when you read the report is that there will be 7 members, of whom up to 3 may be people who happen to be Jurats, but they will apply, like anyone else, to become a member. There is not going to be a panel consisting of a certain number of Jurats and a certain number of other people. Very well.

**Deputy S. Power:**

Who will make the decision as to who sits on this panel then?

**The Bailiff:**

It is all in the report; the Appointment Panel, I think, as I understand it.

**Deputy M. Tadier:**

That is correct.

**The Bailiff:**

Or the legislation will have to provide that the appointment panel will be consulted. Very well, the matter before the Assembly then is the proposition of the Education and Home Affairs Scrutiny Panel. The appel has been called for. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 19</b>		<b>CONTRE: 19</b>	<b>ABSTAIN: 1</b>
Senator J.L. Perchard		Senator P.F.C. Ozouf	Deputy P.V.F. Le Claire (H)
Senator A. Breckon		Senator T.J. Le Main	
Senator S.C. Ferguson		Senator A.J.H. Maclean	
Senator F. du H. Le Gresley		Senator B.I. Le Marquand	
Connétable of Trinity		Connétable of St. Ouen	
Deputy R.C. Duhamel (S)		Connétable of St. Brelade	
Deputy of St. Martin		Connétable of St. Saviour	
Deputy R.G. Le Hérisssier (S)		Connétable of St. Clement	
Deputy J.A. Martin (H)		Connétable of St. Peter	
Deputy G.P. Southern (H)		Connétable of St. Mary	
Deputy of Grouville		Deputy J.B. Fox (H)	
Deputy S. Pitman (H)		Deputy of St. Ouen	
Deputy K.C. Lewis (S)		Deputy of St. Peter	
Deputy M. Tadier (B)		Deputy J.A. Hilton (H)	
Deputy of St. Mary		Deputy S.S.P.A. Power (B)	
Deputy T.M. Pitman (H)		Deputy of St. John	

Deputy T.A. Vallois (S)		Deputy A.E. Jeune (B)	
Deputy D.J. De Sousa (H)		Deputy A.T. Dupré (C)	
Deputy J.M. Maçon (S)		Deputy A.K.F. Green (H)	

**The Bailiff:**

The proposition is not adopted. There are 19 votes pour, 19 votes contre and one abstention.

**Deputy M. Tadier:**

Can I give my notice of resignation from Scrutiny and I will be handing in my notice formally as soon as possible.

**The Bailiff:**

Very well. Now, the Assembly would normally adjourn at this stage. Deputy Tadier, the Greffier has just reminded me, can we be clear, are you resigning? Because if you do tell the States then that is it; if on the other hand you want to think about it ...

**Deputy P.V.F. Le Claire:**

Just before the Deputy gives you his answer, may I just please be afforded an opportunity to explain why I abstained?

**The Bailiff:**

No, I am sorry, Deputy. Deputy Tadier, do you want to take time to think about your position?

**Deputy M. Tadier:**

No, I have had 2 and a half years to think about my position on Scrutiny and this emphasises the fact that I am wasting my time completely, when one comes forward with a very moderate proposition, which could have been much more radical. **[Approbation]** I would ask other members of Scrutiny to examine their positions as well.

**The Bailiff:**

Very well. Now, the Assembly had agreed to sit until 6.00 p.m. There are, I think, at the moment 2 items: there is Jersey Consumer Council, Projet 89, which I am advised would not take too long. There is Projet 75. Deputy of St. Martin, do you wish to defer this one or not?

**The Deputy of St. Martin:**

The difficulty I have with P.75 is I was happy to have it brought forward. We have decided to meet this week. To ease the pressure for next week this was brought forward. I do understand that maybe one or 2 Connétables are away on Branchage tomorrow, but we are elected to be States Members. Last week a number of Connétables came away from their Branchage to be here for the vote on the Senators. This is down for debate tomorrow. I have given consideration to it. It is on debate tomorrow. I would ask that we go on tomorrow.

**The Connétable of St. Brelade:**

May I comment on that? I clearly have to respond to this proposition. I have my Branchage tomorrow. It was not a States meeting and the Branchage was organised many months before. It is impossible and unreasonable, I think, to change it. Today the Connétable of St. Helier was not here. He is the second largest roads authority in the Island and I think it was reasonable that he be here. That is the reason we could not do it earlier. I would ask that it be put off until next week.

**The Bailiff:**

It is a matter for the Assembly, then. This matter has been listed for debate at this sitting and the next sitting of the Assembly is also extremely full, but it is a matter entirely for Members. Connétable of St. Brelade, are you proposing, therefore, that this be deferred until next week?

**The Connétable of St. Brelade:**

I am.

**The Bailiff:**

Is that seconded? [**Seconded**] Deputy of St. Martin, do you wish to say anything further? You have made your comments, but do you wish to say anything further?

**The Deputy of St. Martin:**

I wish to maintain that we meet tomorrow and discuss P.75. It is on the agenda. Had it been Friday the Connétable of St. Brelade would have been available, but as I say, it is down to duty first. We are Members of the States. States work should be States work first.

**The Bailiff:**

Very well. Then it is a matter for Members. All those in favour of ...

**Male Speaker:**

Can we have the appel?

**The Bailiff:**

The appel is called for then, so if you wish to defer Projet 75 until next week you vote pour. If you do not and wish it to be considered at this session, you vote contre. The Greffier will open the voting.

<b>POUR: 25</b>		<b>CONTRE: 11</b>		<b>ABSTAIN: 0</b>
Senator A. Breckon		Senator P.F.C. Ozouf		
Senator S.C. Ferguson		Deputy of St. Martin		
Senator A.J.H. Maclean		Deputy G.P. Southern (H)		
Senator B.I. Le Marquand		Deputy S. Pitman (H)		
Senator F. du H. Le Gresley		Deputy of St. Mary		
Connétable of St. Ouen		Deputy T.M. Pitman (H)		
Connétable of Trinity		Deputy A.T. Dupré (C)		
Connétable of St. Brelade		Deputy T.A. Vallois (S)		
Connétable of St. Saviour		Deputy A.K.F. Green (H)		
Connétable of St. Clement		Deputy D.J. De Sousa (H)		
Connétable of St. Peter		Deputy J.M. Maçon (S)		
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				

Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				

**The Bailiff:**

The matter then will be deferred, 25 votes pour and 11 votes contre. Then that leaves only the Jersey Consumer Council. Now, do Members wish to carry on and complete that tonight or come back

**The Deputy of St. John:**

I propose we continue and finish business.

**The Bailiff:**

Is that agreed? Very well, then I will ask the Greffier to read the proposition, Projet 89, Jersey Consumer Council: establishment as a legal entity, lodged by the Minister for Economic Development.

**10. Jersey Consumer Council: establishment as a legal entity (P.89/2011)**

**The Greffier of the States:**

The States are asked to decide whether they are of opinion to refer to their Act dated 2nd February 2011 regarding the future mandate of the Jersey Consumer Council, in which they requested the Minister for Economic Development to take the necessary steps to provide for the Council's effective operations (P.182/2010), and to establish the Jersey Consumer Council as an incorporated association in accordance with Article 1 of the Loi (1862) sur les teneures en fidéicommis et l'incorporation d'associations in order to enable the Council to rent accommodation and enter into employment and research/consultancy contracts in its own right.

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

As Members may recall, this proposition is linked to proposition P.182/2010 which is titled "Jersey Consumer Council: a future mandate." That proposition was debated in February and was almost unanimously supported by this House. One part of that proposition required me as Minister for Economic Development to provide for the Council's effective operations. This was to be done by, and I quote: "Preparing for the establishment of the Council as a separate legal entity to be able to

rent accommodation and enter into employment and research/consultancy contracts in its own right.” Paragraph (b)(i) ...

**Deputy S. Power:**

We are not quorate.

**The Greffier of the States (in the Chair):**

I shall summon Members. We do, I think, need 4 Members to return. Well, the Assembly is inquorate and in accordance with our ... it is now quorate.

**Senator A.J.H. Maclean:**

As I was saying, paragraph (b)(i) imposed a time limit in that it required me to bring a proposition to the States for approval by July 2011.

**The Greffier of the States (in the Chair):**

If 2 Deputies leave ... [Laughter]

**Senator A.J.H. Maclean:**

This proposition meets that requirement, just. As Members will see in the report, advice was sought from a long-established local legal firm. I should add that the advocate who provided the advice is one of the most highly respected in the specialised area of trust and company formation. Again, as Members will note from the report, there were 3 options considered as appropriate for establishing the Jersey Consumer Council as a legal entity, 2 of those options were a non-charitable purpose trust and a foundation, but both were eventually discarded principally on grounds of cost and complexity for this particular purpose. The recommended option and, therefore, the substance of this proposition really is what one could call a uniquely Jersey solution. It is, therefore, recommended that the Jersey Consumer Council is established as an incorporated association, which is a simple and cost-effective structure. There is no obvious downside in using this vehicle, which meets all the objectives of the Council. Importantly, it creates a legal entity that protects members of the association, making them exempt from the debts of the Association itself. As such, there would be no personal liability for Consumer Council members. It is also worth noting that there will not be any ongoing annual cost by establishing the Council as an incorporated association. To conclude, following independent legal advice and full consideration of a number of options, I ask Members to support this proposition that the Jersey Consumer Council should be formed as an incorporated association. I maintain the proposition.

**The Greffier of the States (in the Chair):**

Is the proposition seconded? [Seconded] Does any Member wish to speak on the proposition? Senator Breckon.

**10.1.1 Senator A. Breckon:**

Just a few words. I would like to thank the Minister for presenting this tonight and for Members who have stayed because, subject to the approval of this House, it does set in train a number of things that need to be done and a delay would have made things more difficult, so I thank Members for staying for that. It is the right way forward. [Approbation]

**The Greffier of the States (in the Chair):**

Does any other Member wish to speak? Do you wish to reply, Minister?

**Senator A.J.H. Maclean:**

Just to thank Members for their contributions and maintain the proposition.

**The Greffier of the States (in the Chair):**

All those in favour of adopting the proposition ...

**Female Speaker:**

The appel, please, Sir.

**The Greffier of the States (in the Chair):**

The appel is called for. If all Members who are here are in their seats I will ask the Greffier to open the voting.

<b>POUR: 28</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy of St. John				

Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

## **ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

### **The Greffier of the States (in the Chair):**

Chairman, we come finally, I think, hopefully straightforwardly, to the arrangement of future business. Members have the Order Paper for next week already on their desks. I think there are one or 2 minor changes.

### **The Connétable of St. Mary:**

Obviously the first change is that we will carry forward P.75/2011 from today's sitting into next week's Order Paper. I just wonder if I could suggest to Members that we do the same thing for the next sitting as we did this time because it seemed to be quite effective and it would make very, very few changes to the Order Paper, namely that is we take the legislation and regulation business first.

[18:15]

The only item really that would be affected would be Deputy S. Pitman's Goods and Services Tax item, but in fact that would need to be moved down the Order Paper anyway because there has been a late amendment. It would make sense then to move P.81/2011 down to after P.114/2011. I do not know if Deputy Pitman is in agreement with that because she does have that late amendment.

### **Deputy S. Pitman:**

Yes, I am in agreement.

### **The Connétable of St. Mary:**

Thank you, Deputy Pitman. Therefore, the business then would resume after P.117/2011 with the addition at the end of P.75/2011 from today.

### **The Greffier of the States (in the Chair):**

Very well. Are Members content with that arrangement for business?

### **The Deputy of St. John:**

I have to question that given that the Deputy of St. Martin's proposition has been pushed over to next week, he should really be first on the agenda because anything else, I think, is totally unacceptable. **[Approbation]**

### **The Deputy of St. Martin:**

I thank the Deputy of St. John.

### **Deputy A.T. Dupre:**

Can I suggest we do what we have done this week, start at 9.00 a.m. and finish at 6.00 p.m., to try and get everything out of the way?

### **The Greffier of the States (in the Chair):**



Let us just do one thing at a time. Are Members content to put P.75/2011 as the first item? Very well. Now, Deputy Dupre has proposed the Assembly should continue to meet ... the Assembly is clearly meeting at 2.30 p.m. on Monday for questions, but this would be from Tuesday. Is that proposition seconded? **[Seconded]** All those in favour? Very well, the Assembly will meet from 9.00 a.m. until 6.00 p.m. on Tuesday next week and will reassemble. The meeting is, therefore, closed and the Assembly will reconvene at 2.30 p.m. on Monday afternoon.

[18:16]

**ADJOURNMENT**